

1 commissioner and contain a plan by which the nursing facility
2 will distribute the funds according to paragraph (b). For
3 nursing facilities in which the employees are represented by an
4 exclusive bargaining representative, an agreement negotiated and
5 agreed to by the employer and the exclusive bargaining
6 representative constitutes the plan. A negotiated agreement may
7 constitute the plan only if the agreement is finalized after the
8 date of enactment of all increases for the rate year and signed
9 by both parties prior to submission to the commissioner. The
10 commissioner shall review the plan to ensure that the rate
11 adjustments are used as provided in paragraph (b). To be
12 eligible, a facility must submit its distribution plan by
13 December 31, 2005. If a facility's distribution plan is
14 effective after the first day of the rate year, the rate
15 adjustments are effective the same date as the facility's plan.

16 (d) A copy of the approved distribution plan must be made
17 available to all employees by giving each employee a copy or by
18 posting a copy in an area of the nursing facility to which all
19 employees have access. If an employee does not receive the wage
20 and benefit adjustment described in the facility's approved plan
21 and is unable to resolve the problem with the facility's
22 management or through the employee's union representative, the
23 employee may contact the commissioner at an address or telephone
24 number provided by the commissioner and included in the approved
25 plan.

26 Sec. 2. Minnesota Statutes 2004, section 256B.431, is
27 amended by adding a subdivision to read:

28 Subd. 42. [NURSING FACILITY BED CLOSURE INCENTIVE
29 ADJUSTMENTS EFFECTIVE JANUARY 1, 2006, AND JANUARY 1, 2007.] (a)
30 For the purposes of rate adjustments under this subdivision, the
31 commissioner shall divide nursing facilities reimbursed under
32 this section or section 256B.434 into quartiles according to the
33 number of licensed nursing homes per 1,000 persons aged 65 or
34 older in the county in which the facility is located, based on
35 the most recently available census population data and Minnesota
36 Department of Health data on numbers of licensed beds as of

1 September 30, 2005, and September 30, 2006, respectively. The
2 first quartile shall be the quartile with the lowest number of
3 beds per 1,000, and the fourth quartile shall be the quartile
4 with the highest number of beds per 1,000.

5 (b) For the rate period beginning January 1, 2006, the
6 commissioner shall adjust the rates provided to each nursing
7 facility reimbursed under this section or section 256B.434, as
8 follows:

9 (1) for facilities in the first quartile, rates shall not
10 be adjusted under this subdivision;

11 (2) for facilities in the second quartile, total payment
12 rates in effect on December 31, 2005, shall be reduced by two
13 percent. After this adjustment, total payment rates for
14 residents in single-bed rooms shall be increased by five
15 percent;

16 (3) for facilities in the third quartile, total payment
17 rates in effect on December 31, 2005, shall be reduced by three
18 percent. After this adjustment, total payment rates for
19 residents in single-bed rooms shall be increased by 7.5 percent;
20 and

21 (4) for facilities in the fourth quartile, total payment
22 rates in effect on December 31, 2005, shall be reduced by four
23 percent. After this adjustment, total payment rates for
24 residents in single-bed rooms shall be increased by ten percent.

25 (c) For the rate period beginning January 1, 2007, the
26 commissioner shall redetermine the quartiles and shall adjust
27 the rates provided to each nursing facility reimbursed under
28 this section or section 256B.434 as follows:

29 (1) for facilities in the first quartile, rates shall not
30 be adjusted under this subdivision;

31 (2) for facilities in the second quartile, total payment
32 rates in effect on December 31, 2006, shall be reduced by two
33 percent. After this adjustment, total payment rates for
34 residents in single-bed rooms shall be increased by five
35 percent;

36 (3) for facilities in the third quartile, total payment

1 rates in effect on December 31, 2006, shall be reduced by three
2 percent. After this adjustment, total payment rates for
3 residents in single-bed rooms shall be increased by 7.5 percent;
4 and

5 (4) for facilities in the fourth quartile, total payment
6 rates in effect on December 31, 2006, shall be reduced by four
7 percent. After this adjustment, total payment rates for
8 residents in single-bed rooms shall be increased by ten percent.

9 (d) The adjustments under paragraphs (b) and (c) shall
10 apply to all components of the total rate.

11 (e) For rates effective January 1, 2006, and later,
12 notwithstanding Minnesota Rules, part 9549.0060, subpart 11,
13 items B and C, capacity days used to determine property-related
14 payment rates under this section and Minnesota Rules, parts
15 9549.0010 to 9549.0080, shall be the number of licensed beds at
16 the end of the reporting year multiplied by the number of days
17 in the reporting year. The computation of the property-related
18 rate adjustment in subdivision 30, shall be computed in this
19 manner beginning with bed count changes that are effective after
20 January 1, 2006. The occupancy factor and short length of stay
21 calculations in subdivision 3f, paragraph (c), are not
22 superseded by this change.

23 Nursing facilities with rates established under section
24 256B.434, on or before January 1, 2006, that assigned greater
25 costs to single-bed rooms in their base year or in a subsequent
26 change under subdivision 30, shall have the rate effect of the
27 assignment reversed before application of the rate adjustment in
28 paragraphs (b) and (c). The reversal must be done by
29 recomputing the capacity days divisor without including the
30 factor in Minnesota Rules, part 9549.0060, subpart 11, item B,
31 in the last property-related payment rate computation under this
32 section, and Minnesota Rules, parts 9549.0010 to 9549.0080, a
33 moratorium exception project under section 144A.073, or
34 adjustment under subdivision 30.

35 (f) Newly constructed or newly established facilities with
36 interim and settle-up rates shall have their total payment rates

1 adjusted according to paragraphs (b) and (c), after the
2 application of Minnesota Rules, parts 9549.0010 to 9549.0080.
3 These facilities shall remain eligible to have actual resident
4 days used as a divisor for their property-related rate as
5 allowed in Minnesota Rules, part 9549.0060, subpart 14.

6 (g) Notwithstanding Minnesota Rules, part 9549.0070,
7 subpart 3, the rate for a medical assistance recipient in a
8 single-bed room shall be according to paragraphs (b) and (c).
9 This higher rate shall be paid regardless of whether the
10 resident has a physician's order for a single-bed room.

11 (h) The commissioner may, upon written application in
12 response to a request for applications, delay or exempt nursing
13 facilities from the rate adjustments in paragraphs (b) and (c).
14 The commissioner may approve delays of up to six months for
15 nursing facilities with a total of up to 4,000 beds. In
16 addition, the commissioner may approve exemptions for nursing
17 facilities with a total of up to 4,000 beds. In determining
18 whether or not to approve a delay or exemption, the commissioner
19 shall consider whether:

20 (1) the nursing facility is no closer than 25 miles from
21 another nursing facility;

22 (2) the nursing facility serves a population that is at
23 least 40 percent individuals with a mental health diagnosis;

24 (3) the nursing facility has fewer than 30 rooms available
25 for resident occupancy;

26 (4) the nursing facility is located in a town in which more
27 than 50 percent of the population is age 65 or older; or

28 (5) the nursing facility has a low resident turnover rate.

29 (i) The commissioner may, upon written application in
30 response to a request for applications, restore a portion of the
31 rate reduction in paragraph (c); either permanently or on a
32 time-limited basis at the sole discretion of the commissioner,
33 if all nursing facilities in the state together choose to remove
34 more beds from service than anticipated. The commissioner may
35 exercise this authority upon a determination that more than
36 4,000 beds have been removed from service after January 1, 2006,

1 and before December 31, 2006, or that more than 6,000 beds have
2 been removed from service after January 1, 2006, and before
3 December 31, 2007. This authority applies only for nursing
4 facilities that notify the commissioner in the facility's
5 application of the facility's intent to close or remove beds
6 from service if a restoration of a portion of the rate reduction
7 is not provided. In determining whether or not to approve an
8 application, the commissioner shall consider the criteria in
9 paragraph (h). The cost of rate restorations approved under
10 this paragraph must not exceed the estimated savings resulting
11 from the closure of more than 3,500 beds between January 1,
12 2006, and December 31, 2006.

13 (j) A nursing facility is prohibited from discharging
14 residents for purposes of establishing single-bed rooms. A
15 nursing facility must retain a statement from any resident
16 discharged to another nursing facility between July 1, 2005, and
17 December 31, 2007, signed by the resident or the resident's
18 designated responsible party, certifying the resident requests
19 to move and is under no coercion to be discharged. This signed
20 statement must be witnessed and signed by the local ombudsman.
21 The commissioner shall assess a monetary penalty of \$5,000 per
22 occurrence against any nursing facility determined to have
23 discharged a resident for purposes of establishing single-bed
24 rooms.

25 (k) Nursing facilities shall report information on their
26 bed composition sufficient to determine that billing for
27 single-bed rooms is correct and in a format and according to a
28 schedule determined by the commissioner. A single-bed room is a
29 bedroom that has one bed and has a door with unshared direct
30 access to the corridor.

31 (l) If after the date of enactment of this section and
32 before December 31, 2007, more than 4,000 nursing home beds are
33 removed from service, a portion of the appropriation for nursing
34 homes shall be transferred to the alternative care program. The
35 amount of this transfer shall equal the number of beds removed
36 from service less 4,000, multiplied by the average monthly

1 per-person cost for alternative care, multiplied by 12, and
2 further multiplied by .3.

3 (m) This subdivision does not apply to a residence that on
4 August 1, 1984, was licensed by the commissioner of health only
5 as a boarding care home, certified by the commissioner of health
6 as an intermediate care facility, and licensed by the
7 commissioner of human services under Minnesota Rules, parts
8 9520.0500 to 9520.0690.

9 Sec. 3. Minnesota Statutes 2004, section 256B.434,
10 subdivision 4, is amended to read:

11 Subd. 4. [ALTERNATE RATES FOR NURSING FACILITIES.] (a) For
12 nursing facilities which have their payment rates determined
13 under this section rather than section 256B.431, the
14 commissioner shall establish a rate under this subdivision. The
15 nursing facility must enter into a written contract with the
16 commissioner.

17 (b) A nursing facility's case mix payment rate for the
18 first rate year of a facility's contract under this section is
19 the payment rate the facility would have received under section
20 256B.431.

21 (c) A nursing facility's case mix payment rates for the
22 second and subsequent years of a facility's contract under this
23 section are the previous rate year's contract payment rates plus
24 an inflation adjustment and, for facilities reimbursed under
25 this section or section 256B.431, an adjustment to include the
26 cost of any increase in Health Department licensing fees for the
27 facility taking effect on or after July 1, 2001. The index for
28 the inflation adjustment must be based on the change in the
29 Consumer Price Index-All Items (United States City average)
30 (CPI-U) forecasted by the commissioner of finance's national
31 economic consultant, as forecasted in the fourth quarter of the
32 calendar year preceding the rate year. The inflation adjustment
33 must be based on the 12-month period from the midpoint of the
34 previous rate year to the midpoint of the rate year for which
35 the rate is being determined. For the rate years beginning on
36 July 1, 1999, July 1, 2000, July 1, 2001, July 1, 2002, July 1,

1 2003, ~~and July 1, 2004,~~ and July 1, 2005, this paragraph shall
2 apply only to the property-related payment rate, except that
3 adjustments to include the cost of any increase in Health
4 Department licensing fees taking effect on or after July 1,
5 2001, shall be provided. In determining the amount of the
6 property-related payment rate adjustment under this paragraph,
7 the commissioner shall determine the proportion of the
8 facility's rates that are property-related based on the
9 facility's most recent cost report.

10 (d) The commissioner shall develop additional
11 incentive-based payments of up to five percent above the
12 standard contract rate for achieving outcomes specified in each
13 contract. The specified facility-specific outcomes must be
14 measurable and approved by the commissioner. The commissioner
15 may establish, for each contract, various levels of achievement
16 within an outcome. After the outcomes have been specified the
17 commissioner shall assign various levels of payment associated
18 with achieving the outcome. Any incentive-based payment cancels
19 if there is a termination of the contract. In establishing the
20 specified outcomes and related criteria the commissioner shall
21 consider the following state policy objectives:

22 (1) improved cost effectiveness and quality of life as
23 measured by improved clinical outcomes;

24 (2) successful diversion or discharge to community
25 alternatives;

26 (3) decreased acute care costs;

27 (4) improved consumer satisfaction;

28 (5) the achievement of quality; or

29 (6) any additional outcomes proposed by a nursing facility
30 that the commissioner finds desirable.

31 Sec. 4. Minnesota Statutes 2004, section 256B.48,
32 subdivision 1, is amended to read:

33 Subdivision 1. [PROHIBITED PRACTICES.] A nursing facility
34 is not eligible to receive medical assistance payments unless it
35 refrains from all of the following:

36 (a) Charging private paying residents rates for similar

1 services which exceed those which are approved by the state
2 agency for medical assistance recipients as determined by the
3 prospective desk audit rate, except under-the-following
4 circumstances:--the-nursing-facility-may-(1)-charge-private
5 paying-residents-a-higher-rate-for-a-private-room,--and-(2)
6 charge for special services which are not included in the daily
7 rate if medical assistance residents are charged separately at
8 the same rate for the same services in addition to the daily
9 rate paid by the commissioner. Services covered by the payment
10 rate must be the same regardless of payment source. Special
11 services, if offered, must be available to all residents in all
12 areas of the nursing facility and charged separately at the same
13 rate. Residents are free to select or decline special
14 services. Special services must not include services which must
15 be provided by the nursing facility in order to comply with
16 licensure or certification standards and that if not provided
17 would result in a deficiency or violation by the nursing
18 facility. Services beyond those required to comply with
19 licensure or certification standards must not be charged
20 separately as a special service if they were included in the
21 payment rate for the previous reporting year. A nursing
22 facility that charges a private paying resident a rate in
23 violation of this clause is subject to an action by the state of
24 Minnesota or any of its subdivisions or agencies for civil
25 damages. A private paying resident or the resident's legal
26 representative has a cause of action for civil damages against a
27 nursing facility that charges the resident rates in violation of
28 this clause. The damages awarded shall include three times the
29 payments that result from the violation, together with costs and
30 disbursements, including reasonable attorneys' fees or their
31 equivalent. A private paying resident or the resident's legal
32 representative, the state, subdivision or agency, or a nursing
33 facility may request a hearing to determine the allowed rate or
34 rates at issue in the cause of action. Within 15 calendar days
35 after receiving a request for such a hearing, the commissioner
36 shall request assignment of an administrative law judge under

1 sections 14.48 to 14.56 to conduct the hearing as soon as
2 possible or according to agreement by the parties. The
3 administrative law judge shall issue a report within 15 calendar
4 days following the close of the hearing. The prohibition set
5 forth in this clause shall not apply to facilities licensed as
6 boarding care facilities which are not certified as skilled or
7 intermediate care facilities level I or II for reimbursement
8 through medical assistance.

9 (b)(1) Charging, soliciting, accepting, or receiving from
10 an applicant for admission to the facility, or from anyone
11 acting in behalf of the applicant, as a condition of admission,
12 expediting the admission, or as a requirement for the
13 individual's continued stay, any fee, deposit, gift, money,
14 donation, or other consideration not otherwise required as
15 payment under the state plan;

16 (2) requiring an individual, or anyone acting in behalf of
17 the individual, to loan any money to the nursing facility;

18 (3) requiring an individual, or anyone acting in behalf of
19 the individual, to promise to leave all or part of the
20 individual's estate to the facility; or

21 (4) requiring a third-party guarantee of payment to the
22 facility as a condition of admission, expedited admission, or
23 continued stay in the facility.

24 Nothing in this paragraph would prohibit discharge for
25 nonpayment of services in accordance with state and federal
26 regulations.

27 (c) Requiring any resident of the nursing facility to
28 utilize a vendor of health care services chosen by the nursing
29 facility. A nursing facility may require a resident to use
30 pharmacies that utilize unit dose packing systems approved by
31 the Minnesota Board of Pharmacy, and may require a resident to
32 use pharmacies that are able to meet the federal regulations for
33 safe and timely administration of medications such as systems
34 with specific number of doses, prompt delivery of medications,
35 or access to medications on a 24-hour basis. Notwithstanding
36 the provisions of this paragraph, nursing facilities shall not

1 restrict a resident's choice of pharmacy because the pharmacy
2 utilizes a specific system of unit dose drug packing.

3 (d) Providing differential treatment on the basis of status
4 with regard to public assistance.

5 (e) Discriminating in admissions, services offered, or room
6 assignment on the basis of status with regard to public
7 assistance or refusal to purchase special services. Admissions
8 discrimination shall include, but is not limited to:

9 (1) basing admissions decisions upon assurance by the
10 applicant to the nursing facility, or the applicant's guardian
11 or conservator, that the applicant is neither eligible for nor
12 will seek public assistance for payment of nursing facility care
13 costs; and

14 (2) engaging in preferential selection from waiting lists
15 based on an applicant's ability to pay privately or an
16 applicant's refusal to pay for a special service.

17 The collection and use by a nursing facility of financial
18 information of any applicant pursuant to a preadmission
19 screening program established by law shall not raise an
20 inference that the nursing facility is utilizing that
21 information for any purpose prohibited by this paragraph.

22 (f) Requiring any vendor of medical care as defined by
23 section 256B.02, subdivision 7, who is reimbursed by medical
24 assistance under a separate fee schedule, to pay any amount
25 based on utilization or service levels or any portion of the
26 vendor's fee to the nursing facility except as payment for
27 renting or leasing space or equipment or purchasing support
28 services from the nursing facility as limited by section
29 256B.433. All agreements must be disclosed to the commissioner
30 upon request of the commissioner. Nursing facilities and
31 vendors of ancillary services that are found to be in violation
32 of this provision shall each be subject to an action by the
33 state of Minnesota or any of its subdivisions or agencies for
34 treble civil damages on the portion of the fee in excess of that
35 allowed by this provision and section 256B.433. Damages awarded
36 must include three times the excess payments together with costs

1 and disbursements including reasonable attorney's fees or their
2 equivalent.

3 (g) Refusing, for more than 24 hours, to accept a resident
4 returning to the same bed or a bed certified for the same level
5 of care, in accordance with a physician's order authorizing
6 transfer, after receiving inpatient hospital services.

7 For a period not to exceed 180 days, the commissioner may
8 continue to make medical assistance payments to a nursing
9 facility or boarding care home which is in violation of this
10 section if extreme hardship to the residents would result. In
11 these cases the commissioner shall issue an order requiring the
12 nursing facility to correct the violation. The nursing facility
13 shall have 20 days from its receipt of the order to correct the
14 violation. If the violation is not corrected within the 20-day
15 period the commissioner may reduce the payment rate to the
16 nursing facility by up to 20 percent. The amount of the payment
17 rate reduction shall be related to the severity of the violation
18 and shall remain in effect until the violation is corrected.
19 The nursing facility or boarding care home may appeal the
20 commissioner's action pursuant to the provisions of chapter 14
21 pertaining to contested cases. An appeal shall be considered
22 timely if written notice of appeal is received by the
23 commissioner within 20 days of notice of the commissioner's
24 proposed action.

25 In the event that the commissioner determines that a
26 nursing facility is not eligible for reimbursement for a
27 resident who is eligible for medical assistance, the
28 commissioner may authorize the nursing facility to receive
29 reimbursement on a temporary basis until the resident can be
30 relocated to a participating nursing facility.

31 Certified beds in facilities which do not allow medical
32 assistance intake on July 1, 1984, or after shall be deemed to
33 be decertified for purposes of section 144A.071 only.

34 Sec. 5. Minnesota Statutes 2004, section 256B.5012, is
35 amended by adding a subdivision to read:

36 Subd. 6. [ICF/MR RATE INCREASE BEGINNING JULY 1, 2005.] (a)

1 For the rate period beginning July 1, 2005, the commissioner
2 shall make available to each facility reimbursed under this
3 section an adjustment to the total operating payment rate of two
4 percent.

5 (b) Money resulting from the rate adjustment under
6 paragraph (a) must be used to increase wages and benefits and
7 pay associated costs for employees, except for administrative
8 and central office employees. Money received by a facility as a
9 result of the rate adjustment provided in paragraph (a) must be
10 used only for wage, benefit, and staff increases implemented on
11 or after July 1, 2005, and must not be used for increases
12 implemented prior to that date.

13 (c) For each facility, the commissioner shall make
14 available an adjustment using the percentage specified in
15 paragraph (a) multiplied by the total payment rate, excluding
16 the property-related payment rate, in effect on the preceding
17 June 30. The total payment rate shall include the adjustment
18 provided in section 256B.501, subdivision 12.

19 (d) A facility whose payment rates are governed by closure
20 agreements, receivership agreements, or Minnesota Rules, part
21 9553.0075, is not eligible for an adjustment otherwise granted
22 under this subdivision.

23 (e) A facility may apply for the payment rate adjustment
24 provided under paragraph (a). The application must be made to
25 the commissioner and contain a plan by which the facility will
26 distribute the funds according to paragraph (b). For facilities
27 in which the employees are represented by an exclusive
28 bargaining representative, an agreement negotiated and agreed to
29 by the employer and the exclusive bargaining representative
30 constitutes the plan. A negotiated agreement may constitute the
31 plan only if the agreement is finalized after the date of
32 enactment of all rate increases for the rate year. The
33 commissioner shall review the plan to ensure that the payment
34 rate adjustment per diem is used as provided in this
35 subdivision. To be eligible, a facility must submit its plan by
36 December 31, 2005. If a facility's plan is effective for its

1 employees after the first day of the applicable rate period that
2 the funds are available, the payment rate adjustment per diem is
3 effective the same date as its plan.

4 (f) A copy of the approved distribution plan must be made
5 available to all employees by giving each employee a copy or by
6 posting it in an area of the facility to which all employees
7 have access. If an employee does not receive the wage and
8 benefit adjustment described in the facility's approved plan and
9 is unable to resolve the problem with the facility's management
10 or through the employee's union representative, the employee may
11 contact the commissioner at an address or telephone number
12 provided by the commissioner and included in the approved plan.

13 Sec. 6. [COMMUNITY SERVICES PROVIDER RATE INCREASES.]

14 (a) The commissioner of human services shall increase
15 reimbursement rates by two percent for the rate year beginning
16 July 1, 2005, effective for services rendered on or after that
17 date.

18 (b) The two percent annual rate increase described in this
19 section must be provided to:

20 (1) home and community-based waived services for persons
21 with mental retardation or related conditions under Minnesota
22 Statutes, section 256B.501;

23 (2) home and community-based waived services for the
24 elderly under Minnesota Statutes, section 256B.0915;

25 (3) waived services under community alternatives for
26 disabled individuals under Minnesota Statutes, section 256B.49;

27 (4) community alternative care waived services under
28 Minnesota Statutes, section 256B.49;

29 (5) traumatic brain injury waived services under
30 Minnesota Statutes, section 256B.49;

31 (6) nursing services and home health services under
32 Minnesota Statutes, section 256B.0625, subdivision 6a;

33 (7) personal care services and nursing supervision of
34 personal care services under Minnesota Statutes, section
35 256B.0625, subdivision 19a;

36 (8) private duty nursing services under Minnesota Statutes,

- 1 section 256B.0625, subdivision 7;
2 (9) day training and habilitation services for adults with
3 mental retardation or related conditions under Minnesota
4 Statutes, sections 252.40 to 252.46;
5 (10) alternative care services under Minnesota Statutes,
6 section 256B.0913;
7 (11) adult residential program grants under Minnesota
8 Rules, parts 9535.2000 to 9535.3000;
9 (12) adult and family community support grants under
10 Minnesota Rules, parts 9535.1700 to 9535.1760;
11 (13) the group residential housing supplementary service
12 rate under Minnesota Statutes, section 256I.05, subdivision 1a;
13 (14) adult mental health integrated fund grants under
14 Minnesota Statutes, section 245.4661;
15 (15) semi-independent living services under Minnesota
16 Statutes, section 252.275, including SILS funding under county
17 social services grants formerly funded under Minnesota Statutes,
18 chapter 256I;
19 (16) community support services for deaf and
20 hard-of-hearing adults with mental illness who use or wish to
21 use sign language as their primary means of communication; and
22 (17) living skills training programs for persons with
23 intractable epilepsy who need assistance in the transition to
24 independent living.
- 25 (c) Providers that receive a rate increase under this
26 section shall use the additional revenue to increase wages and
27 benefits and pay associated costs for employees, except for
28 management fees, the administrator, and central office staffs.
- 29 (d) For public employees, the increase for wages and
30 benefits for certain staff is available and pay rates shall be
31 increased only to the extent that they comply with laws
32 governing public employees collective bargaining. Money
33 received by a provider for pay increases under this section may
34 be used only for increases implemented on or after the first day
35 of the state fiscal year in which the increase is available and
36 must not be used for increases implemented prior to that date.

1 (e) A copy of the provider's plan for complying with
2 paragraph (c) must be made available to all employees by giving
3 each employee a copy or by posting a copy in an area of the
4 provider's operation to which all employees have access. If an
5 employee does not receive the adjustment, if any, described in
6 the plan and is unable to resolve the problem with the provider,
7 the employee may contact the employee's union representative.
8 If the employee is not covered by a collective bargaining
9 agreement, the employee may contact the commissioner at a
10 telephone number provided by the commissioner and included in
11 the provider's plan.

12 Sec. 7. [LIMITING WAIVER GROWTH.]

13 (a) For each year of the biennium ending June 30, 2007, the
14 commissioner of human services shall make available additional
15 allocations for community alternatives for disabled individuals
16 waivered services covered under Minnesota Statutes, section
17 256B.49, at a rate of \$105 per month or \$1,260 per year, plus
18 any additional legislatively authorized growth. Priorities for
19 the allocation of funds shall be for individuals anticipated to
20 be discharged from institutional settings or who are at imminent
21 risk of a placement in an institutional setting.

22 (b) For each year of the biennium ending June 30, 2007, the
23 commissioner shall make available additional allocations for
24 traumatic brain injury waivered services covered under Minnesota
25 Statutes, section 256B.49, at a rate of 165 per year.

26 Priorities for the allocation of funds shall be for individuals
27 anticipated to be discharged from institutional settings or who
28 are at imminent risk of a placement in an institutional setting.

29 (c) For each year of the biennium ending June 30, 2007, the
30 commissioner shall limit the new diversion caseload growth in
31 the mental retardation and related conditions waiver to 55
32 additional allocations. Notwithstanding Minnesota Statutes,
33 section 256B.0916, subdivision 5, paragraph (b), the available
34 diversion allocations shall be awarded to support individuals
35 whose health and safety needs result in an imminent risk of an
36 institutional placement at any time during the fiscal year.

1 Sec. 8. [REPORT TO THE LEGISLATURE.]

2 The commissioner of human services shall report to the
3 legislature by January 15, 2007, and January 15, 2008, on the
4 number of beds removed from service after the enactment of
5 section 1, any evidence of problems accessing long-term care
6 services, and recommendations for modification of that
7 subdivision.

8 Sec. 9. [APPROPRIATION.]

9 \$..... is appropriated for the biennium ending June 30,
10 2007, from the general fund to the commissioner of human
11 services for the purposes of sections 1 to 7.

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

**S.F. No. 2003 - Employee COLAs, Nursing Facility
Closure Incentives, Limited Waiver Program Expansion
(The A-4 Delete-Everything Amendment)**

Author: Senator Linda Berglin

Prepared by: David Giel, Senate Research (296-7178) 

Date: April 19, 2005

S.F. No. 2003 provides two percent rate increases in fiscal year 2006 for nursing facilities, intermediate care facilities for persons with mental retardation (ICFs/MR), and a variety of community-based service providers, and directs that the money be allocated for employee compensation. It also establishes an incentive program to encourage nursing facility bed closures and limits expansion of certain waiver programs.

Section 1 (256B.431, subdivision 41) provides a two percent nursing facility rate increase the first year of the biennium. All of the new money must be used for employee wage and benefit improvements implemented on or after July 1, 2005, under procedures that have been applied to previous rate increases. Hospital-attached facilities that incurred new costs for employee salaries and benefits after July 1, 2003, are allowed to count those costs.

Section 2 (256B.431, subdivision 42) establishes a nursing facility bed closure incentive. Facility operating payment rates are increased by an unspecified percentage for each bed closure that results in the creation of a single-bed room. Facilities are prohibited from discharging residents in order to create a single-bed room. If more than 4,000 beds are removed from service before December 31, 2007, a portion of the nursing home appropriation is transferred to the Alternative Care Program. Savings that result from unanticipated bed closures that do not result in the creation of a single-bed room are appropriated to the Department of Human Services for moratorium exceptions.

Section 3 (256B.434, subdivision 4) cancels the July 1, 2005, automatic inflation adjustment for nursing facilities in the alternative payment system.

Section 4 (256B.5012, subdivision 6) provides a two percent ICF/MR COLA the first year of the biennium. All of the new money must be used for employee wage and benefit improvements under procedures that have been applied to previous rate increases.

Section 5 provides a two percent COLA the first year of the biennium for a variety of community-based providers. All of the increase must be used for employee wage and benefit improvements under procedures that have been applied to previous rate increases.

Section 6 limits growth in various waiver programs to a level ten percent above the limits proposed in the Governor's budget.

Section 7 requires reports in 2007 and 2008 on results and problems, if any, with the bed closure incentive.

Section 8 is a blank appropriation to the Commissioner of Human Services.

DG:rdr

ATTACHMENT "A"

04/19/05

[COUNSEL] DG

SCS2003A-4

1 Senator moves to amend S.F. No. as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 256B.431, is
4 amended by adding a subdivision to read:

5 Subd. 41. [NURSING FACILITY RATE INCREASE FOR JULY 1,
6 2005.] (a) For the rate year beginning July 1, 2005, the
7 commissioner shall make available to each nursing facility
8 reimbursed under this section or section 256B.434 an adjustment
9 equal to two percent of the total operating payment rate.

10 (b) Money resulting from the rate adjustment under
11 paragraph (a) must be used to increase wages and benefits and
12 pay associated costs for employees, except management fees, the
13 administrator, and central office staff. Except as provided in
14 paragraph (c), money received by a facility as a result of the
15 rate adjustment provided in paragraph (a) must be used only for
16 wage, benefit, and staff increases implemented on or after July
17 1, 2005, and must not be used for increases implemented prior to
18 that date.

19 (c) A hospital-attached nursing facility that incurred
20 costs for salary and employee benefit increases first provided
21 after July 1, 2003, may count those costs towards the amount
22 required to be spent on salaries and benefits under paragraph
23 (b). These costs must be reported to the commissioner in the
24 form and manner specified by the commissioner.

25 (d) Nursing facilities may apply for the rate adjustment
26 under paragraph (a). The application must be made to the
27 commissioner and contain a plan by which the nursing facility
28 will distribute the funds according to paragraph (b). For
29 nursing facilities in which the employees are represented by an
30 exclusive bargaining representative, an agreement negotiated and
31 agreed to by the employer and the exclusive bargaining
32 representative constitutes the plan. A negotiated agreement may
33 constitute the plan only if the agreement is finalized after the
34 date of enactment of all increases for the rate year and signed
35 by both parties prior to submission to the commissioner. The
36 commissioner shall review the plan to ensure that the rate

1 adjustments are used as provided in paragraph (b). To be
2 eligible, a facility must submit its distribution plan by
3 December 31, 2005. If a facility's distribution plan is
4 effective after the first day of the rate year, the rate
5 adjustments are effective the same date as the facility's plan.

6 (e) A copy of the approved distribution plan must be made
7 available to all employees by giving each employee a copy or by
8 posting a copy in an area of the nursing facility to which all
9 employees have access. If an employee does not receive the wage
10 and benefit adjustment described in the facility's approved plan
11 and is unable to resolve the problem with the facility's
12 management or through the employee's union representative, the
13 employee may contact the commissioner at an address or telephone
14 number provided by the commissioner and included in the approved
15 plan.

16 Sec. 2. Minnesota Statutes 2004, section 256B.431, is
17 amended by adding a subdivision to read:

18 Subd. 42. [SINGLE-BED ROOM PAYMENT RATE.] (a) Beginning
19 July 1, 2005, the operating payment rate for nursing facilities
20 reimbursed under this section or section 256B.434 shall be
21 increased by ... percent for each bed closure that results in
22 the creation of a single-bed room after July 1, 2005.

23 (b) A nursing facility is prohibited from discharging
24 residents for purposes of establishing single-bed rooms. A
25 nursing facility must retain a statement from any resident
26 discharged to another nursing facility between July 1, 2005, and
27 December 31, 2007, signed by the resident or the resident's
28 designated responsible party, certifying the resident requests
29 to move and is under no coercion to be discharged. This signed
30 statement must be witnessed and signed by the local ombudsman.
31 The commissioner shall assess a monetary penalty of \$5,000 per
32 occurrence against any nursing facility determined to have
33 discharged a resident for purposes of establishing single-bed
34 rooms.

35 (c) If after the date of enactment of this section and
36 before December 31, 2007, more than 4,000 nursing home beds are

1 removed from service, a portion of the appropriation for nursing
2 homes shall be transferred to the alternative care program. The
3 amount of this transfer shall equal the number of beds removed
4 from service less 4,000, multiplied by the average monthly
5 per-person cost for alternative care, multiplied by 12, and
6 further multiplied by .3.

7 (d) Savings that result from bed closures on or after July
8 1, 2005, that do not result in the establishment of single-bed
9 rooms and exceed the number of closures included in the February
10 2005 forecast shall not cancel to the general fund but are
11 appropriated to the commissioner for the medical assistance
12 costs of nursing home moratorium exceptions approved by the
13 commissioner of health under section 144A.073. The commissioner
14 of health, in consultation with the commissioner of human
15 services, shall publish a request for proposals under section
16 144A.073, subdivision 2, when, in the determination of the
17 commissioner of health, sufficient funds are available under
18 this paragraph. Money appropriated to the commissioner of human
19 services under this paragraph shall not cancel and shall be
20 available until expended.

21 Sec. 3. Minnesota Statutes 2004, section 256B.434,
22 subdivision 4, is amended to read:

23 Subd. 4. [ALTERNATE RATES FOR NURSING FACILITIES.] (a) For
24 nursing facilities which have their payment rates determined
25 under this section rather than section 256B.431, the
26 commissioner shall establish a rate under this subdivision. The
27 nursing facility must enter into a written contract with the
28 commissioner.

29 (b) A nursing facility's case mix payment rate for the
30 first rate year of a facility's contract under this section is
31 the payment rate the facility would have received under section
32 256B.431.

33 (c) A nursing facility's case mix payment rates for the
34 second and subsequent years of a facility's contract under this
35 section are the previous rate year's contract payment rates plus
36 an inflation adjustment and, for facilities reimbursed under

1 this section or section 256B.431, an adjustment to include the
2 cost of any increase in Health Department licensing fees for the
3 facility taking effect on or after July 1, 2001. The index for
4 the inflation adjustment must be based on the change in the
5 Consumer Price Index-All Items (United States City average)
6 (CPI-U) forecasted by the commissioner of finance's national
7 economic consultant, as forecasted in the fourth quarter of the
8 calendar year preceding the rate year. The inflation adjustment
9 must be based on the 12-month period from the midpoint of the
10 previous rate year to the midpoint of the rate year for which
11 the rate is being determined. For the rate years beginning on
12 July 1, 1999, July 1, 2000, July 1, 2001, July 1, 2002, July 1,
13 2003, and July 1, 2004, and July 1, 2005, this paragraph shall
14 apply only to the property-related payment rate, except that
15 adjustments to include the cost of any increase in Health
16 Department licensing fees taking effect on or after July 1,
17 2001, shall be provided. In determining the amount of the
18 property-related payment rate adjustment under this paragraph,
19 the commissioner shall determine the proportion of the
20 facility's rates that are property-related based on the
21 facility's most recent cost report.

22 (d) The commissioner shall develop additional
23 incentive-based payments of up to five percent above the
24 standard contract rate for achieving outcomes specified in each
25 contract. The specified facility-specific outcomes must be
26 measurable and approved by the commissioner. The commissioner
27 may establish, for each contract, various levels of achievement
28 within an outcome. After the outcomes have been specified the
29 commissioner shall assign various levels of payment associated
30 with achieving the outcome. Any incentive-based payment cancels
31 if there is a termination of the contract. In establishing the
32 specified outcomes and related criteria the commissioner shall
33 consider the following state policy objectives:

- 34 (1) improved cost effectiveness and quality of life as
35 measured by improved clinical outcomes;
- 36 (2) successful diversion or discharge to community

1 alternatives;

2 (3) decreased acute care costs;

3 (4) improved consumer satisfaction;

4 (5) the achievement of quality; or

5 (6) any additional outcomes proposed by a nursing facility

6 that the commissioner finds desirable.

7 Sec. 4. Minnesota Statutes 2004, section 256B.5012, is

8 amended by adding a subdivision to read:

9 Subd. 6. [ICF/MR RATE INCREASE BEGINNING JULY 1, 2005.] (a)

10 For the rate period beginning July 1, 2005, the commissioner
11 shall make available to each facility reimbursed under this
12 section an adjustment to the total operating payment rate of two
13 percent.

14 (b) Money resulting from the rate adjustment under
15 paragraph (a) must be used to increase wages and benefits and
16 pay associated costs for employees, except for administrative
17 and central office employees. Money received by a facility as a
18 result of the rate adjustment provided in paragraph (a) must be
19 used only for wage, benefit, and staff increases implemented on
20 or after July 1, 2005, and must not be used for increases
21 implemented prior to that date.

22 (c) For each facility, the commissioner shall make
23 available an adjustment using the percentage specified in
24 paragraph (a) multiplied by the total payment rate, excluding
25 the property-related payment rate, in effect on the preceding
26 June 30. The total payment rate shall include the adjustment
27 provided in section 256B.501, subdivision 12.

28 (d) A facility whose payment rates are governed by closure
29 agreements, receivership agreements, or Minnesota Rules, part
30 9553.0075, is not eligible for an adjustment otherwise granted
31 under this subdivision.

32 (e) A facility may apply for the payment rate adjustment
33 provided under paragraph (a). The application must be made to
34 the commissioner and contain a plan by which the facility will
35 distribute the funds according to paragraph (b). For facilities
36 in which the employees are represented by an exclusive

1 bargaining representative, an agreement negotiated and agreed to
2 by the employer and the exclusive bargaining representative
3 constitutes the plan. A negotiated agreement may constitute the
4 plan only if the agreement is finalized after the date of
5 enactment of all rate increases for the rate year. The
6 commissioner shall review the plan to ensure that the payment
7 rate adjustment per diem is used as provided in this
8 subdivision. To be eligible, a facility must submit its plan by
9 December 31, 2005. If a facility's plan is effective for its
10 employees after the first day of the applicable rate period that
11 the funds are available, the payment rate adjustment per diem is
12 effective the same date as its plan.

13 (f) A copy of the approved distribution plan must be made
14 available to all employees by giving each employee a copy or by
15 posting it in an area of the facility to which all employees
16 have access. If an employee does not receive the wage and
17 benefit adjustment described in the facility's approved plan and
18 is unable to resolve the problem with the facility's management
19 or through the employee's union representative, the employee may
20 contact the commissioner at an address or telephone number
21 provided by the commissioner and included in the approved plan.

22 Sec. 5. [COMMUNITY SERVICES PROVIDER RATE INCREASES.]

23 (a) The commissioner of human services shall increase
24 reimbursement rates by two percent for the rate year beginning
25 July 1, 2005, effective for services rendered on or after that
26 date.

27 (b) The two percent annual rate increase described in this
28 section must be provided to:

29 (1) home and community-based waived services for persons
30 with mental retardation or related conditions under Minnesota
31 Statutes, section 256B.501;

32 (2) home and community-based waived services for the
33 elderly under Minnesota Statutes, section 256B.0915;

34 (3) waived services under community alternatives for
35 disabled individuals under Minnesota Statutes, section 256B.49;

36 (4) community alternative care waived services under

1 Minnesota Statutes, section 256B.49;
2 (5) traumatic brain injury waived services under
3 Minnesota Statutes, section 256B.49;
4 (6) nursing services and home health services under
5 Minnesota Statutes, section 256B.0625, subdivision 6a;
6 (7) personal care services and nursing supervision of
7 personal care services under Minnesota Statutes, section
8 256B.0625, subdivision 19a;
9 (8) private duty nursing services under Minnesota Statutes,
10 section 256B.0625, subdivision 7;
11 (9) day training and habilitation services for adults with
12 mental retardation or related conditions under Minnesota
13 Statutes, sections 252.40 to 252.46;
14 (10) alternative care services under Minnesota Statutes,
15 section 256B.0913;
16 (11) adult residential program grants under Minnesota
17 Rules, parts 9535.2000 to 9535.3000;
18 (12) adult and family community support grants under
19 Minnesota Rules, parts 9535.1700 to 9535.1760;
20 (13) the group residential housing supplementary service
21 rate under Minnesota Statutes, section 256I.05, subdivision 1a;
22 (14) adult mental health integrated fund grants under
23 Minnesota Statutes, section 245.4661;
24 (15) semi-independent living services under Minnesota
25 Statutes, section 252.275, including SILS funding under county
26 social services grants formerly funded under Minnesota Statutes,
27 chapter 256I;
28 (16) community support services for deaf and
29 hard-of-hearing adults with mental illness who use or wish to
30 use sign language as their primary means of communication; and
31 (17) living skills training programs for persons with
32 intractable epilepsy who need assistance in the transition to
33 independent living.
34 (c) Providers that receive a rate increase under this
35 section shall use the additional revenue to increase wages and
36 benefits and pay associated costs for employees, except for

1 management fees, the administrator, and central office staffs.

2 (d) For public employees, the increase for wages and
3 benefits for certain staff is available and pay rates shall be
4 increased only to the extent that they comply with laws
5 governing public employees collective bargaining. Money
6 received by a provider for pay increases under this section may
7 be used only for increases implemented on or after the first day
8 of the state fiscal year in which the increase is available and
9 must not be used for increases implemented prior to that date.

10 (e) A copy of the provider's plan for complying with
11 paragraph (c) must be made available to all employees by giving
12 each employee a copy or by posting a copy in an area of the
13 provider's operation to which all employees have access. If an
14 employee does not receive the adjustment, if any, described in
15 the plan and is unable to resolve the problem with the provider,
16 the employee may contact the employee's union representative.
17 If the employee is not covered by a collective bargaining
18 agreement, the employee may contact the commissioner at a
19 telephone number provided by the commissioner and included in
20 the provider's plan.

21 Sec. 6. [LIMITING WAIVER GROWTH.]

22 (a) For each year of the biennium ending June 30, 2007, the
23 commissioner of human services shall make available additional
24 allocations for community alternatives for disabled individuals
25 waivered services covered under Minnesota Statutes, section
26 256B.49, at a rate of 105 per month or 1,260 per year, plus any
27 additional legislatively authorized growth. Priorities for the
28 allocation of funds shall be for individuals anticipated to be
29 discharged from institutional settings or who are at imminent
30 risk of a placement in an institutional setting.

31 (b) For each year of the biennium ending June 30, 2007, the
32 commissioner shall make available additional allocations for
33 traumatic brain injury waivered services covered under Minnesota
34 Statutes, section 256B.49, at a rate of 165 per year.
35 Priorities for the allocation of funds shall be for individuals
36 anticipated to be discharged from institutional settings or who

1 are at imminent risk of a placement in an institutional setting.

2 (c) For each year of the biennium ending June 30, 2007, the
3 commissioner shall limit the new diversion caseload growth in
4 the mental retardation and related conditions waiver to 55
5 additional allocations. Notwithstanding Minnesota Statutes,
6 section 256B.0916, subdivision 5, paragraph (b), the available
7 diversion allocations shall be awarded to support individuals
8 whose health and safety needs result in an imminent risk of an
9 institutional placement at any time during the fiscal year.

10 Sec. 7. [REPORT TO THE LEGISLATURE.]

11 The commissioner of human services shall report to the
12 legislature by January 15, 2007, and January 15, 2008, on the
13 number of beds removed from service after the enactment of
14 section 2, any evidence of problems accessing long-term care
15 services, and recommendations for modification of that
16 subdivision.

17 Sec. 8. [APPROPRIATION.]

18 \$..... is appropriated for the biennium ending June 30,
19 2007, from the general fund to the commissioner of human
20 services for the purposes of sections 1 to 7."

21 Amend the title accordingly

ATTACHMENT "B"

04/14/05

[COUNSEL] DG

BL0938

the A-4 amendment to

1 Senator moves to amend, S.F. No. ²⁰⁰³ as follows:

2 Page ¹., after line ²., insert:

3 "Sec. ¹.. Minnesota Statutes 2004, section 144A.073, is
4 amended by adding a subdivision to read:

5 Subd. 3c. [PROJECT AMENDMENT AUTHORIZED.] Notwithstanding
6 the provisions of subdivision 3b:

7 (1) a 48-bed nursing facility located in the city of Duluth
8 that received approval under this section in 2002 for a
9 moratorium exception project may reduce the number of resident
10 rooms in the new addition from 13 to nine and may reduce the
11 common space by more than five percent; and

12 (2) a 129-bed nursing facility located in the city of
13 Duluth that received approval under this section in 2002 for a
14 moratorium exception project may reduce the number of single
15 rooms from 46 to 42 and may reduce the common space by more than
16 five percent."

17 Renumber the sections in sequence and correct the internal
18 references

19 Amend the title accordingly

1 A bill for an act

2 relating to human services; implementing child
3 protection, child care, and child and family support
4 provisions; amending Minnesota Statutes 2004, sections
5 119A.43, subdivision 2; 119B.025, subdivision 1;
6 119B.03, subdivision 6; 119B.09, subdivisions 4, 9;
7 144D.025; 256.978, subdivision 2; 256D.02, subdivision
8 17; 256D.051, subdivision 6c; 256I.04, subdivision 2a;
9 256I.05, by adding a subdivision; 256J.626,
10 subdivisions 6, 7, 8; 256J.751, subdivisions 2, 5;
11 257.85, subdivisions 2, 3; 259.23, subdivisions 1, 2;
12 259.41, subdivision 3; 259.67, subdivisions 2, 4;
13 259.75, subdivision 1; 259.79, subdivision 1; 259.85,
14 subdivision 1; 260.012; 260C.001, subdivision 3;
15 260C.007, subdivision 8; 260C.151, subdivision 6;
16 260C.178; 260C.201, subdivisions 1, 10, 11; 260C.312;
17 260C.317, subdivision 3; 518.551, subdivision 5;
18 518.68, subdivision 2; 548.091, subdivision 1a;
19 626.556, subdivisions 1, 2, 3, 10, 10b, 10e, 10f, 10i,
20 11, 11c, by adding subdivisions; repealing Minnesota
21 Statutes 2004, sections 626.5551, subdivisions 1, 2,
22 3, 4, 5; Minnesota Rules, parts 9500.1206, subparts
23 20, 26d, 27; 9560.0220, subpart 6, item B; 9560.0230,
24 subpart 2.

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

26 ARTICLE 1

27 CHILD WELFARE: ALTERNATIVE RESPONSE

28 Section 1. Minnesota Statutes 2004, section 626.556,
29 subdivision 1, is amended to read:

30 Subdivision 1. [PUBLIC POLICY.] The legislature hereby
31 declares that the public policy of this state is to protect
32 children whose health or welfare may be jeopardized through
33 physical abuse, neglect, or sexual abuse. While it is
34 recognized that most parents want to keep their children safe,
35 sometimes circumstances or conditions interfere with their

1 ability to do so. When this occurs, families are best served by
2 interventions that engage their protective capacities and
3 address immediate safety concerns and ongoing risks of child
4 maltreatment. In furtherance of this public policy, it is the
5 intent of the legislature under this section to strengthen the
6 family and make the home, school, and community safe for
7 children by promoting responsible child care in all settings;
8 and to provide, when necessary, a safe temporary or permanent
9 home environment for physically or sexually abused or neglected
10 children.

11 In addition, it is the policy of this state to require the
12 reporting of neglect, physical or sexual abuse of children in
13 the home, school, and community settings; to provide for the
14 voluntary reporting of abuse or neglect of children; to require
15 the a family assessment and, when appropriate, as the preferred
16 response to reports not alleging substantial child endangerment;
17 to require an investigation of-the-reports when the report
18 alleges substantial child endangerment; and to provide
19 protective and-counseling, family support, and family
20 preservation services when needed in appropriate cases.

21 Sec. 2. Minnesota Statutes 2004, section 626.556,
22 subdivision 2, is amended to read:

23 Subd. 2. [DEFINITIONS.] As used in this section, the
24 following terms have the meanings given them unless the specific
25 content indicates otherwise:

26 (a) "Family assessment" means a comprehensive assessment of
27 child safety, risk of subsequent child maltreatment, and family
28 strengths and needs that is applied to a child maltreatment
29 report that does not allege substantial child endangerment.
30 Family assessment does not include a determination as to whether
31 child maltreatment occurred but does determine the need for
32 services to address the safety of family members and the risk of
33 subsequent maltreatment.

34 (b) "Investigation" means fact gathering related to the
35 current safety of a child and the risk of subsequent
36 maltreatment that determines whether child maltreatment occurred

1 and whether child protective services are needed. An
2 investigation must be used when reports involve substantial
3 child endangerment, and for reports of maltreatment in
4 facilities required to be licensed under chapter 245A or 245B;
5 under sections 144.50 to 144.58 and 241.021; in a school as
6 defined in sections 120A.05, subdivisions 9, 11, and 13, and
7 124D.10; or in a nonlicensed personal care provider association
8 as defined in sections 256B.04, subdivision 16, and 256B.0625,
9 subdivision 19a.

10 (c) "Substantial child endangerment" means a person
11 responsible for a child's care, a person who has a significant
12 relationship to the child as defined in section 609.341, or a
13 person in a position of authority as defined in section 609.341,
14 who by act or omission commits or attempts to commit an act
15 against a child under their care that constitutes any of the
16 following:

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

19 (2) sexual abuse as defined in paragraph (d);

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

21 (4) neglect as defined in paragraph (f), clause (2), that
22 substantially endangers the child's physical or mental health,
23 including a growth delay, which may be referred to as failure to
24 thrive, that has been diagnosed by a physician and is due to
25 parental neglect;

26 (5) murder in the first, second, or third degree under
27 section 609.185, 609.19, or 609.195;

28 (6) manslaughter in the first or second degree under
29 section 609.20 or 609.205;

30 (7) assault in the first, second, or third degree under
31 section 609.221, 609.222, or 609.223;

32 (8) solicitation, inducement, and promotion of prostitution
33 under section 609.322;

34 (9) criminal sexual conduct under sections 609.342 to
35 609.3451;

36 (10) solicitation of children to engage in sexual conduct

1 under section 609.352;

2 (11) malicious punishment or neglect or endangerment of a
3 child under section 609.377 or 609.378;

4 (12) use of a minor in sexual performance under section
5 617.246; or

6 (13) parental behavior, status, or condition which mandates
7 that the county attorney file a termination of parental rights
8 petition under section 260C.301, subdivision 3, paragraph (a).

9 (d) "Sexual abuse" means the subjection of a child by a
10 person responsible for the child's care, by a person who has a
11 significant relationship to the child, as defined in section
12 609.341, or by a person in a position of authority, as defined
13 in section 609.341, subdivision 10, to any act which constitutes
14 a violation of section 609.342 (criminal sexual conduct in the
15 first degree), 609.343 (criminal sexual conduct in the second
16 degree), 609.344 (criminal sexual conduct in the third degree),
17 609.345 (criminal sexual conduct in the fourth degree), or
18 609.3451 (criminal sexual conduct in the fifth degree). Sexual
19 abuse also includes any act which involves a minor which
20 constitutes a violation of prostitution offenses under sections
21 609.321 to 609.324 or 617.246. Sexual abuse includes threatened
22 sexual abuse.

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

34 ~~(e)~~ (f) "Neglect" means:

35 (1) failure by a person responsible for a child's care to
36 supply a child with necessary food, clothing, shelter, health,

1 medical, or other care required for the child's physical or
2 mental health when reasonably able to do so;

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

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

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

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

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

1 medically indicate prenatal exposure to a controlled substance;

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

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

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

14 ~~(d)~~ (g) "Physical abuse" means any physical injury, mental
15 injury, or threatened injury, inflicted by a person responsible
16 for the child's care on a child other than by accidental means,
17 or any physical or mental injury that cannot reasonably be
18 explained by the child's history of injuries, or any aversive or
19 deprivation procedures, or regulated interventions, that have
20 not been authorized under section 121A.67 or 245.825. Abuse
21 does not include reasonable and moderate physical discipline of
22 a child administered by a parent or legal guardian which does
23 not result in an injury. Abuse does not include the use of
24 reasonable force by a teacher, principal, or school employee as
25 allowed by section 121A.582. Actions which are not reasonable
26 and moderate include, but are not limited to, any of the
27 following that are done in anger or without regard to the safety
28 of the child:

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

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

31 (3) shaking a child under age three;

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

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

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

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

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

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

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

16 ~~(e)~~ (h) "Report" means any report received by the local
17 welfare agency, police department, county sheriff, or agency
18 responsible for assessing or investigating maltreatment pursuant
19 to this section.

20 ~~(f)~~ (i) "Facility" means a licensed or unlicensed day care
21 facility, residential facility, agency, hospital, sanitarium, or
22 other facility or institution required to be licensed under
23 sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or
24 chapter 245B; or a school as defined in sections 120A.05,
25 subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed
26 personal care provider organization as defined in sections
27 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

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

30 ~~(h)~~ (k) "Commissioner" means the commissioner of human
31 services.

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

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

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

10 ~~(l)~~ (n) "Threatened injury" means a statement, overt act,
11 condition, or status that represents a substantial risk of
12 physical or sexual abuse or mental injury. Threatened injury
13 includes, but is not limited to, exposing a child to a person
14 responsible for the child's care, as defined in
15 paragraph ~~(b)~~ (e), clause (1), who has:

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

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

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

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

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

35 Sec. 3. Minnesota Statutes 2004, section 626.556,
36 subdivision 3, is amended to read:

1 Subd. 3. [PERSONS MANDATED TO REPORT.] (a) A person who
2 knows or has reason to believe a child is being neglected or
3 physically or sexually abused, as defined in subdivision 2, or
4 has been neglected or physically or sexually abused within the
5 preceding three years, shall immediately report the information
6 to the local welfare agency, agency responsible for assessing or
7 investigating the report, police department, or the county
8 sheriff if the person is:

9 (1) a professional or professional's delegate who is
10 engaged in the practice of the healing arts, social services,
11 hospital administration, psychological or psychiatric treatment,
12 child care, education, probation and correctional services, or
13 law enforcement; or

14 (2) employed as a member of the clergy and received the
15 information while engaged in ministerial duties, provided that a
16 member of the clergy is not required by this subdivision to
17 report information that is otherwise privileged under section
18 595.02, subdivision 1, paragraph (c).

19 The police department or the county sheriff, upon receiving
20 a report, shall immediately notify the local welfare agency or
21 agency responsible for assessing or investigating the report,
22 orally and in writing. The local welfare agency, or agency
23 responsible for assessing or investigating the report, upon
24 receiving a report, shall immediately notify the local police
25 department or the county sheriff orally and in writing. The
26 county sheriff and the head of every local welfare agency,
27 agency responsible for assessing or investigating reports, and
28 police department shall each designate a person within their
29 agency, department, or office who is responsible for ensuring
30 that the notification duties of this paragraph and paragraph (b)
31 are carried out. Nothing in this subdivision shall be construed
32 to require more than one report from any institution, facility,
33 school, or agency.

34 (b) Any person may voluntarily report to the local welfare
35 agency, agency responsible for assessing or investigating the
36 report, police department, or the county sheriff if the person

1 knows, has reason to believe, or suspects a child is being or
2 has been neglected or subjected to physical or sexual abuse.
3 The police department or the county sheriff, upon receiving a
4 report, shall immediately notify the local welfare agency or
5 agency responsible for assessing or investigating the report,
6 orally and in writing. The local welfare agency or agency
7 responsible for assessing or investigating the report, upon
8 receiving a report, shall immediately notify the local police
9 department or the county sheriff orally and in writing.

10 (c) A person mandated to report physical or sexual child
11 abuse or neglect occurring within a licensed facility shall
12 report the information to the agency responsible for licensing
13 the facility under sections 144.50 to 144.58; 241.021; 245A.01
14 to 245A.16; or chapter 245B; or a nonlicensed personal care
15 provider organization as defined in sections 256B.04,
16 subdivision 16; and 256B.0625, subdivision 19. A health or
17 corrections agency receiving a report may request the local
18 welfare agency to provide assistance pursuant to subdivisions
19 10, 10a, and 10b. A board or other entity whose licensees
20 perform work within a school facility, upon receiving a
21 complaint of alleged maltreatment, shall provide information
22 about the circumstances of the alleged maltreatment to the
23 commissioner of education. Section 13.03, subdivision 4,
24 applies to data received by the commissioner of education from a
25 licensing entity.

26 (d) Any person mandated to report shall receive a summary
27 of the disposition of any report made by that reporter,
28 including whether the case has been opened for child protection
29 or other services, or if a referral has been made to a community
30 organization, unless release would be detrimental to the best
31 interests of the child. Any person who is not mandated to
32 report shall, upon request to the local welfare agency, receive
33 a concise summary of the disposition of any report made by that
34 reporter, unless release would be detrimental to the best
35 interests of the child.

36 (e) For purposes of this subdivision, "immediately" means

1 as soon as possible but in no event longer than 24 hours.

2 Sec. 4. Minnesota Statutes 2004, section 626.556, is
3 amended by adding a subdivision to read:

4 Subd. 3d. [AUTHORITY TO INTERVIEW.] The agency responsible
5 for assessing or investigating reports of child maltreatment has
6 the authority to interview the child, the person or persons
7 responsible for the child's care, the alleged perpetrator, and
8 any other person with knowledge of the abuse or neglect for the
9 purpose of gathering the facts, assessing safety and risk to the
10 child, and formulating a plan.

11 Sec. 5. Minnesota Statutes 2004, section 626.556,
12 subdivision 10, is amended to read:

13 Subd. 10. [DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW
14 ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT.] (a) Upon receipt
15 of a report, the local welfare agency shall determine whether to
16 conduct a family assessment or an investigation as appropriate
17 to prevent or provide a remedy for child maltreatment. The
18 local welfare agency:

19 (1) shall conduct an investigation on reports involving
20 substantial child endangerment;

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

25 (3) may conduct a family assessment for reports that do not
26 allege substantial child endangerment. In determining that a
27 family assessment is appropriate, the local welfare agency may
28 consider issues of child safety, parental cooperation, and the
29 need for an immediate response; and

30 (4) may conduct a family assessment on a report that was
31 initially screened and assigned for an investigation. In
32 determining that a complete investigation is not required, the
33 local welfare agency must document the reason for terminating
34 the investigation and notify the local law enforcement agency if
35 the local law enforcement agency is conducting a joint
36 investigation.

1 If the report alleges neglect, physical abuse, or sexual
2 abuse by a parent, guardian, or individual functioning within
3 the family unit as a person responsible for the child's care,
4 the local welfare agency shall immediately conduct an a family
5 assessment including-gathering or investigation as identified in
6 clauses (1) to (4). In conducting a family assessment or
7 investigation, the local welfare agency shall gather information
8 on the existence of substance abuse and domestic violence and
9 offer ~~protective-social~~ services for purposes of preventing
10 ~~further-abuses~~ future child maltreatment, safeguarding and
11 enhancing the welfare of the abused or neglected minor,
12 and supporting and preserving family life whenever possible. If
13 the report alleges a violation of a criminal statute involving
14 sexual abuse, physical abuse, or neglect or endangerment, under
15 section 609.378, the local law enforcement agency and local
16 welfare agency shall coordinate the planning and execution of
17 their respective investigation and assessment efforts to avoid a
18 duplication of fact-finding efforts and multiple interviews.
19 Each agency shall prepare a separate report of the results of
20 its investigation. In cases of alleged child maltreatment
21 resulting in death, the local agency may rely on the
22 fact-finding efforts of a law enforcement investigation to make
23 a determination of whether or not maltreatment occurred. When
24 necessary the local welfare agency shall seek authority to
25 remove the child from the custody of a parent, guardian, or
26 adult with whom the child is living. In performing any of these
27 duties, the local welfare agency shall maintain appropriate
28 records.

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

1 alcohol and drug abuse.

2 (b) When a local agency receives a report or otherwise has
3 information indicating that a child who is a client, as defined
4 in section 245.91, has been the subject of physical abuse,
5 sexual abuse, or neglect at an agency, facility, or program as
6 defined in section 245.91, it shall, in addition to its other
7 duties under this section, immediately inform the ombudsman
8 established under sections 245.91 to 245.97. The commissioner
9 of education shall inform the ombudsman established under
10 sections 245.91 to 245.97 of reports regarding a child defined
11 as a client in section 245.91 that maltreatment occurred at a
12 school as defined in sections 120A.05, subdivisions 9, 11, and
13 13, and 124D.10.

14 (c) Authority of the local welfare agency responsible for
15 assessing or investigating the child abuse or neglect report,
16 the agency responsible for assessing or investigating the
17 report, and of the local law enforcement agency for
18 investigating the alleged abuse or neglect includes, but is not
19 limited to, authority to interview, without parental consent,
20 the alleged victim and any other minors who currently reside
21 with or who have resided with the alleged offender. The
22 interview may take place at school or at any facility or other
23 place where the alleged victim or other minors might be found or
24 the child may be transported to, and the interview conducted at,
25 a place appropriate for the interview of a child designated by
26 the local welfare agency or law enforcement agency. The
27 interview may take place outside the presence of the alleged
28 offender or parent, legal custodian, guardian, or school
29 official. For family assessments, it is the preferred practice
30 to request a parent or guardian's permission to interview the
31 child prior to conducting the child interview, unless doing so
32 would compromise the safety assessment. Except as provided in
33 this paragraph, the parent, legal custodian, or guardian shall
34 be notified by the responsible local welfare or law enforcement
35 agency no later than the conclusion of the investigation or
36 assessment that this interview has occurred. Notwithstanding

1 rule 49.02 of the Minnesota Rules of Procedure for Juvenile
2 Courts, the juvenile court may, after hearing on an ex parte
3 motion by the local welfare agency, order that, where reasonable
4 cause exists, the agency withhold notification of this interview
5 from the parent, legal custodian, or guardian. If the interview
6 took place or is to take place on school property, the order
7 shall specify that school officials may not disclose to the
8 parent, legal custodian, or guardian the contents of the
9 notification of intent to interview the child on school
10 property, as provided under this paragraph, and any other
11 related information regarding the interview that may be a part
12 of the child's school record. A copy of the order shall be sent
13 by the local welfare or law enforcement agency to the
14 appropriate school official.

15 (d) When the local welfare, local law enforcement agency,
16 or the agency responsible for assessing or investigating a
17 report of maltreatment determines that an interview should take
18 place on school property, written notification of intent to
19 interview the child on school property must be received by
20 school officials prior to the interview. The notification shall
21 include the name of the child to be interviewed, the purpose of
22 the interview, and a reference to the statutory authority to
23 conduct an interview on school property. For interviews
24 conducted by the local welfare agency, the notification shall be
25 signed by the chair of the local social services agency or the
26 chair's designee. The notification shall be private data on
27 individuals subject to the provisions of this paragraph. School
28 officials may not disclose to the parent, legal custodian, or
29 guardian the contents of the notification or any other related
30 information regarding the interview until notified in writing by
31 the local welfare or law enforcement agency that the
32 investigation or assessment has been concluded, unless a school
33 employee or agent is alleged to have maltreated the child.
34 Until that time, the local welfare or law enforcement agency or
35 the agency responsible for assessing or investigating a report
36 of maltreatment shall be solely responsible for any disclosures

1 regarding the nature of the assessment or investigation.

2 Except where the alleged offender is believed to be a
3 school official or employee, the time and place, and manner of
4 the interview on school premises shall be within the discretion
5 of school officials, but the local welfare or law enforcement
6 agency shall have the exclusive authority to determine who may
7 attend the interview. The conditions as to time, place, and
8 manner of the interview set by the school officials shall be
9 reasonable and the interview shall be conducted not more than 24
10 hours after the receipt of the notification unless another time
11 is considered necessary by agreement between the school
12 officials and the local welfare or law enforcement agency.

13 Where the school fails to comply with the provisions of this
14 paragraph, the juvenile court may order the school to comply.
15 Every effort must be made to reduce the disruption of the
16 educational program of the child, other students, or school
17 staff when an interview is conducted on school premises.

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

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

1 (g) The commissioner of human services, the ombudsman for
2 mental health and mental retardation, the local welfare agencies
3 responsible for investigating reports, the commissioner of
4 education, and the local law enforcement agencies have the right
5 to enter facilities as defined in subdivision 2 and to inspect
6 and copy the facility's records, including medical records, as
7 part of the investigation. Notwithstanding the provisions of
8 chapter 13, they also have the right to inform the facility
9 under investigation that they are conducting an investigation,
10 to disclose to the facility the names of the individuals under
11 investigation for abusing or neglecting a child, and to provide
12 the facility with a copy of the report and the investigative
13 findings.

14 (h) The local welfare agency ~~or the agency~~ responsible for
15 assessing or conducting a family assessment shall collect
16 available and relevant information to determine child safety,
17 risk of subsequent child maltreatment, and family strengths and
18 needs. The local welfare agency or the agency responsible for
19 investigating the report shall collect available and relevant
20 information to ascertain whether maltreatment occurred and
21 whether protective services are needed. Information collected
22 includes, when relevant, information with regard to the person
23 reporting the alleged maltreatment, including the nature of the
24 reporter's relationship to the child and to the alleged
25 offender, and the basis of the reporter's knowledge for the
26 report; the child allegedly being maltreated; the alleged
27 offender; the child's caretaker; and other collateral sources
28 having relevant information related to the alleged
29 maltreatment. The local welfare agency or the agency
30 responsible for assessing or investigating the report may make a
31 determination of no maltreatment early in an assessment, and
32 close the case and retain immunity, if the collected information
33 shows no basis for a full assessment or investigation.

34 Information relevant to the assessment or investigation
35 must be asked for, and may include:

36 (1) the child's sex and age, prior reports of maltreatment,

1 information relating to developmental functioning, credibility
2 of the child's statement, and whether the information provided
3 under this clause is consistent with other information collected
4 during the course of the assessment or investigation;

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

12 (3) collateral source information regarding the alleged
13 maltreatment and care of the child. Collateral information
14 includes, when relevant: (i) a medical examination of the
15 child; (ii) prior medical records relating to the alleged
16 maltreatment or the care of the child maintained by any
17 facility, clinic, or health care professional and an interview
18 with the treating professionals; and (iii) interviews with the
19 child's caretakers, including the child's parent, guardian,
20 foster parent, child care provider, teachers, counselors, family
21 members, relatives, and other persons who may have knowledge
22 regarding the alleged maltreatment and the care of the child;
23 and

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

26 Nothing in this paragraph precludes the local welfare
27 agency, the local law enforcement agency, or the agency
28 responsible for assessing or investigating the report from
29 collecting other relevant information necessary to conduct the
30 assessment or investigation. Notwithstanding section 13.384 or
31 144.335, the local welfare agency has access to medical data and
32 records for purposes of clause (3). Notwithstanding the data's
33 classification in the possession of any other agency, data
34 acquired by the local welfare agency or the agency responsible
35 for assessing or investigating the report during the course of
36 the assessment or investigation are private data on individuals

1 and must be maintained in accordance with subdivision 11. Data
2 of the commissioner of education collected or maintained during
3 and for the purpose of an investigation of alleged maltreatment
4 in a school are governed by this section, notwithstanding the
5 data's classification as educational, licensing, or personnel
6 data under chapter 13.

7 In conducting an assessment or investigation involving a
8 school facility as defined in subdivision 2, paragraph ~~(f)~~ (i),
9 the commissioner of education shall collect investigative
10 reports and data that are relevant to a report of maltreatment
11 and are from local law enforcement and the school facility.

12 ~~(i) In the initial stages of an assessment or investigation~~
13 Upon receipt of a report, the local welfare agency shall conduct
14 a face-to-face observation of contact with the child reported to
15 be maltreated and a face-to-face interview of the alleged
16 offender and with the child's primary caregiver sufficient to
17 complete a safety assessment and ensure the immediate safety of
18 the child. The face-to-face contact with the child and primary
19 caregiver shall occur immediately if substantial child
20 endangerment is alleged and within five calendar days for all
21 other reports. If the alleged offender was not already
22 interviewed as the primary caregiver, the local welfare agency
23 shall also conduct a face-to-face interview with the alleged
24 offender in the early stages of the assessment or
25 investigation. At the initial contact, the local child welfare
26 agency or the agency responsible for assessing or investigating
27 the report must inform the alleged offender of the complaints or
28 allegations made against the individual in a manner consistent
29 with laws protecting the rights of the person who made the
30 report. The interview with the alleged offender may be
31 postponed if it would jeopardize an active law enforcement
32 investigation.

33 (j) When conducting an investigation, the local welfare
34 agency shall use a question and answer interviewing format with
35 questioning as nondirective as possible to elicit spontaneous
36 responses. For investigations only, the following interviewing

1 methods and procedures must be used whenever possible when
2 collecting information:

3 (1) audio recordings of all interviews with witnesses and
4 collateral sources; and

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

8 (k) In conducting an assessment or investigation involving
9 a school facility as defined in subdivision 2,
10 paragraph ~~(f)~~ (i), the commissioner of education shall collect
11 available and relevant information and use the procedures in
12 paragraphs ~~(h)~~ (i), (k), and ~~(j)~~ subdivision 3d, except that
13 the requirement for face-to-face observation of the child and
14 face-to-face interview of the alleged offender is to occur in
15 the initial stages of the assessment or investigation provided
16 that the commissioner may also base the assessment or
17 investigation on investigative reports and data received from
18 the school facility and local law enforcement, to the extent
19 those investigations satisfy the requirements of
20 paragraphs ~~(h)~~ (i), and (k), and ~~(j)~~ subdivision 3d.

21 Sec. 6. Minnesota Statutes 2004, section 626.556,
22 subdivision 10b, is amended to read:

23 Subd. 10b. [DUTIES OF COMMISSIONER; NEGLECT OR ABUSE IN
24 FACILITY.] (a) This section applies to the commissioners of
25 human services, health, and education. The commissioner of the
26 agency responsible for assessing or investigating the report
27 shall immediately assess or investigate if the report alleges
28 that:

29 (1) a child who is in the care of a facility as defined in
30 subdivision 2 is neglected, physically abused, sexually abused,
31 or is the victim of maltreatment in a facility by an individual
32 in that facility, or has been so neglected or abused, or been
33 the victim of maltreatment in a facility by an individual in
34 that facility within the three years preceding the report; or

35 (2) a child was neglected, physically abused, sexually
36 abused, or is the victim of maltreatment in a facility by an

1 individual in a facility defined in subdivision 2, while in the
2 care of that facility within the three years preceding the
3 report.

4 The commissioner of the agency responsible for assessing or
5 investigating the report shall arrange for the transmittal to
6 the commissioner of reports received by local agencies and may
7 delegate to a local welfare agency the duty to investigate
8 reports. In conducting an investigation under this section, the
9 commissioner has the powers and duties specified for local
10 welfare agencies under this section. The commissioner of the
11 agency responsible for assessing or investigating the report or
12 local welfare agency may interview any children who are or have
13 been in the care of a facility under investigation and their
14 parents, guardians, or legal custodians.

15 (b) Prior to any interview, the commissioner of the agency
16 responsible for assessing or investigating the report or local
17 welfare agency shall notify the parent, guardian, or legal
18 custodian of a child who will be interviewed in the manner
19 provided for in subdivision 10d, paragraph (a). If reasonable
20 efforts to reach the parent, guardian, or legal custodian of a
21 child in an out-of-home placement have failed, the child may be
22 interviewed if there is reason to believe the interview is
23 necessary to protect the child or other children in the
24 facility. The commissioner of the agency responsible for
25 assessing or investigating the report or local agency must
26 provide the information required in this subdivision to the
27 parent, guardian, or legal custodian of a child interviewed
28 without parental notification as soon as possible after the
29 interview. When the investigation is completed, any parent,
30 guardian, or legal custodian notified under this subdivision
31 shall receive the written memorandum provided for in subdivision
32 10d, paragraph (c).

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

1 subdivision, the commissioner of education shall obtain access
2 to reports and investigative data that are relevant to a report
3 of maltreatment and are in the possession of a school facility
4 as defined in subdivision 2, paragraph ~~(f)~~ (i), notwithstanding
5 the classification of the data as educational or personnel data
6 under chapter 13. This includes, but is not limited to, school
7 investigative reports, information concerning the conduct of
8 school personnel alleged to have committed maltreatment of
9 students, information about witnesses, and any protective or
10 corrective action taken by the school facility regarding the
11 school personnel alleged to have committed maltreatment.

12 (d) The commissioner may request assistance from the local
13 social services agency.

14 Sec. 7. Minnesota Statutes 2004, section 626.556,
15 subdivision 10e, is amended to read:

16 Subd. 10e. ~~[DETERMINATIONS.] Upon the conclusion of every~~
17 ~~assessment or investigation it conducts,~~ (a) The local welfare
18 agency shall conclude the family assessment or the investigation
19 within 45 days of the receipt of a report. The conclusion of
20 the assessment or investigation may be extended to permit the
21 completion of a criminal investigation or the receipt of expert
22 information requested within 45 days of the receipt of the
23 report.

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

28 (c) After conducting an investigation, the local welfare
29 agency shall make two determinations: first, whether
30 maltreatment has occurred; and second, whether child protective
31 services are needed. ~~Upon the conclusion of~~

32 (d) If the commissioner of education conducts an assessment
33 or investigation by the commissioner of education, the
34 commissioner shall determine whether maltreatment occurred and
35 what corrective or protective action was taken by the school
36 facility. If a determination is made that maltreatment has

1 occurred, the commissioner shall report to the employer, the
2 school board, and any appropriate licensing entity the
3 determination that maltreatment occurred and what corrective or
4 protective action was taken by the school facility. In all
5 other cases, the commissioner shall inform the school board or
6 employer that a report was received, the subject of the report,
7 the date of the initial report, the category of maltreatment
8 alleged as defined in paragraph ~~(a)~~ (f), the fact that
9 maltreatment was not determined, and a summary of the specific
10 reasons for the determination.

11 (e) When maltreatment is determined in an investigation
12 involving a facility, the investigating agency shall also
13 determine whether the facility or individual was responsible, or
14 whether both the facility and the individual were responsible
15 for the maltreatment using the mitigating factors in paragraph
16 ~~(d)~~ (i). Determinations under this subdivision must be made
17 based on a preponderance of the evidence and are private data on
18 individuals or nonpublic data as maintained by the commissioner
19 of education.

20 ~~(a)~~ (f) For the purposes of this subdivision, "maltreatment"
21 means any of the following acts or omissions:

22 (1) physical abuse as defined in subdivision 2, paragraph
23 ~~(d)~~ (g);

24 (2) neglect as defined in subdivision 2, paragraph ~~(e)~~ (f);

25 (3) sexual abuse as defined in subdivision 2, paragraph
26 ~~(a)~~ (d);

27 (4) mental injury as defined in subdivision 2, paragraph
28 ~~(k)~~ (m); or

29 (5) maltreatment of a child in a facility as defined in
30 subdivision 2, paragraph ~~(f)~~ (i).

31 ~~(b)~~ (g) For the purposes of this subdivision, a
32 determination that child protective services are needed means
33 that the local welfare agency has documented conditions during
34 the assessment or investigation sufficient to cause a child
35 protection worker, as defined in section 626.559, subdivision 1,
36 to conclude that a child is at significant risk of maltreatment

1 if protective intervention is not provided and that the
2 individuals responsible for the child's care have not taken or
3 are not likely to take actions to protect the child from
4 maltreatment or risk of maltreatment.

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

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

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

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

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

36 (j) Individual counties may implement more detailed

1 definitions or criteria that indicate which allegations to
2 investigate, as long as a county's policies are consistent with
3 the definitions in the statutes and rules and are approved by
4 the county board. Each local welfare agency shall periodically
5 inform mandated reporters under subdivision 3 who work in the
6 county of the definitions of maltreatment in the statutes and
7 rules and any additional definitions or criteria that have been
8 approved by the county board.

9 Sec. 8. Minnesota Statutes 2004, section 626.556,
10 subdivision 10f, is amended to read:

11 Subd. 10f. [NOTICE OF DETERMINATIONS.] Within ten working
12 days of the conclusion of a family assessment, the local welfare
13 agency shall notify the parent or guardian of the child of the
14 need for services to address child safety concerns or
15 significant risk of subsequent child maltreatment. The local
16 welfare agency and the family may also jointly agree that family
17 support and family preservation services are needed. Within ten
18 working days of the conclusion of an assessment investigation,
19 the local welfare agency or agency responsible for assessing or
20 investigating the report shall notify the parent or guardian of
21 the child, the person determined to be maltreating the child,
22 and if applicable, the director of the facility, of the
23 determination and a summary of the specific reasons for the
24 determination. The notice must also include a certification
25 that the information collection procedures under subdivision 10,
26 paragraphs (h), (i), and (j), were followed and a notice of the
27 right of a data subject to obtain access to other private data
28 on the subject collected, created, or maintained under this
29 section. In addition, the notice shall include the length of
30 time that the records will be kept under subdivision 11c. The
31 investigating agency shall notify the parent or guardian of the
32 child who is the subject of the report, and any person or
33 facility determined to have maltreated a child, of their appeal
34 or review rights under this section or section 256.022.

35 Sec. 9. Minnesota Statutes 2004, section 626.556,
36 subdivision 10i, is amended to read:

1 Subd. 10i. [ADMINISTRATIVE RECONSIDERATION OF FINAL
2 DETERMINATION OF MALTREATMENT AND DISQUALIFICATION BASED ON
3 SERIOUS OR RECURRING MALTREATMENT; REVIEW PANEL.]
4 (a) Administrative reconsideration is not applicable in family
5 assessments since no determination concerning maltreatment is
6 made. For investigations, except as provided under paragraph
7 (e), an individual or facility that the commissioner of human
8 services, a local social service agency, or the commissioner of
9 education determines has maltreated a child, an interested
10 person acting on behalf of the child, regardless of the
11 determination, who contests the investigating agency's final
12 determination regarding maltreatment, may request the
13 investigating agency to reconsider its final determination
14 regarding maltreatment. The request for reconsideration must be
15 submitted in writing to the investigating agency within 15
16 calendar days after receipt of notice of the final determination
17 regarding maltreatment or, if the request is made by an
18 interested person who is not entitled to notice, within 15 days
19 after receipt of the notice by the parent or guardian of the
20 child. Effective January 1, 2002, an individual who was
21 determined to have maltreated a child under this section and who
22 was disqualified on the basis of serious or recurring
23 maltreatment under sections 245C.14 and 245C.15, may request
24 reconsideration of the maltreatment determination and the
25 disqualification. The request for reconsideration of the
26 maltreatment determination and the disqualification must be
27 submitted within 30 calendar days of the individual's receipt of
28 the notice of disqualification under sections 245C.16 and
29 245C.17.

30 (b) Except as provided under paragraphs (e) and (f), if the
31 investigating agency denies the request or fails to act upon the
32 request within 15 calendar days after receiving the request for
33 reconsideration, the person or facility entitled to a fair
34 hearing under section 256.045 may submit to the commissioner of
35 human services or the commissioner of education a written
36 request for a hearing under that section. Section 256.045 also

1 governs hearings requested to contest a final determination of
2 the commissioner of education. For reports involving
3 maltreatment of a child in a facility, an interested person
4 acting on behalf of the child may request a review by the Child
5 Maltreatment Review Panel under section 256.022 if the
6 investigating agency denies the request or fails to act upon the
7 request or if the interested person contests a reconsidered
8 determination. The investigating agency shall notify persons
9 who request reconsideration of their rights under this
10 paragraph. The request must be submitted in writing to the
11 review panel and a copy sent to the investigating agency within
12 30 calendar days of receipt of notice of a denial of a request
13 for reconsideration or of a reconsidered determination. The
14 request must specifically identify the aspects of the agency
15 determination with which the person is dissatisfied.

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

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

29 (e) Effective January 1, 2002, if an individual was
30 disqualified under sections 245C.14 and 245C.15, on the basis of
31 a determination of maltreatment, which was serious or recurring,
32 and the individual has requested reconsideration of the
33 maltreatment determination under paragraph (a) and requested
34 reconsideration of the disqualification under sections 245C.21
35 to 245C.27, reconsideration of the maltreatment determination
36 and reconsideration of the disqualification shall be

1 consolidated into a single reconsideration. If reconsideration
2 of the maltreatment determination is denied or the
3 disqualification is not set aside under sections 245C.21 to
4 245C.27, the individual may request a fair hearing under section
5 256.045. If an individual requests a fair hearing on the
6 maltreatment determination and the disqualification, the scope
7 of the fair hearing shall include both the maltreatment
8 determination and the disqualification.

9 (f) Effective January 1, 2002, if a maltreatment
10 determination or a disqualification based on serious or
11 recurring maltreatment is the basis for a denial of a license
12 under section 245A.05 or a licensing sanction under section
13 245A.07, the license holder has the right to a contested case
14 hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to
15 1400.8612. As provided for under section 245A.08, subdivision
16 2a, the scope of the contested case hearing shall include the
17 maltreatment determination, disqualification, and licensing
18 sanction or denial of a license. In such cases, a fair hearing
19 regarding the maltreatment determination shall not be conducted
20 under paragraph (b). If the disqualified subject is an
21 individual other than the license holder and upon whom a
22 background study must be conducted under chapter 245C, the
23 hearings of all parties may be consolidated into a single
24 contested case hearing upon consent of all parties and the
25 administrative law judge.

26 (g) For purposes of this subdivision, "interested person
27 acting on behalf of the child" means a parent or legal guardian;
28 stepparent; grandparent; guardian ad litem; adult stepbrother,
29 stepsister, or sibling; or adult aunt or uncle; unless the
30 person has been determined to be the perpetrator of the
31 maltreatment.

32 Sec. 10. Minnesota Statutes 2004, section 626.556, is
33 amended by adding a subdivision to read:

34 Subd. 101. [DOCUMENTATION.] When a case is closed that has
35 been open for services, the local welfare agency shall document
36 the outcome of the family assessment or investigation, including

1 a description of services provided and the removal or reduction
2 of risk to the child, if it existed.

3 Sec. 11. Minnesota Statutes 2004, section 626.556, is
4 amended by adding a subdivision to read:

5 Subd. 10m. [PROVISION OF CHILD PROTECTIVE SERVICES.] The
6 local welfare agency shall create a written plan, in
7 collaboration with the family whenever possible, within 30 days
8 of the determination that child protective services are needed
9 or upon joint agreement of the local welfare agency and the
10 family that family support and preservation services are
11 needed. Child protective services for a family are voluntary
12 unless ordered by the court.

13 Sec. 12. Minnesota Statutes 2004, section 626.556,
14 subdivision 11, is amended to read:

15 Subd. 11. [RECORDS.] (a) Except as provided in paragraph
16 (b) or (d) and subdivisions 10b, 10d, 10g, and 11b, all records
17 concerning individuals maintained by a local welfare agency or
18 agency responsible for assessing or investigating the report
19 under this section, including any written reports filed under
20 subdivision 7, shall be private data on individuals, except
21 insofar as copies of reports are required by subdivision 7 to be
22 sent to the local police department or the county sheriff. All
23 records concerning determinations of maltreatment by a facility
24 are nonpublic data as maintained by the Department of Education,
25 except insofar as copies of reports are required by subdivision
26 7 to be sent to the local police department or the county
27 sheriff. Reports maintained by any police department or the
28 county sheriff shall be private data on individuals except the
29 reports shall be made available to the investigating,
30 petitioning, or prosecuting authority, including county medical
31 examiners or county coroners. Section 13.82, subdivisions 8, 9,
32 and 14, apply to law enforcement data other than the reports.
33 The local social services agency or agency responsible for
34 assessing or investigating the report shall make available to
35 the investigating, petitioning, or prosecuting authority,
36 including county medical examiners or county coroners or their

1 professional delegates, any records which contain information
2 relating to a specific incident of neglect or abuse which is
3 under investigation, petition, or prosecution and information
4 relating to any prior incidents of neglect or abuse involving
5 any of the same persons. The records shall be collected and
6 maintained in accordance with the provisions of chapter 13. In
7 conducting investigations and assessments pursuant to this
8 section, the notice required by section 13.04, subdivision 2,
9 need not be provided to a minor under the age of ten who is the
10 alleged victim of abuse or neglect. An individual subject of a
11 record shall have access to the record in accordance with those
12 sections, except that the name of the reporter shall be
13 confidential while the report is under assessment or
14 investigation except as otherwise permitted by this
15 subdivision. Any person conducting an investigation or
16 assessment under this section who intentionally discloses the
17 identity of a reporter prior to the completion of the
18 investigation or assessment is guilty of a misdemeanor. After
19 the assessment or investigation is completed, the name of the
20 reporter shall be confidential. The subject of the report may
21 compel disclosure of the name of the reporter only with the
22 consent of the reporter or upon a written finding by the court
23 that the report was false and that there is evidence that the
24 report was made in bad faith. This subdivision does not alter
25 disclosure responsibilities or obligations under the Rules of
26 Criminal Procedure.

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

32 (c) The commissioner of education must be provided with all
33 requested data that are relevant to a report of maltreatment and
34 are in possession of a school facility as defined in subdivision
35 2, paragraph ~~(f)~~ (i), when the data is requested pursuant to an
36 assessment or investigation of a maltreatment report of a

1 student in a school. If the commissioner of education makes a
2 determination of maltreatment involving an individual performing
3 work within a school facility who is licensed by a board or
4 other agency, the commissioner shall provide necessary and
5 relevant information to the licensing entity to enable the
6 entity to fulfill its statutory duties. Notwithstanding section
7 13.03, subdivision 4, data received by a licensing entity under
8 this paragraph are governed by section 13.41 or other applicable
9 law governing data of the receiving entity, except that this
10 section applies to the classification of and access to data on
11 the reporter of the maltreatment.

12 (d) The investigating agency shall exchange not public data
13 with the Child Maltreatment Review Panel under section 256.022
14 if the data are pertinent and necessary for a review requested
15 under section 256.022. Upon completion of the review, the not
16 public data received by the review panel must be returned to the
17 investigating agency.

18 Sec. 13. Minnesota Statutes 2004, section 626.556,
19 subdivision 11c, is amended to read:

20 Subd. 11c. [WELFARE, COURT SERVICES AGENCY, AND SCHOOL
21 RECORDS MAINTAINED.] Notwithstanding sections 138.163 and
22 138.17, records maintained or records derived from reports of
23 abuse by local welfare agencies, agencies responsible for
24 assessing or investigating the report, court services agencies,
25 or schools under this section shall be destroyed as provided in
26 paragraphs (a) to (d) by the responsible authority.

27 (a) ~~If-upon~~ For family assessment or cases and cases where
28 an investigation there-is results in no determination of
29 maltreatment or the need for child protective services,
30 the assessment or investigation records must be maintained for a
31 period of four years. Records under this paragraph may not be
32 used for employment, background checks, or purposes other than
33 to assist in future risk and safety assessments.

34 (b) All records relating to reports which, upon ~~assessment~~
35 ~~or investigation~~, indicate either maltreatment or a need for
36 child protective services shall be maintained for at least ten

1 years after the date of the final entry in the case record.

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

10 (d) Private or confidential data released to a court
11 services agency under subdivision 10h must be destroyed by the
12 court services agency when ordered to do so by the local welfare
13 agency that released the data. The local welfare agency or
14 agency responsible for assessing or investigating the report
15 shall order destruction of the data when other records relating
16 to the assessment or investigation are destroyed under this
17 subdivision.

18 Sec. 14. [REPEALER.]

19 (a) Minnesota Statutes 2004, section 626.5551, subdivisions
20 1, 2, 3, 4, and 5, are repealed.

21 (b) Minnesota Rules, parts 9560.0220, subpart 6, item B;
22 and 9560.0230, subpart 2, are repealed.

23 ARTICLE 2

24 CHILD WELFARE: PERMANENCY

25 Section 1. Minnesota Statutes 2004, section 257.85,
26 subdivision 2, is amended to read:

27 Subd. 2. [SCOPE.] The provisions of this section apply to
28 those situations in which the legal and physical custody of a
29 child is established with a relative or important friend with
30 whom the child has resided or had significant contact according
31 to section 260C.201, subdivision 11, by a district court order
32 issued on or after July 1, 1997, or a tribal court order issued
33 on or after July 1, 2005, when the child has been removed from
34 the care of the parent by previous district or tribal court
35 order.

36 Sec. 2. Minnesota Statutes 2004, section 257.85,

1 subdivision 3, is amended to read:

2 Subd. 3. [DEFINITIONS.] For purposes of this section, the
3 terms defined in this subdivision have the meanings given them.

4 (a) "MFIP standard" means the transitional standard used to
5 calculate assistance under the MFIP program, or, if permanent
6 legal and physical custody of the child is given to a relative
7 custodian residing outside of Minnesota, the analogous
8 transitional standard or standard of need used to calculate
9 assistance under the TANF program of the state where the
10 relative custodian lives.

11 (b) "Local agency" means the ~~local~~ county social services
12 agency or tribal social services agency with legal custody of a
13 child prior to the transfer of permanent legal and physical
14 custody.

15 (c) "Permanent legal and physical custody" means permanent
16 legal and physical custody ordered by a Minnesota Juvenile Court
17 under section 260C.201, subdivision 27 11.

18 (d) "Relative" has the meaning given in section 260C.007,
19 subdivision 27.

20 (e) "Relative custodian" means a person who has permanent
21 legal and physical custody of a child. When siblings, including
22 half-siblings and stepsiblings, are placed together in permanent
23 legal and physical custody, the person receiving permanent legal
24 and physical custody of the siblings is considered a relative
25 custodian of all of the siblings for purposes of this section.

26 (f) "Relative custody assistance agreement" means an
27 agreement entered into between a local agency and a person who
28 has been or will be awarded permanent legal and physical custody
29 of a child.

30 (g) "Relative custody assistance payment" means a monthly
31 cash grant made to a relative custodian pursuant to a relative
32 custody assistance agreement and in an amount calculated under
33 subdivision 7.

34 (h) "Remains in the physical custody of the relative
35 custodian" means that the relative custodian is providing
36 day-to-day care for the child and that the child lives with the

1 relative custodian; absence from the relative custodian's home
2 for a period of more than 120 days raises a presumption that the
3 child no longer remains in the physical custody of the relative
4 custodian.

5 Sec. 3, Minnesota Statutes 2004, section 259.23,
6 subdivision 1, is amended to read:

7 Subdivision 1. [VENUE.] (a) Except as provided in section
8 260C.101, subdivision 2, the juvenile court shall have original
9 jurisdiction in all adoption proceedings. The proper venue for
10 an adoption proceeding shall be the county of the petitioner's
11 residence, except as provided in paragraph (b). However,

12 (b) Venue for the adoption of a child committed to the
13 guardianship of the commissioner of human services shall be the
14 county with jurisdiction in the matter according to section
15 260C.317, subdivision 3.

16 (c) Upon request of the petitioner, the court having
17 jurisdiction over the matter under section 260C.317, subdivision
18 3, may transfer venue of an adoption proceeding involving a
19 child under the guardianship of the commissioner to the county
20 of the petitioner's residence upon determining that:

21 (1) the commissioner has given consent to the petitioner's
22 adoption of the child or that consent is unreasonably withheld;

23 (2) there is no other adoption petition for the child that
24 has been filed or is reasonably anticipated by the commissioner
25 or the commissioner's delegate to be filed; and

26 (3) transfer of venue is in the best interests of the child.
27 Transfer of venue under this paragraph shall be according to the
28 rules of adoption court procedure.

29 (d) In all other adoptions, if the petitioner has acquired
30 a new residence in another county and requests a transfer of the
31 adoption proceeding, the court in which an adoption is initiated
32 may transfer the proceeding to the appropriate court in the new
33 county of residence if the transfer is in the best interests of
34 the person to be adopted. The court transfers the proceeding by
35 ordering a continuance and by forwarding to the court
36 administrator of the appropriate court a certified copy of all

1 papers filed, together with an order of transfer. The
2 transferring court also shall forward copies of the order of
3 transfer to the commissioner of human services and any agency
4 participating in the proceedings. The judge of the receiving
5 court shall accept the order of the transfer and any other
6 documents transmitted and hear the case; provided, however, the
7 receiving court may in its discretion require the filing of a
8 new petition prior to the hearing.

9 Sec. 4. Minnesota Statutes 2004, section 259.23,
10 subdivision 2, is amended to read:

11 Subd. 2. [CONTENTS OF PETITION.] The petition shall be
12 signed by the petitioner and, if married, by the spouse. It
13 shall be verified, and filed in duplicate. The petition shall
14 allege:

15 (a) The full name, age and place of residence of
16 petitioner, and if married, the date and place of marriage;

17 (b) The date petitioner acquired physical custody of the
18 child and from what person or agency;

19 (c) The date of birth of the child, if known, and the state
20 and county where born;

21 (d) The name of the child's parents, if known, and the
22 guardian if there be one;

23 (e) The actual name of the child, if known, and any known
24 aliases;

25 (f) The name to be given the child if a change of name is
26 desired;

27 (g) The description and value of any real or personal
28 property owned by the child;

29 (h) That the petitioner desires that the relationship of
30 parent and child be established between petitioner and the
31 child, and that it is to the best interests of the child for the
32 child to be adopted by the petitioner.

33 In agency placements, the information required in clauses
34 (d) and (e) ~~above~~ shall not be required to be alleged in the
35 petition but shall be transmitted to the court by the
36 commissioner of human services or the agency.

1 Sec. 5. Minnesota Statutes 2004, section 259.41,
2 subdivision 3, is amended to read:

3 Subd. 3. [BACKGROUND CHECK; AFFIDAVIT OF HISTORY.] (a) At
4 the time an adoption study is commenced, each prospective
5 adoptive parent must:

6 (1) authorize access by the agency to any private data
7 needed to complete the study;

8 (2) provide all addresses at which the prospective adoptive
9 parent and anyone in the household over the age of 13 has
10 resided in the previous ~~ten~~ five years; and

11 (3) disclose any names used previously other than the name
12 used at the time of the study; ~~and~~

13 ~~(4) provide a set of fingerprints, which shall be forwarded~~
14 ~~to the Bureau of Criminal Apprehension to facilitate the~~
15 ~~criminal conviction background check required under paragraph~~
16 ~~(b).~~

17 (b) When the requirements of paragraph (a) have been met,
18 the agency shall immediately begin a background check, on each
19 person over the age of 13 living in the home, consisting, at a
20 minimum, of the following:

21 (1) a check of criminal conviction data with the Bureau of
22 Criminal Apprehension and local law enforcement authorities;

23 (2) a check for data on substantiated maltreatment of a
24 child or vulnerable adult and domestic violence data with local
25 law enforcement and social services agencies and district
26 courts; and

27 (3) for those persons under the age of 25, a check of
28 juvenile court records.

29 Notwithstanding the provisions of section 260B.171 or
30 260C.171, the Bureau of Criminal Apprehension, local law
31 enforcement and social services agencies, district courts, and
32 juvenile courts shall release the requested information to the
33 agency completing the adoption study.

34 (c) When paragraph (b) requires checking the data or
35 records of local law enforcement and social services agencies
36 and district and juvenile courts, the agency shall check with

1 the law enforcement and social services agencies and courts
2 whose jurisdictions cover the addresses under paragraph (a),
3 clause (2). In the event that the agency is unable to complete
4 any of the record checks required by paragraph (b), the agency
5 shall document the fact and the agency's efforts to obtain the
6 information.

7 (d) For a study completed under this section, when the
8 agency has reasonable cause to believe that further information
9 may exist on the prospective adoptive parent or household member
10 over the age of 13 that may relate to the health, safety, or
11 welfare of the child, the prospective adoptive parent or
12 household member over the age of 13 shall provide the agency
13 with a set of classifiable fingerprints obtained from an
14 authorized law enforcement agency and the agency may obtain
15 criminal history data from the National Criminal Records
16 Repository by submitting fingerprints to the Bureau of Criminal
17 Apprehension. The agency has reasonable cause when, but not
18 limited to, the:

19 (1) information from the Bureau of Criminal Apprehension
20 indicates that the prospective adoptive parent or household
21 member over the age of 13 is a multistate offender;

22 (2) information from the Bureau of Criminal Apprehension
23 indicates that multistate offender status is undetermined;

24 (3) the agency has received a report from the prospective
25 adoptive parent or household member over the age of 13 or a
26 third party indicating that the prospective adoptive parent or
27 household member over the age of 13 has a criminal history in a
28 jurisdiction other than Minnesota; or

29 (4) the prospective adoptive parent or household member
30 over the age of 13 is or has been a resident of a state other
31 than Minnesota in the prior five years.

32 (e) (e) At any time prior to completion of the background
33 check required under paragraph (b), a prospective adoptive
34 parent may submit to the agency conducting the study a sworn
35 affidavit stating whether they or any person residing in the
36 household have been convicted of a crime. The affidavit shall

1 also state whether the adoptive parent or any other person
2 residing in the household is the subject of an open
3 investigation of, or have been the subject of a substantiated
4 allegation of, child or vulnerable-adult maltreatment within the
5 past ten years. A complete description of the crime, open
6 investigation, or substantiated abuse, and a complete
7 description of any sentence, treatment, or disposition must be
8 included. The affidavit must contain an acknowledgment that if,
9 at any time before the adoption is final, a court receives
10 evidence leading to a conclusion that a prospective adoptive
11 parent knowingly gave false information in the affidavit, it
12 shall be determined that the adoption of the child by the
13 prospective adoptive parent is not in the best interests of the
14 child.

15 ~~(d)~~ (f) For the purposes of subdivision 1 and section
16 259.47, subdivisions 3 and 6, an adoption study is complete for
17 placement, even though the background checks required by
18 paragraph (b) have not been completed, if each prospective
19 adoptive parent has completed the affidavit allowed by paragraph
20 ~~(c)~~ (e) and the other requirements of this section have been met.
21 The background checks required by paragraph (b) must be
22 completed before an adoption petition is filed. If an adoption
23 study has been submitted to the court under section 259.47,
24 subdivision 3 or 6, before the background checks required by
25 paragraph (b) were complete, an updated adoption study report
26 which includes the results of the background check must be filed
27 with the adoption petition. In the event that an agency is
28 unable to complete any of the records checks required by
29 paragraph (b), the agency shall submit with the petition to
30 adopt an affidavit documenting the agency's efforts to complete
31 the checks.

32 Sec. 6. Minnesota Statutes 2004, section 259.67,
33 subdivision 2, is amended to read:

34 Subd. 2. [ADOPTION ASSISTANCE AGREEMENT.] The placing
35 agency shall certify a child as eligible for adoption assistance
36 according to rules promulgated by the commissioner. The placing

1 agency shall not certify a child who remains under the
2 jurisdiction of the sending agency pursuant to section 260.851,
3 article 5, for state funded adoption assistance when Minnesota
4 is the receiving state. Not later than 30 days after a parent
5 or parents are found and approved for adoptive placement of a
6 child certified as eligible for adoption assistance, and before
7 the final decree of adoption is issued, a written agreement must
8 be entered into by the commissioner, the adoptive parent or
9 parents, and the placing agency. The written agreement must
10 be fully completed by the placing agency and in the form
11 prescribed by the commissioner and must set forth the
12 responsibilities of all parties, the anticipated duration of the
13 adoption assistance payments, and the payment terms. The
14 adoption assistance agreement shall be subject to the
15 commissioner's approval, which must be granted or denied not
16 later than 15 days after the agreement is entered.

17 The amount of adoption assistance is subject to the
18 availability of state and federal funds and shall be determined
19 through agreement with the adoptive parents. The agreement
20 shall take into consideration the circumstances of the adopting
21 parent or parents, the needs of the child being adopted and may
22 provide ongoing monthly assistance, supplemental maintenance
23 expenses related to the adopted person's special needs,
24 nonmedical expenses periodically necessary for purchase of
25 services, items, or equipment related to the special needs, and
26 medical expenses. The placing agency or the adoptive parent or
27 parents shall provide written documentation to support the need
28 for adoption assistance payments. The commissioner may require
29 periodic reevaluation of adoption assistance payments. The
30 amount of ongoing monthly adoption assistance granted may in no
31 case exceed that which would be allowable for the child under
32 foster family care and is subject to the availability of state
33 and federal funds.

34 Sec. 7. Minnesota Statutes 2004, section 259.67,
35 subdivision 4, is amended to read:

36 Subd. 4. [ELIGIBILITY CONDITIONS.] (a) The placing agency

1 shall use the AFDC requirements as specified in federal law as
2 of July 16, 1996, when determining the child's eligibility for
3 adoption assistance under title IV-E of the Social Security
4 Act. If the child does not qualify, the placing agency shall
5 certify a child as eligible for state funded adoption assistance
6 only if the following criteria are met:

7 (1) Due to the child's characteristics or circumstances it
8 would be difficult to provide the child an adoptive home without
9 adoption assistance.

10 (2)(i) A placement agency has made reasonable efforts to
11 place the child for adoption without adoption assistance, but
12 has been unsuccessful; or

13 (ii) the child's licensed foster parents desire to adopt
14 the child and it is determined by the placing agency that the
15 adoption is in the best interest of the child.

16 (3) The child has been a ward of the commissioner, a
17 Minnesota-licensed child-placing agency, or a tribal social
18 service agency of Minnesota recognized by the Secretary of the
19 Interior. The placing agency shall not certify a child who
20 remains under the jurisdiction of the sending agency pursuant to
21 section 260.851, article 5, for state funded adoption assistance
22 when Minnesota is the receiving state.

23 (b) For purposes of this subdivision, the characteristics
24 or circumstances that may be considered in determining whether a
25 child is a child with special needs under United States Code,
26 title 42, chapter 7, subchapter IV, part E, or meets the
27 requirements of paragraph (a), clause (1), are the following:

28 (1) The child is a member of a sibling group to be placed
29 as one unit in which at least one sibling is older than 15
30 months of age or is described in clause (2) or (3).

31 (2) The child has documented physical, mental, emotional,
32 or behavioral disabilities.

33 (3) The child has a high risk of developing physical,
34 mental, emotional, or behavioral disabilities.

35 (4) The child is adopted according to tribal law without a
36 termination of parental rights or relinquishment, provided that

1 the tribe has documented the valid reason why the child cannot
2 or should not be returned to the home of the child's parent.

3 (c) When a child's eligibility for adoption assistance is
4 based upon the high risk of developing physical, mental,
5 emotional, or behavioral disabilities, payments shall not be
6 made under the adoption assistance agreement unless and until
7 the potential disability manifests itself as documented by an
8 appropriate health care professional.

9 Sec. 8. Minnesota Statutes 2004, section 259.75,
10 subdivision 1, is amended to read:

11 Subdivision 1. [ESTABLISHMENT; CONTENTS; AVAILABILITY.]

12 The commissioner of human services shall establish an adoption
13 exchange~~7-which-shall-include-but-not-be-limited-to-a-book7~~
14 ~~updated-monthly7~~ that contains a photograph and description of
15 each child who has been legally freed for adoption. The
16 exchange service shall be available to all local social service
17 agencies and licensed child-placing agencies whose purpose is to
18 assist in the adoptive placement of children~~7-and-the-exchange~~
19 ~~book-shall-be-distributed-to-all-such-agencies.~~

20 Sec. 9. Minnesota Statutes 2004, section 259.79,
21 subdivision 1, is amended to read:

22 Subdivision 1. [CONTENT.] (a) The adoption records of the
23 commissioner~~7~~, the commissioner's agents and licensed
24 child-placing agencies shall contain copies of all relevant
25 legal documents, responsibly collected genetic, medical and
26 social history of the child and the child's birth parents, the
27 child's placement record, copies of all pertinent agreements,
28 contracts, and correspondence relevant to the adoption, and
29 copies of all reports and recommendations made to the court.

30 (b) The commissioner of human services shall maintain a
31 permanent record of all adoptions granted in district court in
32 Minnesota regarding children who are:

33 (1) under guardianship of the commissioner or a licensed
34 child-placing agency according to section 260C.201, subdivision
35 11, or 260C.317;

36 (2) placed by the commissioner, commissioner's agent, or

1 licensed child-placing agency after a consent to adopt according
2 to section 259.24 or under an agreement conferring authority to
3 place for adoption according to section 259.25; or

4 (3) adopted after a direct adoptive placement approved by
5 the district court under section 259.47.

6 Each record shall contain identifying information about the
7 child, the birth or legal parents, and adoptive parents,
8 including race where such data is available. The record must
9 also contain: (1) the date the child was legally freed for
10 adoption; (2) the date of the adoptive placement; (3) the name
11 of the placing agency; (4) the county where the adoptive
12 placement occurred; (5) the date that the petition to adopt was
13 filed; (6) the county where the petition to adopt was filed; and
14 (7) the date and county where the adoption decree was granted.

15 (c) Identifying information contained in the adoption
16 record shall be confidential and shall be disclosed only
17 pursuant to section 259.61.

18 Sec. 10. Minnesota Statutes 2004, section 259.85,
19 subdivision 1, is amended to read:

20 Subdivision 1. [PURPOSE.] The commissioner of human
21 services shall establish and supervise a postadoption service
22 grants program to be administered by local social service
23 agencies for the purpose of preserving and strengthening
24 adoptive families. The program will provide financial
25 assistance to adoptive parents who are not receiving adoption
26 assistance under section 259.67 to meet the special needs of an
27 adopted child that cannot be met by other resources available to
28 the family.

29 Sec. 11. Minnesota Statutes 2004, section 260.012, is
30 amended to read:

31 260.012 [DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY
32 REUNIFICATION; REASONABLE EFFORTS.]

33 (a) Once a child alleged to be in need of protection or
34 services is under the court's jurisdiction, the court shall
35 ensure that reasonable efforts, including culturally appropriate
36 services, by the social services agency are made to prevent

1 placement or to eliminate the need for removal and to reunite
2 the child with the child's family at the earliest possible time,
3 ~~consistent-with-the-best-interests,-safety,-and-protection-of~~
4 ~~the-child~~ and when a child cannot be reunified with the parent
5 or guardian from whom the child was removed, the court must
6 ensure that the responsible social services agency makes
7 reasonable efforts to finalize an alternative permanent plan for
8 the child as provided in paragraph (e). In determining
9 reasonable efforts to be made with respect to a child and in
10 making those reasonable efforts, the child's best interests,
11 health, and safety must be of paramount concern. Reasonable
12 efforts to prevent placement and for rehabilitation and
13 reunification are not always required except upon a
14 determination by the court that:

15 ~~(i)~~ a ~~termination-of-parental-rights~~ petition has been
16 filed stating a prima facie case that:

17 ~~(i)~~ (1) the parent has subjected a child to egregious harm
18 as defined in section 260C.007, subdivision 14;

19 ~~(ii)~~ (2) the parental rights of the parent to another child
20 have been terminated involuntarily;

21 ~~(iii)~~ (3) the child is an abandoned infant under section
22 260C.301, subdivision 2, paragraph (a), clause (2); or

23 ~~(iv)~~ (4) the parent's custodial rights to another child
24 have been involuntarily transferred to a relative under section
25 260C.201, subdivision 11, paragraph (e), clause (1), or a
26 similar law of another jurisdiction; or

27 ~~(2)-the-county-attorney-has-filed-a-determination-not-to~~
28 ~~proceed-with-a-termination-of-parental-rights-petition-on-these~~
29 ~~grounds-was-made-under-section-260C:301,-subdivision-3,~~
30 ~~paragraph-(b),-and-a-permanency-hearing-is-held-within-30-days~~
31 ~~of-the-determination,-or~~

32 ~~(3)-a-termination-of-parental-rights-petition-or-other~~
33 ~~petition-according-to-section-260C:201,-subdivision-11,-has-been~~
34 ~~filed-alleging-a-prima-facie-case-that~~

35 (5) the provision of services or further services for the
36 purpose of reunification is futile and therefore unreasonable

1 under the circumstances.

2 (b) When the court makes one of the prima facie
3 determinations under paragraph (a), either permanency pleadings
4 under section 260C.201, subdivision 11, or a termination of
5 parental rights petition under sections 260C.141 and 260C.301
6 must be filed. A permanency hearing under section 260C.201,
7 subdivision 11, must be held within 30 days of this
8 determination.

9 (c) In the case of an Indian child, in proceedings under
10 sections 260B.178 or 260C.178, 260C.201, and 260C.301 the
11 juvenile court must make findings and conclusions consistent
12 with the Indian Child Welfare Act of 1978, United States Code,
13 title 25, section 1901 et seq., as to the provision of active
14 efforts. ~~if-a-child-is-under-the-court's-delinquency~~
15 ~~jurisdiction, it shall be the duty of the court to ensure that~~
16 ~~reasonable efforts are made to reunite the child with the~~
17 ~~child's family at the earliest possible time, consistent with~~
18 ~~the best interests of the child and the safety of the~~
19 ~~public.~~ In cases governed by the Indian Child Welfare Act of
20 1978, United States Code, title 23, section 1901, the
21 responsible social services agency must provide active efforts
22 as required under United States Code, title 23, section 1911(d).

23 (b) (d) "Reasonable efforts to prevent placement" means:
24 (1) the agency has made reasonable efforts to prevent the
25 placement of the child in foster care; or

26 (2) given the particular circumstances of the child and
27 family at the time of the child's removal, there are no services
28 or efforts available which could allow the child to safely
29 remain in the home.

30 (e) "reasonable efforts to finalize a permanent plan for
31 the child" means due diligence by the responsible social
32 services agency to:

33 (1) reunify the child with the parent or guardian from whom
34 the child was removed;

35 (2) assess a noncustodial parent's ability to provide
36 day-to-day care for the child and, where appropriate, provide

1 services necessary to enable the noncustodial parent to safely
2 provide the care as required by section 260C.212, subdivision 4;

3 (3) conduct a relative search as required under section
4 260C.212, subdivision 5; and

5 (4) when the child cannot return to the parent or guardian
6 from whom the child was removed, to plan for and finalize a safe
7 and legally permanent alternative home for the child, preferably
8 through adoption or transfer of permanent legal and physical
9 custody of the child.

10 (f) Reasonable efforts are made upon the exercise of due
11 diligence by the responsible social services agency to
12 use culturally appropriate and available services to meet the
13 needs of the child and the child's family in-order-to-prevent
14 removal-of-the-child-from-the-child's-family,-or-upon-removal,
15 services-to-eliminate-the-need-for-removal-and-reunite-the
16 family. (1) Services may include those provided by the
17 responsible social services agency and other culturally
18 appropriate services available in the community. (2) At each
19 stage of the proceedings where the court is required to review
20 the appropriateness of the responsible social services agency's
21 reasonable efforts as described in paragraphs (a), (d), and (e),

22 the social services agency has the burden of demonstrating that:
23 (1) it has made reasonable efforts,-or-that-provision-of
24 services-or-further-services-for-the-purpose-of-rehabilitation
25 and-reunification-is-futile-and-therefore-unreasonable-under-the
26 circumstances-or-that-reasonable-efforts-aimed-at-reunification
27 are-not-required-under-this-section to prevent placement of the
28 child in foster care;

29 (2) it has made reasonable efforts to eliminate the need
30 for removal of the child from the child's home and to reunify
31 the child with the child's family at the earliest possible time;

32 (3) it has made reasonable efforts to finalize an
33 alternative permanent home for the child; or

34 (4) reasonable efforts to prevent placement and to reunify
35 the child with the parent or guardian are not required. The

36 agency may meet this burden by stating facts in a sworn petition

1 filed under section 260C.141, or by filing an affidavit
2 summarizing the agency's reasonable efforts or facts the agency
3 believes demonstrate there is no need for reasonable efforts to
4 reunify the parent and child, or through testimony or a
5 certified report required under juvenile court rules.

6 ~~(3)-No~~ (g) Once the court determines that reasonable
7 efforts for reunification are not required when-the-court-makes
8 a-determination because the court has made one of the prima
9 facie determinations under paragraph (a) unless, the court may
10 only require reasonable efforts for reunification after a
11 hearing according to section 260C.163, where the court finds
12 there is not clear and convincing evidence of the facts upon
13 which the court based its prima facie determination. In this
14 case when there is clear and convincing evidence that the child
15 is in need of protection or services, the court may proceed
16 under-section-260C-312. find the child in need of protection or
17 services and order any of the dispositions available under
18 section 260C.201, subdivision 1. Reunification of a surviving
19 child with a parent is not required if the parent has been
20 convicted of:

21 ~~(1)~~ (1) a violation of, or an attempt or conspiracy to
22 commit a violation of, sections 609.185 to 609.20; 609.222,
23 subdivision 2; or 609.223 in regard to another child of the
24 parent;

25 ~~(2)~~ (2) a violation of section 609.222, subdivision 2; or
26 609.223, in regard to the surviving child; or

27 ~~(3)~~ (3) a violation of, or an attempt or conspiracy to
28 commit a violation of, United States Code, title 18, section
29 1111(a) or 1112(a), in regard to another child of the parent.

30 ~~(e)~~ (h) The juvenile court, in proceedings under sections
31 260B.178 or 260C.178, 260C.201, and 260C.301 shall make findings
32 and conclusions as to the provision of reasonable efforts. When
33 determining whether reasonable efforts have been made, the court
34 shall consider whether services to the child and family were:

35 (1) relevant to the safety and protection of the child;

36 (2) adequate to meet the needs of the child and family;

- 1 (3) culturally appropriate;
- 2 (4) available and accessible;
- 3 (5) consistent and timely; and
- 4 (6) realistic under the circumstances.

5 In the alternative, the court may determine that provision
6 of services or further services for the purpose of
7 rehabilitation is futile and therefore unreasonable under the
8 circumstances or that reasonable efforts are not required as
9 provided in paragraph (a).

10 ~~(d)~~ (i) This section does not prevent out-of-home placement
11 for treatment of a child with a mental disability when the
12 child's diagnostic assessment or individual treatment plan
13 indicates that appropriate and necessary treatment cannot be
14 effectively provided outside of a residential or inpatient
15 treatment program.

16 ~~(e)~~ (j) If continuation of reasonable efforts ~~described in~~
17 paragraph-(b) to prevent placement or reunify the child with the
18 parent or guardian from whom the child was removed is determined
19 by the court to be inconsistent with the permanent plan for the
20 child, ~~or upon a determination~~ or upon the court making one of
21 the prima facie determinations under paragraph (a), reasonable
22 efforts must be made to place the child in a timely manner in
23 ~~accordance with the permanent plan ordered by the court~~ a safe
24 and permanent home and to complete whatever steps are necessary
25 to legally finalize the permanent ~~plan for~~ placement of the
26 child.

27 ~~(f)~~ (k) Reasonable efforts to place a child for adoption or
28 in another permanent placement may be made concurrently with
29 reasonable efforts ~~as described in paragraphs-(a)-and-(b) to~~
30 prevent placement or to reunify the child with the parent or
31 guardian from whom the child was removed. When the responsible
32 social services agency decides to concurrently make reasonable
33 efforts for both reunification and permanent placement away from
34 the parent under ~~paragraphs~~ paragraph (a) ~~and-(b)~~, the agency
35 shall disclose its decision and both plans for concurrent
36 reasonable efforts to all parties and the court. When the

1 agency discloses its decision to proceed on both plans for
2 reunification and permanent placement away from the parent, the
3 court's review of the agency's reasonable efforts shall include
4 the agency's efforts under ~~paragraphs-(a)-and-(b)~~ both plans.

5 Sec. 12. Minnesota Statutes 2004, section 260C.001,
6 subdivision 3, is amended to read:

7 Subd. 3. [PERMANENCY AND TERMINATION OF PARENTAL RIGHTS.]

8 The purpose of the laws relating to permanency and termination
9 of parental rights is to ensure that:

10 (1) when required and appropriate, reasonable efforts have
11 been made by the social services agency to reunite the child
12 with the child's parents in a home that is safe and permanent;
13 and

14 (2) if placement with the parents is not reasonably
15 foreseeable, to secure for the child a safe and permanent
16 placement, preferably with adoptive parents or a fit and willing
17 relative through transfer of permanent legal and physical
18 custody to that relative.

19 Nothing in this section requires reasonable efforts to
20 prevent placement or to reunify the child with the parent or
21 guardian to be made in circumstances where the court has
22 determined that the child has been subjected to egregious
23 harm or, when the child is an abandoned infant, the parent has
24 involuntarily lost custody of another child through a proceeding
25 under section 260C.201, subdivision 11, or similar law of
26 another state, the parental rights of the parent to a sibling
27 have been involuntarily terminated, or the court has determined
28 that reasonable efforts or further reasonable efforts to reunify
29 the child with the parent or guardian would be futile.

30 The paramount consideration in all proceedings for
31 permanent placement of the child under section 260C.201,
32 subdivision 11, or the termination of parental rights is the
33 best interests of the child. In proceedings involving an
34 American Indian child, as defined in section 260.755,
35 subdivision 8, the best interests of the child must be
36 determined consistent with the Indian Child Welfare Act of 1978,

1 United States Code, title 25, section 1901, et seq.

2 Sec. 13. Minnesota Statutes 2004, section 260C.007,
3 subdivision 8, is amended to read:

4 Subd. 8. [COMPELLING REASONS.] "Compelling reasons" means
5 an individualized determination by the responsible social
6 services agency, which is approved by the court, related to a
7 request by the agency not to initiate proceedings to terminate
8 parental rights or transfer permanent legal and physical custody
9 of a child to the child's relative or former noncustodial parent
10 under section 260C.301, subdivision 3.

11 Sec. 14. Minnesota Statutes 2004, section 260C.151,
12 subdivision 6, is amended to read:

13 Subd. 6. [IMMEDIATE CUSTODY.] If the court makes
14 individualized, explicit findings, based on the notarized
15 petition or sworn affidavit, that there are reasonable grounds
16 to believe the child is in surroundings or conditions which
17 endanger the child's health, safety, or welfare that require
18 that responsibility for the child's care and custody be
19 immediately assumed by the court responsible social services
20 agency and that continuation of the child in the custody of the
21 parent or guardian is contrary to the child's welfare, the court
22 may order that the officer serving the summons take the child
23 into immediate custody for placement of the child in foster
24 care. In ordering that responsibility for the care, custody,
25 and control of the child be assumed by the responsible social
26 services agency, the court is ordering emergency protective care
27 as that term is defined in the juvenile court rules.

28 Sec. 15. Minnesota Statutes 2004, section 260C.178, is
29 amended to read:

30 260C.178 [DETENTION EMERGENCY REMOVAL HEARING.]

31 Subdivision 1. [HEARING AND RELEASE REQUIREMENTS.] (a) If
32 a child was taken into custody under section 260C.175,
33 subdivision 1, clause (a) or (b)(2), the court shall hold a
34 hearing within 72 hours of the time the child was taken into
35 custody, excluding Saturdays, Sundays, and holidays, to
36 determine whether the child should continue in custody.

1 (b) Unless there is reason to believe that the child would
2 endanger self or others, not return for a court hearing, run
3 away from the child's parent, guardian, or custodian or
4 otherwise not remain in the care or control of the person to
5 whose lawful custody the child is released, or that the child's
6 health or welfare would be immediately endangered, the child
7 shall be released to the custody of a parent, guardian,
8 custodian, or other suitable person, subject to reasonable
9 conditions of release including, but not limited to, a
10 requirement that the child undergo a chemical use assessment as
11 provided in section 260C.157, subdivision 1. If the court
12 determines there is reason to believe that the child would
13 endanger self or others; not return for a court hearing; run
14 away from the child's parent, guardian, or custodian or
15 otherwise not remain in the care or control of the person to
16 whose lawful custody the child is released; or that the child's
17 health or welfare would be immediately endangered, the court
18 shall order the child into foster care under the responsibility
19 of the responsible social services agency or responsible
20 probation or corrections agency for the purposes of protective
21 care as that term is used in the juvenile court rules. In
22 determining whether the child's health or welfare would be
23 immediately endangered, the court shall consider whether the
24 child would reside with a perpetrator of domestic child abuse.

25 (c) The court, before determining whether a child should be
26 placed in or continue in custody foster care under the
27 protective care of the responsible agency, shall also make a
28 determination, consistent with section 260.012 as to whether
29 reasonable efforts~~7--or~~ were made to prevent placement or whether
30 reasonable efforts to prevent placement are not required. In
31 the case of an Indian child, the court shall determine whether
32 active efforts, according to the Indian Child Welfare Act of
33 1978, United States Code, title 25, section 1912(d), were made
34 to prevent placement. The court shall ~~also-determine-whether~~
35 ~~there-are-available-services-that-would-prevent-the-need-for~~
36 ~~further-detention.--In-the-alternative,~~ enter a finding that the

1 responsible social services agency has made reasonable efforts
2 to prevent placement when the agency establishes either:

3 (1) that it has actually provided services or made efforts
4 in an attempt to prevent the child's removal but that such
5 services or efforts have not proven sufficient to permit the
6 child to safely remain in the home; or

7 (2) that there are no services or other efforts that could
8 be made at the time of the hearing that could safely permit the
9 child to remain home or to return home. When reasonable efforts
10 to prevent placement are required and there are services or
11 other efforts that could be ordered which would permit the child
12 to safely return home, the court shall order the child returned
13 to the care of the parent or guardian and the services or
14 efforts put in place to ensure the child's safety. When the
15 court makes a prima facie determination that one of the
16 circumstances under paragraph (e) exists, the court shall
17 determine that reasonable efforts to prevent placement and to
18 return the child to the care of the parent or guardian are not
19 required if-the-court-makes-a-prima-facie-determination-that-one
20 of-the-circumstances-under-paragraph-(e)-exists.

21 If the court finds the social services agency's preventive
22 or reunification efforts have not been reasonable but further
23 preventive or reunification efforts could not permit the child
24 to safely remain at home, the court may nevertheless authorize
25 or continue the removal of the child.

26 (d) The court may not order or continue the foster care
27 placement of the child unless the court makes explicit,
28 individualized findings that continued custody of the child by
29 the parent or guardian would be contrary to the welfare of the
30 child.

31 (e) At the detention emergency removal hearing, or at any
32 time during the course of the proceeding, and upon notice and
33 request of the county attorney, the court shall ~~make-the~~
34 ~~following-determinations:~~

35 ~~{+}~~ determine whether a ~~termination-of-parental-rights~~
36 petition has been filed stating a prima facie case that:

1 ~~(i)~~ (1) the parent has subjected a child to egregious harm
2 as defined in section 260C.007, subdivision 14;

3 ~~(ii)~~ (2) the parental rights of the parent to another child
4 have been involuntarily terminated; or

5 ~~(iii)~~ (3) the child is an abandoned infant under section
6 260C.301, subdivision 2, paragraph (a), clause (2);

7 ~~(2)-that~~ (4) the parents' custodial rights to another child
8 have been involuntarily transferred to a relative under section
9 260C.201, subdivision 11, paragraph (e), clause (1), or a
10 similar law of another jurisdiction; or

11 (5) the provision of services or further services for the
12 purpose of reunification is futile and therefore unreasonable.

13 (f) When a petition to terminate parental rights is
14 required under section 260C.301, subdivision 3 or 4, but the
15 county attorney has determined not to proceed with a termination
16 of parental rights petition ~~under section 260C.307, or~~

17 ~~(3)-whether-a-termination-of-parental-rights-petition-or~~
18 ~~other-petition-according-to-section-260C.201, subdivision 11,~~
19 ~~has-been-filed-alleging-a-prima-facie-case-that-the-provision-of~~
20 ~~services-or-further-services-for-the-purpose-of-rehabilitation~~
21 ~~and-reunification-is-futile-and-therefore-unreasonable-under-the~~
22 ~~circumstances.~~

23 ~~If-the-court-determines-that-the-county-attorney-is-not~~
24 ~~proceeding-with-a-termination-of-parental-rights-petition-under~~
25 ~~section-260C.307, but-is-proceeding-with-a-petition-under~~
26 ~~section-260C.201, subdivision 11, the court shall schedule a~~
27 ~~permanency-hearing-within-30-days, and has instead filed a~~
28 petition to transfer permanent legal and physical custody to a
29 relative under section 260C.201, subdivision 11, the court shall
30 schedule a permanency hearing within 30 days of the filing of
31 the petition.

32 (g) If the county attorney has filed a petition under
33 section 260C.307, the court shall schedule a trial under section
34 260C.163 within 90 days of the filing of the petition except
35 when the county attorney determines that the criminal case shall
36 proceed to trial first under section 260C.201, subdivision 3.

1 ~~(f)~~ (h) If the court determines the child should be ordered
2 into ~~out-of-home-placement~~ foster care and the child's parent
3 refuses to give information to the responsible social services
4 agency regarding the child's father or relatives of the child,
5 the court may order the parent to disclose the names, addresses,
6 telephone numbers, and other identifying information to the
7 responsible social services agency for the purpose of complying
8 with the requirements of sections 260C.151, 260C.212, and
9 260C.215.

10 ~~(g)~~ (i) If a child ordered into ~~out-of-home-placement~~
11 foster care has siblings, whether full, half, or step, who are
12 also ordered into ~~placement~~ foster care, the court shall inquire
13 of the responsible social services agency of the efforts to
14 place the children together as required by section 260C.212,
15 subdivision 2, paragraph (d), if placement together is in each
16 child's best interests, unless a child is in placement due
17 solely to the child's own behavior or a child is placed with a
18 previously noncustodial parent who is not parent to all
19 siblings. If the children are not placed together at the time
20 of the hearing, the court shall inquire at each subsequent
21 hearing of the agency's efforts to place the siblings together.
22 If any sibling is not placed with another sibling or siblings,
23 the agency must develop a plan for visitation among the siblings
24 as required under section 260C.212, subdivision 1.

25 ~~Subd. 2. [DURATION.] If the court determines that the~~
26 ~~child should continue in detention, it may order detention~~
27 ~~continued for eight days, excluding Saturdays, Sundays and~~
28 ~~holidays, from and including the date of the order. The court~~
29 ~~shall include in its order the reasons for continued detention~~
30 ~~and the findings of fact which support these reasons.~~

31 Subd. 3. [PARENTAL VISITATION.] If a child has been taken
32 into custody under section 260C.151, subdivision 5, or 260C.175,
33 subdivision 1, clause (b)(2), and the court determines that the
34 child should continue in ~~detention~~ foster care, the court shall
35 include in its order reasonable rules for supervised or
36 unsupervised parental visitation of the child in the ~~shelter~~

1 foster care facility unless it finds that visitation would
2 endanger the child's physical or emotional well-being.

3 Subd. 4. [MENTAL HEALTH TREATMENT.] (a) Except as provided
4 in paragraph (b), a child who is held ordered placed in
5 detention foster care as an alleged victim of child abuse as
6 defined in section 630.36, subdivision 2, may not be given
7 mental health treatment specifically for the effects of the
8 alleged abuse until the court finds that there is probable-cause
9 a prima facie basis to believe the abuse has occurred.

10 (b) A child described in paragraph (a) may be given mental
11 health treatment prior to a probable-cause prima facie finding
12 of child abuse if the treatment is either agreed to by the
13 child's parent or guardian in writing, or ordered by the court
14 according to the standard contained in section 260C.201,
15 subdivision 1.

16 Subd. 5. [COPIES OF ORDER.] Copies of the court's order
17 shall be served upon the parties, including the supervisor-of
18 the-detention placement facility, who which shall release the
19 child or continue to hold the child as the court orders.

20 When the court's order is served upon these parties, notice
21 shall also be given to the parties of the subsequent reviews
22 provided by subdivision 6. ~~The-notice-shall-also-inform-each~~
23 ~~party-of-the-right-to-submit-to-the-court-for-informal-review~~
24 ~~any-new-evidence-regarding-whether-the-child-should-be-continued~~
25 ~~in-detention-and-to-request-a-hearing-to-present-the-evidence-to~~
26 ~~the-court-~~

27 Subd. 6. [REVIEW.] ~~If-a-child-held-in-detention-under-a~~
28 ~~court-order-issued-under-subdivision-2-has-not-been-released~~
29 ~~prior-to-expiration-of-the-order,7-the-court-or-referee-shall~~
30 ~~informally-review-the-child's-case-file-to-determine,7-under-the~~
31 ~~standards-provided-by-subdivision-1,7-whether-detention-should-be~~
32 ~~continued,--if-detention-is-continued-thereafter,7-informal~~
33 ~~reviews-such-as-these-shall-be-held-within-every-eight-days,7~~
34 ~~excluding-Saturdays,7-Sundays,7-and-holidays,7-of-the-child's~~
35 detention. When a child is placed in foster care, the child's
36 placement shall be periodically reviewed as required under the

1 juvenile court rules including notice to the parties required to
2 be served with a copy of the order under subdivision 4.

3 ~~A hearing, rather than an informal review of the child's~~
4 ~~case file,~~ shall be held at the request of any one of the
5 parties notified pursuant to subdivision 5, if that party
6 notifies the court of a wish to present to the court new
7 evidence concerning whether the child should be continued in
8 detention or notifies the court of a wish to present an
9 alternate placement arrangement to provide for the safety and
10 protection of the child.

11 In addition, if a child was taken into detention custody
12 under section 260C.151, subdivision 5, or 260C.175, subdivision
13 1, clause (c)(2), and is ~~held~~ placed in detention foster care or
14 placed in another facility under a court order issued under
15 subdivision 2, the court shall schedule and hold an adjudicatory
16 hearing on the petition within 60 days of the detention
17 emergency removal hearing upon the request of any party to the
18 proceeding. However, if good cause is shown by a party to the
19 proceeding why the hearing should not be held within that time
20 period, the hearing shall be held within 90 days, unless the
21 parties agree otherwise and the court so orders.

22 Subd. 7. [OUT-OF-HOME PLACEMENT PLAN.] (a) An out-of-home
23 placement plan required under section 260C.212 shall be filed
24 with the court within 30 days of the filing of a petition
25 alleging the child to be in need of protection or services under
26 section 260C.141, subdivision 1, or filed with the petition if
27 the petition is a review of a voluntary placement under section
28 260C.141, subdivision 2.

29 (b) Upon the filing of the out-of-home placement plan which
30 has been developed jointly with the parent and in consultation
31 with others as required under section 260C.212, subdivision 1,
32 the court may approve implementation of the plan by the
33 responsible social services agency based on the allegations
34 contained in the petition. The court shall send written notice
35 of the approval of the out-of-home placement plan to all parties
36 and the county attorney or may state such approval on the record

1 at a hearing. A parent may agree to comply with the terms of
2 the plan filed with the court.

3 ~~(c) Upon notice and motion by a parent who agrees to comply~~
4 ~~with the terms of an out-of-home placement plan, the court may~~
5 ~~modify the plan and order the responsible social services agency~~
6 ~~to provide other or additional services for reunification, if~~
7 ~~reunification efforts are required, and the court determines the~~
8 ~~agency's plan inadequate under section 260C.212. The responsible~~
9 social services agency shall make reasonable attempts to engage
10 a parent in case planning. If the parent refuses to cooperate
11 in the development of the out-of-home placement plan or
12 disagrees with the services recommended by the responsible
13 social service agency, the agency shall note such refusal or
14 disagreement for the court in the out-of-home placement plan
15 filed with the court. The agency shall notify the court of the
16 services it will provide or efforts it will attempt under the
17 plan notwithstanding the parent's refusal to cooperate or
18 disagreement with the services. The parent may ask the court to
19 modify the plan to require different or additional services
20 requested by the parent, but which the agency refused to
21 provide. The court may approve the plan as presented by the
22 agency or may modify the plan to require services requested by
23 the parent. The court's approval shall be based on the content
24 of the petition.

25 (d) Unless the parent agrees to comply with the terms of
26 the out-of-home placement plan, the court may not order a parent
27 to comply with the provisions of the plan until the court makes
28 ~~a determination~~ finds the child is in need of protection or
29 services and orders disposition under section 260C.201,
30 subdivision 1. However, the court may find that the responsible
31 social services agency has made reasonable efforts for
32 reunification if the agency makes efforts to implement the terms
33 of an out-of-home placement plan approved under this section.

34 Sec. 16. Minnesota Statutes 2004, section 260C.201,
35 subdivision 1, is amended to read:

36 Subdivision 1. [DISPOSITIONS.] (a) If the court finds that

1 the child is in need of protection or services or neglected and
2 in foster care, it shall enter an order making any of the
3 following dispositions of the case:

4 (1) place the child under the protective supervision of the
5 responsible social services agency or child-placing agency in
6 the home of a parent of the child under conditions prescribed by
7 the court directed to the correction of the child's need for
8 protection or services:

9 (i) the court may order the child into the home of a parent
10 who does not otherwise have legal custody of the child, however,
11 an order under this section does not confer legal custody on
12 that parent;

13 (ii) if the court orders the child into the home of a
14 father who is not adjudicated, he must cooperate with paternity
15 establishment proceedings regarding the child in the appropriate
16 jurisdiction as one of the conditions prescribed by the court
17 for the child to continue in his home; and

18 (iii) the court may order the child into the home of a
19 noncustodial parent with conditions and may also order both the
20 noncustodial and the custodial parent to comply with the
21 requirements of a case plan under subdivision 2; or

22 (2) transfer legal custody to one of the following:

23 (i) a child-placing agency; or

24 (ii) the responsible social services agency. In placing
25 making a foster care placement for a child whose custody has
26 been transferred under this paragraph subdivision, the agencies
27 agency shall make an individualized determination of how the
28 placement is in the child's best interests using the
29 consideration for relatives and the best interest factors in
30 section 260C.212, subdivision 2, paragraph (b); or

31 (3) order a trial home visit without modifying the transfer
32 of legal custody to the responsible social services agency under
33 clause (2). Trial home visit means the child is returned to the
34 care of the parent or guardian from whom the child was removed
35 for a period not to exceed six months. During the period of the
36 trial home visit, the responsible social services agency:

1 (i) shall continue to have legal custody of the child,
2 which means the agency may see the child in the parent's home,
3 at school, in a child care facility, or other setting as the
4 agency deems necessary and appropriate;

5 (ii) shall continue to have the ability to access
6 information under section 260C.208;

7 (iii) shall continue to provide appropriate services to
8 both the parent and the child during the period of the trial
9 home visit;

10 (iv) without previous court order or authorization, may
11 terminate the trial home visit in order to protect the child's
12 health, safety, or welfare and may remove the child to foster
13 care;

14 (v) shall advise the court and parties within three days of
15 the termination of the trial home visit when a visit is
16 terminated by the responsible social services agency without a
17 court order; and

18 (vi) shall prepare a report for the court when the trial
19 home visit is terminated whether by the agency or court order
20 which describes the child's circumstances during the trial home
21 visit and recommends appropriate orders, if any, for the court
22 to enter to provide for the child's safety and stability. In
23 the event a trial home visit is terminated by the agency by
24 removing the child to foster care without prior court order or
25 authorization, the court shall conduct a hearing within ten days
26 of receiving notice of the termination of the trial home visit
27 by the agency and shall order disposition under this subdivision
28 or conduct a permanency hearing under subdivision 11 or 11a.
29 The time period for the hearing may be extended by the court for
30 good cause shown and if it is in the best interests of the child
31 as long as the total time the child spends in foster care
32 without a permanency hearing does not exceed 12 months.

33 (4) If the child has been adjudicated as a child in need of
34 protection or services because the child is in need of special
35 services or care to treat or ameliorate a physical or mental
36 disability, the court may order the child's parent, guardian, or

1 custodian to provide it. The court may order the child's health
2 plan company to provide mental health services to the child.
3 Section 62Q.535 applies to an order for mental health services
4 directed to the child's health plan company. If the health
5 plan, parent, guardian, or custodian fails or is unable to
6 provide this treatment or care, the court may order it
7 provided. Absent specific written findings by the court that
8 the child's disability is the result of abuse or neglect by the
9 child's parent or guardian, the court shall not transfer legal
10 custody of the child for the purpose of obtaining special
11 treatment or care solely because the parent is unable to provide
12 the treatment or care. If the court's order for mental health
13 treatment is based on a diagnosis made by a treatment
14 professional, the court may order that the diagnosing
15 professional not provide the treatment to the child if it finds
16 that such an order is in the child's best interests; or

17 ~~(4)~~ (5) If the court believes that the child has sufficient
18 maturity and judgment and that it is in the best interests of
19 the child, the court may order a child 16 years old or older to
20 be allowed to live independently, either alone or with others as
21 approved by the court under supervision the court considers
22 appropriate, if the county board, after consultation with the
23 court, has specifically authorized this dispositional
24 alternative for a child.

25 (b) If the child was adjudicated in need of protection or
26 services because the child is a runaway or habitual truant, the
27 court may order any of the following dispositions in addition to
28 or as alternatives to the dispositions authorized under
29 paragraph (a):

30 (1) counsel the child or the child's parents, guardian, or
31 custodian;

32 (2) place the child under the supervision of a probation
33 officer or other suitable person in the child's own home under
34 conditions prescribed by the court, including reasonable rules
35 for the child's conduct and the conduct of the parents,
36 guardian, or custodian, designed for the physical, mental, and

1 moral well-being and behavior of the child; or with the consent
2 of the commissioner of corrections, place the child in a group
3 foster care facility which is under the commissioner's
4 management and supervision;

5 (3) subject to the court's supervision, transfer legal
6 custody of the child to one of the following:

7 (i) a reputable person of good moral character. No person
8 may receive custody of two or more unrelated children unless
9 licensed to operate a residential program under sections 245A.01
10 to 245A.16; or

11 (ii) a county probation officer for placement in a group
12 foster home established under the direction of the juvenile
13 court and licensed pursuant to section 241.021;

14 (4) require the child to pay a fine of up to \$100. The
15 court shall order payment of the fine in a manner that will not
16 impose undue financial hardship upon the child;

17 (5) require the child to participate in a community service
18 project;

19 (6) order the child to undergo a chemical dependency
20 evaluation and, if warranted by the evaluation, order
21 participation by the child in a drug awareness program or an
22 inpatient or outpatient chemical dependency treatment program;

23 (7) if the court believes that it is in the best interests
24 of the child and of public safety that the child's driver's
25 license or instruction permit be canceled, the court may order
26 the commissioner of public safety to cancel the child's license
27 or permit for any period up to the child's 18th birthday. If
28 the child does not have a driver's license or permit, the court
29 may order a denial of driving privileges for any period up to
30 the child's 18th birthday. The court shall forward an order
31 issued under this clause to the commissioner, who shall cancel
32 the license or permit or deny driving privileges without a
33 hearing for the period specified by the court. At any time
34 before the expiration of the period of cancellation or denial,
35 the court may, for good cause, order the commissioner of public
36 safety to allow the child to apply for a license or permit, and

1 the commissioner shall so authorize;

2 (8) order that the child's parent or legal guardian deliver
3 the child to school at the beginning of each school day for a
4 period of time specified by the court; or

5 (9) require the child to perform any other activities or
6 participate in any other treatment programs deemed appropriate
7 by the court.

8 To the extent practicable, the court shall enter a
9 disposition order the same day it makes a finding that a child
10 is in need of protection or services or neglected and in foster
11 care, but in no event more than 15 days after the finding unless
12 the court finds that the best interests of the child will be
13 served by granting a delay. If the child was under eight years
14 of age at the time the petition was filed, the disposition order
15 must be entered within ten days of the finding and the court may
16 not grant a delay unless good cause is shown and the court finds
17 the best interests of the child will be served by the delay.

18 (c) If a child who is 14 years of age or older is
19 adjudicated in need of protection or services because the child
20 is a habitual truant and truancy procedures involving the child
21 were previously dealt with by a school attendance review board
22 or county attorney mediation program under section 260A.06 or
23 260A.07, the court shall order a cancellation or denial of
24 driving privileges under paragraph (b), clause (7), for any
25 period up to the child's 18th birthday.

26 (d) In the case of a child adjudicated in need of
27 protection or services because the child has committed domestic
28 abuse and been ordered excluded from the child's parent's home,
29 the court shall dismiss jurisdiction if the court, at any time,
30 finds the parent is able or willing to provide an alternative
31 safe living arrangement for the child, as defined in Laws 1997,
32 chapter 239, article 10, section 2.

33 (e) When a parent has complied with a case plan ordered
34 under subdivision 6 and the child is in the care of the parent,
35 the court may order the responsible social services agency to
36 monitor the parent's continued ability to maintain the child

1 safely in the home under such terms and conditions as the court
2 determines appropriate under the circumstances.

3 Sec. 17. Minnesota Statutes 2004, section 260C.201,
4 subdivision 10, is amended to read:

5 Subd. 10. [~~COURT REVIEW OF OUT-OF-HOME-PLACEMENTS~~ FOSTER
6 CARE.] (a) If the court ~~places orders~~ a child placed in a
7 ~~residential-facility, as defined in section 260C.212,~~
8 ~~subdivision 1~~ foster care, the court shall review the
9 out-of-home placement at least every 90 days as required in
10 juvenile court rules to determine whether continued out-of-home
11 placement is necessary and appropriate or whether the child
12 should be returned home. This review is not required if the
13 court has returned the child home, ordered the child permanently
14 placed away from the parent under subdivision 11, or terminated
15 rights under section 260C.301. Court review for a child
16 permanently placed away from a parent, including where the child
17 is under guardianship and legal custody of the commissioner,
18 shall be governed by subdivision 11 or section 260C.317,
19 subdivision 3, whichever is applicable.

20 (b) No later than six months after the child's out-of-home
21 placement in foster care, the court shall review agency efforts
22 pursuant to section 260C.212, subdivision 2, and order that the
23 efforts continue if the agency has failed to perform the duties
24 under that section.

25 (c) The court shall review the out-of-home placement plan
26 and may modify the plan as provided under subdivisions 6 and 7.

27 (d) When the court orders ~~out-of-home-placement~~ transfer of
28 custody to a responsible social services agency resulting in
29 foster care or protective supervision with a noncustodial parent
30 under subdivision 1, the court shall notify the parents of the
31 provisions of subdivisions 11 and 11a as required under juvenile
32 court rules.

33 Sec. 18. Minnesota Statutes 2004, section 260C.201,
34 subdivision 11, is amended to read:

35 Subd. 11. [~~REVIEW OF COURT-ORDERED PLACEMENTS; PERMANENT~~
36 ~~PLACEMENT DETERMINATION.~~] (a) This subdivision and subdivision

1 11a do not apply in cases where the child is in placement due
2 solely to the child's developmental disability or emotional
3 disturbance, where legal custody has not been transferred to the
4 responsible social services agency, and where the court finds
5 compelling reasons under section 260C.007, subdivision 8, to
6 continue the child in foster care past the time periods
7 specified in this subdivision. Foster care placements of
8 children due solely to their disability are governed by section
9 260C.141, subdivision 2b. In all other cases where the child is
10 in foster care or in the care of a noncustodial parent under
11 subdivision 1, the court shall ~~conduct-a-hearing~~ commence
12 proceedings to determine the permanent status of a child not
13 later than 12 months after the child is placed in foster care or
14 in the care of a noncustodial parent. At the admit-deny hearing
15 commencing such proceedings, the court shall determine whether
16 there is a prima facie basis for finding that the agency made
17 reasonable efforts, or in the case of an Indian child active
18 efforts, required under section 260.012 and proceed according to
19 the rules of juvenile court.

20 For purposes of this subdivision, the date of the child's
21 placement in foster care is the earlier of the first
22 court-ordered placement or 60 days after the date on which the
23 child has been voluntarily placed in foster care by the child's
24 parent or guardian. For purposes of this subdivision, time
25 spent by a child under the protective supervision of the
26 responsible social services agency in the home of a noncustodial
27 parent pursuant to an order under subdivision 1 counts towards
28 the requirement of a permanency hearing under this subdivision
29 or subdivision 11a. Time spent on a trial home visit does not
30 count towards the requirement of a permanency hearing under this
31 subdivision or subdivision 11a.

32 For purposes of this subdivision, 12 months is calculated
33 as follows:

34 (1) during the pendency of a petition alleging that a child
35 is in need of protection or services, all time periods when a
36 child is placed in foster care or in the home of a noncustodial

1 parent are cumulated;

2 (2) if a child has been placed in foster care within the
3 previous five years under one or more previous petitions, the
4 lengths of all prior time periods when the child was placed in
5 foster care within the previous five years are cumulated. If a
6 child under this clause has been in foster care for 12 months or
7 more, the court, if it is in the best interests of the child and
8 for compelling reasons, may extend the total time the child may
9 continue out of the home under the current petition up to an
10 additional six months before making a permanency determination.

11 (b) Unless the responsible social services agency
12 recommends return of the child to the custodial parent or
13 parents, not later than 30 days prior to ~~this~~ the admit-deny
14 hearing required under paragraph (a) and the rules of juvenile
15 court, the responsible social services agency shall file
16 pleadings in juvenile court to establish the basis for the
17 juvenile court to order permanent placement of the child,
18 including a termination of parental rights petition, according
19 to paragraph (d). Notice of the hearing and copies of the
20 pleadings must be provided pursuant to section 260C.152. ~~if a~~
21 ~~termination-of-parental-rights-petition-is-filed-before-the-date~~
22 ~~required-for-the-permanency-planning-determination-and-there-is~~
23 ~~a-trial-under-section-260C-163-scheduled-on-that-petition-within~~
24 ~~90-days-of-the-filing-of-the-petition, no hearing need be~~
25 ~~conducted-under-this-subdivision.~~

26 (c) The permanency proceedings shall be conducted in a
27 timely fashion including that any trial required under section
28 260C.163 shall be commenced within 60 days of the admit-deny
29 hearing required under paragraph (a). At the conclusion of the
30 hearing permanency proceedings, the court shall:

31 (1) order the child returned to the care of the parent or
32 guardian from whom the child was removed; or

33 (2) order a permanent placement or termination of parental
34 rights if permanent placement or termination of parental rights
35 is in the child's best interests. The "best interests of the
36 child" means all relevant factors to be considered and

1 evaluated. Transfer of permanent legal and physical custody,
2 termination of parental rights, or guardianship and legal
3 custody to the commissioner through a consent to adopt are
4 preferred permanency options for a child who cannot return home.

5 (d) If the child is not returned to the home, the court
6 must order one of the following dispositions:

7 (1) permanent legal and physical custody to a relative in
8 the best interests of the child according to the following
9 conditions:

10 (i) an order for transfer of permanent legal and physical
11 custody to a relative shall only be made after the court has
12 reviewed the suitability of the prospective legal and physical
13 custodian;

14 (ii) in transferring permanent legal and physical custody
15 to a relative, the juvenile court shall follow the standards
16 applicable under this chapter and chapter 260, and the
17 procedures set out in the juvenile court rules;

18 (iii) an order establishing permanent legal and physical
19 custody under this subdivision must be filed with the family
20 court;

21 (iv) a transfer of legal and physical custody includes
22 responsibility for the protection, education, care, and control
23 of the child and decision making on behalf of the child;

24 (v) the social services agency may bring a petition or
25 motion naming a fit and willing relative as a proposed permanent
26 legal and physical custodian. The commissioner of human
27 services shall annually prepare for counties information that
28 must be given to proposed custodians about their legal rights
29 and obligations as custodians together with information on
30 financial and medical benefits for which the child is eligible;
31 and

32 (vi) the juvenile court may maintain jurisdiction over the
33 responsible social services agency, the parents or guardian of
34 the child, the child, and the permanent legal and physical
35 custodian for purposes of ensuring appropriate services are
36 delivered to the child and permanent legal custodian or for the

1 purpose of ensuring conditions ordered by the court related to
2 the care and custody of the child are met;

3 (2) termination of parental rights when the requirements of
4 sections 260C.301 to 260C.328 are met or according to the
5 following conditions:

6 (i) ~~unless order~~ the social services agency ~~has-already~~
7 ~~filed to file~~ a petition for termination of parental
8 rights ~~under-section-260C.307, the-court-may-order-such-a~~
9 ~~petition-filed-and~~ in which case all the requirements of
10 sections 260C.301 to 260C.328 remain applicable; and

11 (ii) an adoption completed subsequent to a determination
12 under this subdivision may include an agreement for
13 communication or contact under section 259.58;

14 (3) long-term foster care according to the following
15 conditions:

16 (i) the court may order a child into long-term foster care
17 only if it ~~finds~~ approves the responsible social service
18 agency's compelling reasons that neither an award of permanent
19 legal and physical custody to a relative, nor termination of
20 parental rights is in the child's best interests; and

21 (ii) further, the court may only order long-term foster
22 care for the child under this section if it finds the following:

23 (A) the child has reached age 12 and ~~reasonable-efforts-by~~
24 the responsible social services agency ~~have-failed~~ has made
25 reasonable efforts to locate and place the child with an
26 adoptive family ~~for-the-child~~ or with a fit and willing relative
27 who will agree to a transfer of permanent legal and physical
28 custody of the child, but such efforts have not proven
29 successful; or

30 (B) the child is a sibling of a child described in subitem
31 (A) and the siblings have a significant positive relationship
32 and are ordered into the same long-term foster care home; and

33 (iii) at least annually, the responsible social services
34 agency reconsiders its provision of services to the child and
35 the child's placement in long-term foster care to ensure that:

36 (A) long-term foster care continues to be the most

1 appropriate legal arrangement for meeting the child's need for
2 permanency and stability, including whether there is another
3 permanent placement option under this chapter that would better
4 serve the child's needs and best interests;

5 (B) whenever possible, there is an identified long-term
6 foster care family that is committed to being the foster family
7 for the child as long as the child is a minor or under the
8 jurisdiction of the court;

9 (C) the child is receiving appropriate services or
10 assistance to maintain or build connections with the child's
11 family and community;

12 (D) the child's physical and mental health needs are being
13 appropriately provided for; and

14 (E) the child's educational needs are being met;

15 (4) foster care for a specified period of time according to
16 the following conditions:

17 (i) foster care for a specified period of time may be
18 ordered only if:

19 (A) the sole basis for an adjudication that the child is in
20 need of protection or services is the child's behavior;

21 (B) the court finds that foster care for a specified period
22 of time is in the best interests of the child; and

23 (C) the court ~~finds~~ approves the responsible social
24 services agency's compelling reasons that neither an award of
25 permanent legal and physical custody to a relative, nor
26 termination of parental rights is in the child's best interests;

27 (ii) the order does not specify that the child continue in
28 foster care for any period exceeding one year; or

29 (5) guardianship and legal custody to the commissioner of
30 human services under the following procedures and conditions:

31 (i) there is an identified prospective adoptive home agreed
32 to by the responsible social services agency that has agreed to
33 adopt the child and the court accepts the parent's voluntary
34 consent to adopt under section 259.24, except that such consent
35 executed by a parent under this item, following proper notice
36 that consent given under this provision is irrevocable upon

1 acceptance by the court, shall be irrevocable unless fraud is
2 established and an order issues permitting revocation as stated
3 in item (vii);

4 (ii) if the court accepts a consent to adopt in lieu of
5 ordering one of the other enumerated permanency dispositions,
6 the court must review the matter at least every 90 days. The
7 review will address the reasonable efforts of the agency to
8 achieve a finalized adoption;

9 (iii) a consent to adopt under this clause vests all legal
10 authority regarding the child, including guardianship and legal
11 custody of the child, with the commissioner of human services as
12 if the child were a state ward after termination of parental
13 rights;

14 (iv) the court must forward a copy of the consent to adopt,
15 together with a certified copy of the order transferring
16 guardianship and legal custody to the commissioner, to the
17 commissioner; and

18 (v) if an adoption is not finalized by the identified
19 prospective adoptive parent within 12 months of the execution of
20 the consent to adopt under this clause, the commissioner of
21 human services or the commissioner's delegate shall pursue
22 adoptive placement in another home unless the commissioner
23 certifies that the failure to finalize is not due to either an
24 action or a failure to act by the prospective adoptive parent;

25 (vi) notwithstanding item (v), as soon as the commissioner
26 or commissioner's delegate determines that finalization of the
27 adoption with the identified prospective adoptive parent is not
28 possible, that the prospective adoptive parent is not
29 cooperative in completing the steps necessary to finalize the
30 adoption, or upon the commissioner's determination to withhold
31 consent to the adoption under chapter 259, the commissioner or
32 commissioner's delegate shall pursue adoptive placement in
33 another home; and

34 (vii) unless otherwise required by the Indian Child Welfare
35 Act, United States Code, title 25, section 1913, a consent to
36 adopt executed under this section, following proper notice that

1 consent given under this provision is irrevocable upon
2 acceptance by the court, shall be irrevocable upon acceptance by
3 the court except upon order permitting revocation issued by the
4 same court after written findings that consent was obtained by
5 fraud.

6 (e) In ordering a permanent placement of a child, the court
7 must be governed by the best interests of the child, including a
8 review of the relationship between the child and relatives and
9 the child and other important persons with whom the child has
10 resided or had significant contact.

11 (f) Once a permanent placement determination has been made
12 and permanent placement has been established, further court
13 reviews are necessary if:

14 (1) the placement is long-term foster care or foster care
15 for a specified period of time;

16 (2) the court orders further hearings because it has
17 retained jurisdiction of a transfer of permanent legal and
18 physical custody matter;

19 (3) an adoption has not yet been finalized; or

20 (4) there is a disruption of the permanent or long-term
21 placement.

22 (g) Court reviews of an order for long-term foster care,
23 whether under this section or section 260C.317, subdivision 3,
24 paragraph (d), ~~or-foster-care-for-a-specified-period-of-time~~
25 must be conducted at least yearly and must review the child's
26 out-of-home placement plan and the reasonable efforts of the
27 agency to finalize the permanent plan for the child including
28 the agency's efforts to:

29 (1) ensure that long-term foster care continues to be the
30 most appropriate legal arrangement for meeting the child's need
31 for permanency and stability or, if not, to identify and attempt
32 to finalize another permanent placement option under this
33 chapter that would better serve the child's needs and best
34 interests;

35 (2) identify a specific long-term foster home for the child
36 or-a-specific-foster-home-for-the-time-the-child-is-specified-to

1 ~~be-out-of-the-care-of-the-parent~~, if one has not already been
2 identified;

3 ~~(2)~~ (3) support continued placement of the child in the
4 identified home, if one has been identified;

5 ~~(3)~~ (4) ensure appropriate services are provided to address
6 the physical health, mental health, and educational needs of the
7 child during the period of long-term foster care or-foster-care
8 for-a-specified-period-of-time and also ensure appropriate
9 services or assistance to maintain relationships with
10 appropriate family members and the child's community; and

11 ~~(4)~~ (5) plan for the child's independence upon the child's
12 leaving long-term foster care living as required under section
13 260C.212, subdivision 1~~7~~-and

14 ~~(5)-where-placement-is-for-a-specified-period-of-time, a~~
15 ~~plan-for-the-safe-return-of-the-child-to-the-care-of-the-parent.~~

16 (h) In the event it is necessary for a child that has been
17 ordered into foster care for a specified period of time to be in
18 foster care longer than one year after the permanency hearing
19 held under this section, not later than 12 months after the time
20 the child was ordered into foster care for a specified period of
21 time, the matter must be returned to court for a review of the
22 appropriateness of continuing the child in foster care and of
23 the responsible social services agency's reasonable efforts to
24 finalize a permanent plan for the child; if it is in the child's
25 best interests to continue the order for foster care for a
26 specified period of time past a total of 12 months, the court
27 shall set objectives for the child's continuation in foster
28 care, specify any further amount of time the child may be in
29 foster care, and review the plan for the safe return of the
30 child to the parent.

31 ~~(i)~~ An order under-this-subdivision permanently placing a
32 child out of the home of the parent or guardian must include the
33 following detailed findings:

34 (1) how the child's best interests are served by the order;

35 (2) the nature and extent of the responsible social service
36 agency's reasonable efforts, or, in the case of an Indian child,

1 active efforts to reunify the child with the parent or parents
2 guardian where reasonable efforts are required;

3 (3) the parent's or parents' efforts and ability to use
4 services to correct the conditions which led to the out-of-home
5 placement; and

6 (4) ~~whether~~ that the conditions which led to the
7 out-of-home placement have not been corrected so that the child
8 can safely return home.

9 ~~(i)~~ (j) An order for permanent legal and physical custody
10 of a child may be modified under sections 518.18 and 518.185.
11 The social services agency is a party to the proceeding and must
12 receive notice. A parent may only seek modification of an order
13 for long-term foster care upon motion and a showing by the
14 parent of a substantial change in the parent's circumstances
15 such that the parent could provide appropriate care for the
16 child and that removal of the child from the child's permanent
17 placement and the return to the parent's care would be in the
18 best interest of the child. The responsible social services
19 agency may ask the court to vacate an order for long-term foster
20 care upon a prima facie showing that there is a factual basis
21 for the court to order another permanency option under this
22 chapter and that such an option is in the child's best
23 interests. Upon a hearing where the court determines that there
24 is a factual basis for vacating the order for long-term foster
25 care and that another permanent order regarding the placement of
26 the child is in the child's best interests, the court may vacate
27 the order for long-term foster care and enter a different order
28 for permanent placement that is in the child's best interests.
29 The court shall not require further reasonable efforts to
30 reunify the child with the parent or guardian as a basis for
31 vacating the order for long-term foster care and ordering a
32 different permanent placement in the child's best interests.
33 The county attorney must file pleadings and give notice as
34 required under the rules of juvenile court in order to modify an
35 order for long-term foster care under this paragraph.

36 ~~(j)~~ (k) The court shall issue an order required under this

1 section within 15 days of the close of the proceedings. The
2 court may extend issuing the order an additional 15 days when
3 necessary in the interests of justice and the best interests of
4 the child.

5 Sec. 19. Minnesota Statutes 2004, section 260C.312, is
6 amended to read:

7 260C.312 [DISPOSITION; PARENTAL RIGHTS NOT TERMINATED.]

8 (a) If, after a hearing, the court does not terminate
9 parental rights but determines that the child is in need of
10 protection or services, or that the child is neglected and in
11 foster care, the court may find the child is in need of
12 protection or services or neglected and in foster care and may
13 enter an order in accordance with the provisions of section
14 260C.201.

15 (b) When a child has been in placement 15 of the last 22
16 months after a trial on a termination of parental rights
17 petition, if the court finds that the petition is not proven or
18 that termination of parental rights is not in the child's best
19 interests, the court must order the child returned to the care
20 of the parent unless the court finds approves the responsible
21 social services agency's determination of compelling reasons why
22 the child should remain out of the care of the parent. If the
23 court orders the child returned to the care of the parent, the
24 court may order a trial home visit, protective supervision, or
25 monitoring under section 260C.201.

26 Sec. 20. Minnesota Statutes 2004, section 260C.317,
27 subdivision 3, is amended to read:

28 Subd. 3. [ORDER; RETENTION OF JURISDICTION.] (a) A
29 certified copy of the findings and the order terminating
30 parental rights, and a summary of the court's information
31 concerning the child shall be furnished by the court to the
32 commissioner or the agency to which guardianship is
33 transferred. The orders shall be on a document separate from
34 the findings. The court shall furnish the individual to whom
35 guardianship is transferred a copy of the order terminating
36 parental rights.

1 (b) The court shall retain jurisdiction in a case where
2 adoption is the intended permanent placement disposition until
3 the child's adoption is finalized, the child is 18 years of age,
4 or the child is otherwise ordered discharged from the
5 jurisdiction of the court. The guardian ad litem and counsel
6 for the child shall continue on the case until an adoption
7 decree is entered. A hearing must be held every 90 days
8 following termination of parental rights for the court to review
9 progress toward an adoptive placement and the specific
10 recruitment efforts the agency has taken to find an adoptive
11 family or other placement living arrangement for the child and
12 to finalize the adoption or other permanency plan.

13 (c) ~~When adoption is not the intended disposition~~ The
14 responsible social services agency may make a determination of
15 compelling reasons for a child to be in long-term foster care
16 when the agency has made exhaustive efforts to recruit,
17 identify, and place the child in an adoptive home, and if the
18 child continues in out-of-home-placement foster care for at
19 least 24 months after the court has issued the order terminating
20 parental rights and. Upon approving the agency's determination
21 of compelling reasons, the court may order the child placed in
22 long-term foster care. At least every 12 months thereafter as
23 long as the child continues in out-of-home placement, the court
24 shall conduct a permanency review hearing to determine the
25 future status of the child, ~~including but not limited to,~~
26 ~~whether the child should be continued in out-of-home placement,~~
27 ~~should be placed for adoption, or should, because of the child's~~
28 ~~special needs and for compelling reasons, be ordered into~~
29 ~~long-term out-of-home placement~~ using the review requirements of
30 section 260C.201, subdivision 11, paragraph (g).

31 (d) The court shall retain jurisdiction through the child's
32 minority in a case where long-term foster care is the permanent
33 disposition whether under paragraph (c) or section 260C.201,
34 subdivision 11. ~~All of the review requirements under section~~
35 ~~260C.201, subdivision 11, paragraph (g), apply.~~

36

ARTICLE 3

1 CHILD CARE

2 Section 1. Minnesota Statutes 2004, section 119B.025,
3 subdivision 1, is amended to read:

4 Subdivision 1. [FACTORS WHICH MUST BE VERIFIED.] (a) The
5 county shall verify the following at all initial child care
6 applications using the universal application:

7 (1) identity of adults;

8 (2) presence of the minor child in the home, if
9 questionable;

10 (3) relationship of minor child to the parent, stepparent,
11 legal guardian, eligible relative caretaker, or the spouses of
12 any of the foregoing;

13 (4) age;

14 (5) immigration status, if related to eligibility;

15 (6) Social Security number, if given;

16 (7) income;

17 (8) spousal support and child support payments made to
18 persons outside the household;

19 (9) residence; and

20 (10) inconsistent information, if related to eligibility.

21 (b) If a family did not use the universal application or
22 child care addendum to apply for child care assistance, the
23 family must complete the universal application or child care
24 addendum at its next eligibility redetermination and the county
25 must verify the factors listed in paragraph (a) as part of that
26 redetermination. Once a family has completed a universal
27 application or child care addendum, the county shall use the
28 redetermination form described in paragraph (c) for that
29 family's subsequent redeterminations. Eligibility must be
30 redetermined at least every six months. If a family reports a
31 change in an eligibility factor before the family's next
32 regularly scheduled redetermination, the county must recalculate
33 eligibility without requiring verification of any eligibility
34 factor that did not change.

35 (c) The commissioner shall develop a recertification
36 redetermination form to redetermine eligibility and a change

1 report form to report changes that minimizes minimize paperwork
2 for the county and the participant.

3 Sec. 2. Minnesota Statutes 2004, section 119B.03,
4 subdivision 6, is amended to read:

5 Subd. 6. [ALLOCATION FORMULA.] The basic sliding fee state
6 and federal funds shall be allocated on a calendar year basis.
7 Funds shall be allocated first in amounts equal to each county's
8 guaranteed floor according to subdivision 8, with any remaining
9 available funds allocated according to the following formula:

10 (a) One-fourth of the funds shall be allocated in
11 proportion to each county's total expenditures for the basic
12 sliding fee child care program reported during the most recent
13 fiscal year completed at the time of the notice of allocation.

14 (b) One-fourth of the funds shall be allocated based on the
15 number of families participating in the transition year child
16 care program as reported during the most recent quarter
17 completed at the time of the notice of allocation.

18 (c) One-fourth of the funds shall be allocated in
19 proportion to each county's most recently reported first,
20 second, and third priority waiting list as defined in
21 subdivision 2 and the reinstatement list of those families whose
22 assistance was terminated with the approval of the commissioner
23 under Minnesota Rules, part 3400.0183, subpart 1.

24 (d) One-fourth of the funds must be allocated in proportion
25 to each county's most recently reported waiting list as defined
26 in subdivision 2 and the reinstatement list of those families
27 whose assistance was terminated with the approval of the
28 commissioner under Minnesota Rules, part 3400.0183, subpart 1.

29 Sec. 3. Minnesota Statutes 2004, section 119B.09,
30 subdivision 4, is amended to read:

31 Subd. 4. [ELIGIBILITY; ANNUAL INCOME; CALCULATION.] Annual
32 income of the applicant family is the current monthly income of
33 the family multiplied by 12 or the income for the 12-month
34 period immediately preceding the date of application, or income
35 calculated by the method which provides the most accurate
36 assessment of income available to the family. Self-employment

1 income must be calculated based on gross receipts less operating
2 expenses. Income must be ~~redetermined~~ recalculated when the
3 family's income changes, but no less often than every six
4 months. Income must be verified with documentary evidence. If
5 the applicant does not have sufficient evidence of income,
6 verification must be obtained from the source of the income.

7 Sec. 4. Minnesota Statutes 2004, section 119B.09,
8 subdivision 9, is amended to read:

9 Subd. 9. [LICENSED AND LEGAL NONLICENSED FAMILY CHILD CARE
10 PROVIDERS; ASSISTANCE.] Licensed and legal nonlicensed family
11 child care providers are not eligible to receive child care
12 assistance subsidies under this chapter for their own children
13 or children in their ~~custody~~ family during the hours they are
14 providing child care or being paid to provide child care. Child
15 care providers are eligible to receive child care assistance
16 subsidies for their children when they are engaged in other
17 activities that meet the requirements of this chapter and for
18 which child care assistance can be paid. The hours for which
19 the provider receives a child care subsidy for their own
20 children must not overlap with the hours the provider provides
21 child care services.

22 ARTICLE 4

23 CHILD SUPPORT

24 Section 1. Minnesota Statutes 2004, section 256.978,
25 subdivision 2, is amended to read:

26 Subd. 2. [ACCESS TO INFORMATION.] (a) A request for
27 information by the public authority responsible for child
28 support of this state or any other state may be made to:

29 (1) employers when there is reasonable cause to believe
30 that the subject of the inquiry is or was an employee or
31 independent contractor of the employer. Information to be
32 released by employers of employees is limited to place of
33 residence, employment status, wage or payment information,
34 benefit information, and Social Security number. Information to
35 be released by employers of independent contractors is limited
36 to place of residence or address, contract status, payment

1 information, benefit information, and Social Security number or
2 identification number;

3 (2) utility companies when there is reasonable cause to
4 believe that the subject of the inquiry is or was a retail
5 customer of the utility company. Customer information to be
6 released by utility companies is limited to place of residence,
7 home telephone, work telephone, source of income, employer and
8 place of employment, and Social Security number;

9 (3) insurance companies when there is reasonable cause to
10 believe that the subject of the inquiry is or was receiving
11 funds either in the form of a lump sum or periodic payments.
12 Information to be released by insurance companies is limited to
13 place of residence, home telephone, work telephone, employer,
14 Social Security number, and amounts and type of payments made to
15 the subject of the inquiry;

16 (4) labor organizations when there is reasonable cause to
17 believe that the subject of the inquiry is or was a member of
18 the labor association. Information to be released by labor
19 associations is limited to place of residence, home telephone,
20 work telephone, Social Security number, and current and past
21 employment information; and

22 (5) financial institutions when there is reasonable cause
23 to believe that the subject of the inquiry has or has had
24 accounts, stocks, loans, certificates of deposits, treasury
25 bills, life insurance policies, or other forms of financial
26 dealings with the institution. Information to be released by
27 the financial institution is limited to place of residence, home
28 telephone, work telephone, identifying information on the type
29 of financial relationships, Social Security number, current
30 value of financial relationships, and current indebtedness of
31 the subject with the financial institution.

32 (b) For purposes of this subdivision, utility companies
33 include telephone companies, radio common carriers, and
34 telecommunications carriers as defined in section 237.01, and
35 companies that provide electrical, telephone, natural gas,
36 propane gas, oil, coal, or cable television services to retail

1 customers. The term financial institution includes banks,
2 savings and loans, credit unions, brokerage firms, mortgage
3 companies, insurance companies, benefit associations, safe
4 deposit companies, money market mutual funds, or similar
5 entities authorized to do business in the state.

6 (c) For purposes of this section, the public authority may
7 request or obtain information from any person or entity
8 enumerated in this section, or from any third party who
9 contracts with any such person or entity to obtain or retain
10 information that may be requested by the public authority.

11 Sec. 2. Minnesota Statutes 2004, section 518.551,
12 subdivision 5, is amended to read:

13 Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The
14 petitioner shall notify the public authority of all proceedings
15 for dissolution, legal separation, determination of parentage or
16 for the custody of a child, if either party is receiving public
17 assistance or applies for it subsequent to the commencement of
18 the proceeding. The notice must contain the full names of the
19 parties to the proceeding, their Social Security account
20 numbers, and their birth dates. After receipt of the notice,
21 the court shall set child support as provided in this
22 subdivision. The court may order either or both parents owing a
23 duty of support to a child of the marriage to pay an amount
24 reasonable or necessary for the child's support, without regard
25 to marital misconduct. The court shall approve a child support
26 stipulation of the parties if each party is represented by
27 independent counsel, unless the stipulation does not meet the
28 conditions of paragraph (i). In other cases the court shall
29 determine and order child support in a specific dollar amount in
30 accordance with the guidelines and the other factors set forth
31 in paragraph (c) and any departure therefrom. The court may
32 also order the obligor to pay child support in the form of a
33 percentage share of the obligor's net bonuses, commissions, or
34 other forms of compensation, in addition to, or if the obligor
35 receives no base pay, in lieu of, an order for a specific dollar
36 amount.

1 (b) The court shall derive a specific dollar amount for
 2 child support by multiplying the obligor's net income by the
 3 percentage indicated by the following guidelines:

4	Net Income Per	Number of Children						
5	Month of Obligor							
6		1	2	3	4	5	6	7 or
7								more

8 \$550 and Below Order based on the ability of the
 9 obligor to provide support
 10 at these income levels, or at higher
 11 levels, if the obligor has
 12 the earning ability.

13	\$551 - 600	16%	19%	22%	25%	28%	30%	32%
14	\$601 - 650	17%	21%	24%	27%	29%	32%	34%
15	\$651 - 700	18%	22%	25%	28%	31%	34%	36%
16	\$701 - 750	19%	23%	27%	30%	33%	36%	38%
17	\$751 - 800	20%	24%	28%	31%	35%	38%	40%
18	\$801 - 850	21%	25%	29%	33%	36%	40%	42%
19	\$851 - 900	22%	27%	31%	34%	38%	41%	44%
20	\$901 - 950	23%	28%	32%	36%	40%	43%	46%
21	\$951 - 1000	24%	29%	34%	38%	41%	45%	48%
22	\$1001- 5000	25%	30%	35%	39%	43%	47%	50%

23 or the amount
 24 in effect under
 25 paragraph (k)

26 Guidelines for support for an obligor with a monthly income
 27 in excess of the income limit currently in effect under
 28 paragraph (k) shall be the same dollar amounts as provided for
 29 in the guidelines for an obligor with a monthly income equal to
 30 the limit in effect.

31 Net Income defined as:

32
 33 Total monthly
 34 income less *(i) Federal Income Tax
 35 *(ii) State Income Tax
 36 (iii) Social Security

1 of employment;

2 (D) the excess employment is in the nature of additional,
3 part-time or overtime employment compensable by the hour or
4 fraction of an hour; and

5 (E) the party's compensation structure has not been changed
6 for the purpose of affecting a support or maintenance obligation.

7 The court shall review the work-related and
8 education-related child care costs paid and shall allocate the
9 costs to each parent in proportion to each parent's net income,
10 as determined under this subdivision, after the transfer of
11 child support and spousal maintenance, unless the allocation
12 would be substantially unfair to either parent. There is a
13 presumption of substantial unfairness if after the sum total of
14 child support, spousal maintenance, and child care costs is
15 subtracted from the obligor's income, the income is at or below
16 100 percent of the federal poverty guidelines. The cost of
17 child care for purposes of this paragraph is 75 percent of the
18 actual cost paid for child care, to reflect the approximate
19 value of state and federal tax credits available to the
20 obligee. The actual cost paid for child care is the total
21 amount received by the child care provider for the child or
22 children of the obligor from the obligee or any public agency.
23 The court shall require verification of employment or school
24 attendance and documentation of child care expenses from the
25 obligee and the public agency, if applicable. If child care
26 expenses fluctuate during the year because of seasonal
27 employment or school attendance of the obligee or extended
28 periods of parenting time with the obligor, the court shall
29 determine child care expenses based on an average monthly cost.
30 The amount allocated for child care expenses is considered child
31 support but is not subject to a cost-of-living adjustment under
32 section 518.641. If a court order provides for child care
33 expenses and the public authority provides child support
34 enforcement services, the collection of the amount allocated for
35 child care expenses terminates must be suspended when either
36 party notifies informs the public authority that the no child

1 ~~care costs have ended and without any legal action on the part~~
2 ~~of either party~~ are being incurred and the public authority
3 verifies the accuracy of the information with the other party.
4 The public authority shall ~~verify the information received under~~
5 ~~this provision before authorizing termination.~~ ~~The termination~~
6 ~~is effective as of the date of the notification.~~ resume
7 collection of the amount allocated for child care expenses when
8 either party provides information that child care costs have
9 resumed. If the parties provide conflicting information to the
10 public authority regarding whether or not child care expenses
11 are being incurred, the collection of the amount allocated for
12 child care expenses must continue or resume. Either party,
13 through motion to the court, may challenge the suspension or
14 resumption of the collection of the amount allocated for child
15 care expenses. All provisions of the court order remain in
16 effect even though the public authority suspends collection
17 activities for the amount allocated for child care expenses. In
18 these and other cases where there is a substantial increase or
19 decrease in child care expenses, the parties may modify the
20 order under section 518.64.

21 The court may allow the obligor parent to care for the
22 child while the obligee parent is working, as provided in
23 section 518.175, subdivision 8, but this is not a reason to
24 deviate from the guidelines.

25 (c) In addition to the child support guidelines, the court
26 shall take into consideration the following factors in setting
27 or modifying child support or in determining whether to deviate
28 from the guidelines:

29 (1) all earnings, income, and resources of the parents,
30 including real and personal property, but excluding income from
31 excess employment of the obligor or obligee that meets the
32 criteria of paragraph (b), clause (2)(ii);

33 (2) the financial needs and resources, physical and
34 emotional condition, and educational needs of the child or
35 children to be supported;

36 (3) the standard of living the child would have enjoyed had

1 the marriage not been dissolved, but recognizing that the
2 parents now have separate households;

3 (4) which parent receives the income taxation dependency
4 exemption and what financial benefit the parent receives from
5 it;

6 (5) the parents' debts as provided in paragraph (d); and

7 (6) the obligor's receipt of public assistance under the
8 AFDC program formerly codified under sections 256.72 to 256.82
9 or 256B.01 to 256B.40 and chapter 256J or 256K.

10 (d) In establishing or modifying a support obligation, the
11 court may consider debts owed to private creditors, but only if:

12 (1) the right to support has not been assigned under
13 section 256.741;

14 (2) the court determines that the debt was reasonably
15 incurred for necessary support of the child or parent or for the
16 necessary generation of income. If the debt was incurred for
17 the necessary generation of income, the court shall consider
18 only the amount of debt that is essential to the continuing
19 generation of income; and

20 (3) the party requesting a departure produces a sworn
21 schedule of the debts, with supporting documentation, showing
22 goods or services purchased, the recipient of them, the amount
23 of the original debt, the outstanding balance, the monthly
24 payment, and the number of months until the debt will be fully
25 paid.

26 (e) Any schedule prepared under paragraph (d), clause (3),
27 shall contain a statement that the debt will be fully paid after
28 the number of months shown in the schedule, barring emergencies
29 beyond the party's control.

30 (f) Any further departure below the guidelines that is
31 based on a consideration of debts owed to private creditors
32 shall not exceed 18 months in duration, after which the support
33 shall increase automatically to the level ordered by the court.
34 Nothing in this section shall be construed to prohibit one or
35 more step increases in support to reflect debt retirement during
36 the 18-month period.

1 (g) If payment of debt is ordered pursuant to this section,
2 the payment shall be ordered to be in the nature of child
3 support.

4 (h) Nothing shall preclude the court from receiving
5 evidence on the above factors to determine if the guidelines
6 should be exceeded or modified in a particular case.

7 (i) The guidelines in this subdivision are a rebuttable
8 presumption and shall be used in all cases when establishing or
9 modifying child support. If the court does not deviate from the
10 guidelines, the court shall make written findings concerning the
11 amount of the obligor's income used as the basis for the
12 guidelines calculation and any other significant evidentiary
13 factors affecting the determination of child support. If the
14 court deviates from the guidelines, the court shall make written
15 findings giving the amount of support calculated under the
16 guidelines, the reasons for the deviation, and shall
17 specifically address the criteria in paragraph (c) and how the
18 deviation serves the best interest of the child. The court may
19 deviate from the guidelines if both parties agree and the court
20 makes written findings that it is in the best interests of the
21 child, except that in cases where child support payments are
22 assigned to the public agency under section 256.741, the court
23 may deviate downward only as provided in paragraph (j). Nothing
24 in this paragraph prohibits the court from deviating in other
25 cases. The provisions of this paragraph apply whether or not
26 the parties are each represented by independent counsel and have
27 entered into a written agreement. The court shall review
28 stipulations presented to it for conformity to the guidelines
29 and the court is not required to conduct a hearing, but the
30 parties shall provide the documentation of earnings required
31 under subdivision 5b.

32 (j) If the child support payments are assigned to the
33 public agency under section 256.741, the court may not deviate
34 downward from the child support guidelines unless the court
35 specifically finds that the failure to deviate downward would
36 impose an extreme hardship on the obligor.

1 (k) The dollar amount of the income limit for application
2 of the guidelines must be adjusted on July 1 of every
3 even-numbered year to reflect cost-of-living changes. The
4 Supreme Court shall select the index for the adjustment from the
5 indices listed in section 518.641. The state court
6 administrator shall make the changes in the dollar amount
7 required by this paragraph available to courts and the public on
8 or before April 30 of the year in which the amount is to change.

9 (l) In establishing or modifying child support, if a child
10 receives a child's insurance benefit under United States Code,
11 title 42, section 402, because the obligor is entitled to old
12 age or disability insurance benefits, the amount of support
13 ordered shall be offset by the amount of the child's benefit.
14 The court shall make findings regarding the obligor's income
15 from all sources, the child support amount calculated under this
16 section, the amount of the child's benefit, and the obligor's
17 child support obligation. Any benefit received by the child in
18 a given month in excess of the child support obligation shall
19 not be treated as an arrearage payment or a future payment.

20 Sec. 3. Minnesota Statutes 2004, section 518.68,
21 subdivision 2, is amended to read:

22 Subd. 2. [CONTENTS.] The required notices must be
23 substantially as follows:

24 **IMPORTANT NOTICE**

25 **1. PAYMENTS TO PUBLIC AGENCY**

26 According to Minnesota Statutes, section 518.551,
27 subdivision 1, payments ordered for maintenance and support
28 must be paid to the public agency responsible for child
29 support enforcement as long as the person entitled to
30 receive the payments is receiving or has applied for public
31 assistance or has applied for support and maintenance
32 collection services. **MAIL PAYMENTS TO:**

33 **2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A**
34 **FELONY**

35 A person may be charged with a felony who conceals a minor
36 child or takes, obtains, retains, or fails to return a

1 minor child from or to the child's parent (or person with
2 custodial or visitation rights), according to Minnesota
3 Statutes, section 609.26. A copy of that section is
4 available from any district court clerk.

5 3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

6 A person who fails to pay court-ordered child support or
7 maintenance may be charged with a crime, which may include
8 misdemeanor, gross misdemeanor, or felony charges,
9 according to Minnesota Statutes, section 609.375. A copy
10 of that section is available from any district court clerk.

11 4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

12 (a) Payment of support or spousal maintenance is to be as
13 ordered, and the giving of gifts or making purchases of
14 food, clothing, and the like will not fulfill the
15 obligation.

16 (b) Payment of support must be made as it becomes due, and
17 failure to secure or denial of parenting time is NOT an
18 excuse for nonpayment, but the aggrieved party must seek
19 relief through a proper motion filed with the court.

20 (c) Nonpayment of support is not grounds to deny parenting
21 time. The party entitled to receive support may apply for
22 support and collection services, file a contempt motion, or
23 obtain a judgment as provided in Minnesota Statutes,
24 section 548.091.

25 (d) The payment of support or spousal maintenance takes
26 priority over payment of debts and other obligations.

27 (e) A party who accepts additional obligations of support
28 does so with the full knowledge of the party's prior
29 obligation under this proceeding.

30 (f) Child support or maintenance is based on annual income,
31 and it is the responsibility of a person with seasonal
32 employment to budget income so that payments are made
33 throughout the year as ordered.

34 (g) If the obligor is laid off from employment or receives
35 a pay reduction, support may be reduced, but only if a
36 motion to reduce the support is served and filed with the

1 court. Any reduction will take effect only if ordered by
2 the court and may only relate back to the time that the
3 motion is filed. If a motion is not filed, the support
4 obligation will continue at the current level. The court
5 is not permitted to reduce support retroactively, except as
6 provided in Minnesota Statutes, section 518.64, subdivision
7 2, paragraph (c).

8 (h) Reasonable parenting time guidelines are contained in
9 Appendix B, which is available from the court administrator.

10 (i) The nonpayment of support may be enforced through the
11 denial of student grants; interception of state and federal
12 tax refunds; suspension of driver's, recreational, and
13 occupational licenses; referral to the department of
14 revenue or private collection agencies; seizure of assets,
15 including bank accounts and other assets held by financial
16 institutions; reporting to credit bureaus; interest
17 charging, income withholding, and contempt proceedings; and
18 other enforcement methods allowed by law.

19 (j) The public authority may suspend or resume collection
20 of the amount allocated for child care expenses if the
21 conditions of Minnesota Statutes, section 518.551,
22 subdivision 5, paragraph (b), are met.

23 5. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17,
24 SUBDIVISION 3

25 Unless otherwise provided by the Court:

26 (a) Each party has the right of access to, and to receive
27 copies of, school, medical, dental, religious training, and
28 other important records and information about the minor
29 children. Each party has the right of access to
30 information regarding health or dental insurance available
31 to the minor children. Presentation of a copy of this
32 order to the custodian of a record or other information
33 about the minor children constitutes sufficient
34 authorization for the release of the record or information
35 to the requesting party.

36 (b) Each party shall keep the other informed as to the name

1 and address of the school of attendance of the minor
 2 children. Each party has the right to be informed by
 3 school officials about the children's welfare, educational
 4 progress and status, and to attend school and parent
 5 teacher conferences. The school is not required to hold a
 6 separate conference for each party.

7 (c) In case of an accident or serious illness of a minor
 8 child, each party shall notify the other party of the
 9 accident or illness, and the name of the health care
 10 provider and the place of treatment.

11 (d) Each party has the right of reasonable access and
 12 telephone contact with the minor children.

13 6. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

14 Child support and/or spousal maintenance may be withheld
 15 from income, with or without notice to the person obligated
 16 to pay, when the conditions of Minnesota Statutes, section
 17 518.6111 have been met. A copy of those sections is
 18 available from any district court clerk.

19 7. CHANGE OF ADDRESS OR RESIDENCE

20 Unless otherwise ordered, each party shall notify the other
 21 party, the court, and the public authority responsible for
 22 collection, if applicable, of the following information
 23 within ten days of any change: the residential and mailing
 24 address, telephone number, driver's license number, Social
 25 Security number, and name, address, and telephone number of
 26 the employer.

27 8. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

28 Child support and/or spousal maintenance may be adjusted
 29 every two years based upon a change in the cost of living
 30 (using Department of Labor Consumer Price Index,
 31 unless otherwise specified in this order) when the
 32 conditions of Minnesota Statutes, section 518.641, are met.
 33 Cost of living increases are compounded. A copy of
 34 Minnesota Statutes, section 518.641, and forms necessary to
 35 request or contest a cost of living increase are available
 36 from any district court clerk.

1 9. JUDGMENTS FOR UNPAID SUPPORT

2 If a person fails to make a child support payment, the
3 payment owed becomes a judgment against the person
4 responsible to make the payment by operation of law on or
5 after the date the payment is due, and the person entitled
6 to receive the payment or the public agency may obtain
7 entry and docketing of the judgment WITHOUT NOTICE to the
8 person responsible to make the payment under Minnesota
9 Statutes, section 548.091. Interest begins to accrue on a
10 payment or installment of child support whenever the unpaid
11 amount due is greater than the current support due,
12 according to Minnesota Statutes, section 548.091,
13 subdivision 1a.

14 10. JUDGMENTS FOR UNPAID MAINTENANCE

15 A judgment for unpaid spousal maintenance may be entered
16 when the conditions of Minnesota Statutes, section 548.091,
17 are met. A copy of that section is available from any
18 district court clerk.

19 11. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD
20 SUPPORT

21 A judgment for attorney fees and other collection costs
22 incurred in enforcing a child support order will be entered
23 against the person responsible to pay support when the
24 conditions of section 518.14, subdivision 2, are met. A
25 copy of section 518.14 and forms necessary to request or
26 contest these attorney fees and collection costs are
27 available from any district court clerk.

28 12. PARENTING TIME EXPEDITOR PROCESS

29 On request of either party or on its own motion, the court
30 may appoint a parenting time expeditor to resolve parenting
31 time disputes under Minnesota Statutes, section 518.1751.
32 A copy of that section and a description of the expeditor
33 process is available from any district court clerk.

34 13. PARENTING TIME REMEDIES AND PENALTIES

35 Remedies and penalties for the wrongful denial of parenting
36 time are available under Minnesota Statutes, section

1 518.175, subdivision 6. These include compensatory
2 parenting time; civil penalties; bond requirements;
3 contempt; and reversal of custody. A copy of that
4 subdivision and forms for requesting relief are available
5 from any district court clerk.

6 Sec. 4. Minnesota Statutes 2004, section 548.091,
7 subdivision 1a, is amended to read:

8 Subd. 1a. [CHILD SUPPORT JUDGMENT BY OPERATION OF LAW.]

9 (a) Any payment or installment of support required by a judgment
10 or decree of dissolution or legal separation, determination of
11 parentage, an order under chapter 518C, an order under section
12 256.87, or an order under section 260B.331 or 260C.331, that is
13 not paid or withheld from the obligor's income as required under
14 section 518.6111, or which is ordered as child support by
15 judgment, decree, or order by a court in any other state, is a
16 judgment by operation of law on and after the date it is due, is
17 entitled to full faith and credit in this state and any other
18 state, and shall be entered and docketed by the court
19 administrator on the filing of affidavits as provided in
20 subdivision 2a. Except as otherwise provided by paragraph (b),
21 interest accrues from the date the unpaid amount due is greater
22 than the current support due at the annual rate provided in
23 section 549.09, subdivision 1, plus two percent, not to exceed
24 an annual rate of 18 percent. A payment or installment of
25 support that becomes a judgment by operation of law between the
26 date on which a party served notice of a motion for modification
27 under section 518.64, subdivision 2, and the date of the court's
28 order on modification may be modified under that subdivision.

29 (b) Notwithstanding the provisions of section 549.09, upon
30 motion to the court and upon proof by the obligor of 36 12
31 consecutive months of complete and timely payments of both
32 current support and court-ordered paybacks of a child support
33 debt or arrearage, the court may order interest on the remaining
34 debt or arrearage to stop accruing. Timely payments are those
35 made in the month in which they are due. If, after that time,
36 the obligor fails to make complete and timely payments of both

1 current support and court-ordered paybacks of child support debt
2 or arrearage, the public authority or the obligee may move the
3 court for the reinstatement of interest as of the month in which
4 the obligor ceased making complete and timely payments.

5 The court shall provide copies of all orders issued under
6 this section to the public authority. The state court
7 administrator shall prepare and make available to the court and
8 the parties forms to be submitted by the parties in support of a
9 motion under this paragraph.

10 (c) Notwithstanding the provisions of section 549.09, upon
11 motion to the court, the court may order interest on a child
12 support debt or arrearage to stop accruing where the court finds
13 that the obligor is:

14 (1) unable to pay support because of a significant physical
15 or mental disability;

16 (2) a recipient of Supplemental Security Income (SSI),
17 Title II Older Americans Survivor's Disability Insurance
18 (OASDI), other disability benefits, or public assistance based
19 upon need; or

20 (3) institutionalized or incarcerated for at least 30 days
21 for an offense other than nonsupport of the child or children
22 involved, and is otherwise financially unable to pay support.

23 (d) If the conditions in paragraph (c) no longer exist,
24 upon motion to the court, the court may order interest accrual
25 to resume retroactively from the date of service of the motion
26 to resume the accrual of interest.

27 ARTICLE 5

28 FAMILY SUPPORTS

29 Section 1. Minnesota Statutes 2004, section 119A.43,
30 subdivision 2, is amended to read:

31 Subd. 2. [ESTABLISHMENT AND ADMINISTRATION.] A
32 transitional housing program is established to be administered
33 by the commissioner. The commissioner may make grants to
34 eligible recipients or enter into agreements with community
35 action agencies or other public or private nonprofit agencies to
36 make grants to eligible recipients to initiate, maintain, or

1 expand programs to provide transitional housing and support
2 services for persons in need of transitional housing, which may
3 include up to six months of follow-up support services for
4 persons who complete transitional housing as they stabilize in
5 permanent housing. The commissioner must ensure that money
6 appropriated to implement this section is distributed as soon as
7 practicable. The commissioner may make grants directly to
8 eligible recipients. The commissioner may use up to ten percent
9 of the appropriation available for this program for persons
10 needing assistance longer than 24 months.

11 Sec. 2. Minnesota Statutes 2004, section 144D.025, is
12 amended to read:

13 144D.025 [OPTIONAL REGISTRATION.]

14 An establishment that meets all the requirements of this
15 chapter except that fewer than 80 percent of the adult residents
16 are age 55 or older, or a supportive housing establishment
17 developed and funded in whole or in part with funds provided
18 specifically as part of the plan to end long-term homelessness
19 required under Laws 2003, chapter 128, article 15, section 9,
20 may, at its option, register as a housing with services
21 establishment.

22 Sec. 3. Minnesota Statutes 2004, section 256D.02,
23 subdivision 17, is amended to read:

24 Subd. 17. [PROFESSIONAL CERTIFICATION.] "Professional
25 certification" means: ~~(1) a statement about a person's illness,~~
26 ~~injury, or incapacity that is signed by a licensed-physician,~~
27 ~~psychological-practitioner, or licensed-psychologist, qualified~~
28 ~~by professional-training-and-experience-to-diagnose-and-certify~~
29 ~~the-person's-condition, or~~
30 ~~(2) a statement about an incapacity involving a spinal~~
31 ~~subluxation condition that is signed by a licensed-chiropractor~~
32 ~~qualified by professional-training-and-experience-to-diagnose~~
33 ~~and-certify-the-condition~~ "qualified professional" as defined in
34 section 256J.08, subdivision 73a.

35 Sec. 4. Minnesota Statutes 2004, section 256D.051,
36 subdivision 6c, is amended to read:

1 Subd. 6c. [PROGRAM FUNDING.] ~~(a)~~ Within the limits of
2 available resources, the commissioner shall reimburse the actual
3 costs of county agencies and their employment and training
4 service providers for the provision of food stamp employment and
5 training services, including participant support services,
6 direct program services, and program administrative activities.
7 The cost of services for each county's food stamp employment and
8 training program shall not exceed the annual allocated amount.
9 No more than 15 percent of program funds may be used for
10 administrative activities. The county agency may expend county
11 funds in excess of the limits of this subdivision without state
12 reimbursement.

13 Program funds shall be allocated based on the county's
14 average number of food stamp cases as compared to the statewide
15 total number of such cases. The average number of cases shall
16 be based on counts of cases as of March 31, June 30, September
17 30, and December 31 of the previous calendar year. The
18 commissioner may reallocate unexpended money appropriated under
19 this section to those county agencies that demonstrate a need
20 for additional funds.

21 ~~(b)-This-subdivision-expires-effective-June-30,2005-~~

22 Sec. 5. Minnesota Statutes 2004, section 256I.04,
23 subdivision 2a, is amended to read:

24 Subd. 2a. [LICENSE REQUIRED.] A county agency may not
25 enter into an agreement with an establishment to provide group
26 residential housing unless:

27 (1) the establishment is licensed by the Department of
28 Health as a hotel and restaurant; a board and lodging
29 establishment; a residential care home; a boarding care home
30 before March 1, 1985; or a supervised living facility, and the
31 service provider for residents of the facility is licensed under
32 chapter 245A. However, an establishment licensed by the
33 Department of Health to provide lodging need not also be
34 licensed to provide board if meals are being supplied to
35 residents under a contract with a food vendor who is licensed by
36 the Department of Health;

1 (2) the residence is licensed by the commissioner of human
2 services under Minnesota Rules, parts 9555.5050 to 9555.6265, or
3 certified by a county human services agency prior to July 1,
4 1992, using the standards under Minnesota Rules, parts 9555.5050
5 to 9555.6265; or

6 (3) the establishment is registered under chapter 144D and
7 provides three meals a day, ~~except-that~~ or is an establishment
8 voluntarily registered under section 144D.025 ~~is-not-eligible~~
9 ~~for-an-agreement-to-provide-group-residential-housing~~ as a
10 supportive housing establishment; or

11 (4) an establishment voluntarily registered under section
12 144D.025, other than a supportive housing establishment under
13 clause (3), is not eligible to provide group residential housing.

14 The requirements under clauses (1), (2), (3), and ~~(3)~~ (4)
15 do not apply to establishments exempt from state licensure
16 because they are located on Indian reservations and subject to
17 tribal health and safety requirements.

18 Sec. 6. Minnesota Statutes 2004, section 256I.05, is
19 amended by adding a subdivision to read:

20 Subd. 1g. [SUPPLEMENTARY SERVICE RATE FOR CERTAIN
21 FACILITIES.] On or after July 1, 2005, a county agency may
22 negotiate a supplementary service rate for recipients of
23 assistance under section 256I.04, subdivision 1, paragraph (b),
24 who relocate from a homeless shelter licensed and registered
25 prior to December 31, 1996, by the Minnesota Department of
26 Health under section 157.17, to a supportive housing
27 establishment developed and funded in whole or in part with
28 funds provided specifically as part of the plan to end long-term
29 homelessness required under Laws 2003, chapter 128, article 15,
30 section 9, not to exceed \$456.75.

31 Sec. 7. Minnesota Statutes 2004, section 256J.626,
32 subdivision 6, is amended to read:

33 Subd. 6. [BASE ALLOCATION TO COUNTIES AND TRIBES;
34 DEFINITIONS.] (a) For purposes of this section, the following
35 terms have the meanings given them:.

36 (1) "2002 historic spending base" means the commissioner's

1 determination of the sum of the reimbursement related to fiscal
2 year 2002 of county or tribal agency expenditures for the base
3 programs listed in clause ~~(4)~~ (6), items (i) through (iv), and
4 earnings related to calendar year 2002 in the base program
5 listed in clause ~~(4)~~ (6), item (v), and the amount of spending
6 in fiscal year 2002 in the base program listed in
7 clause ~~(4)~~ (6), item (vi), issued to or on behalf of persons
8 residing in the county or tribal service delivery area.

9 (2) "Adjusted caseload factor" means a factor weighted:

10 (i) 47 percent on the MFIP cases in each county at four
11 points in time in the most recent 12-month period for which data
12 is available multiplied by the county's caseload difficulty
13 factor; and

14 (ii) 53 percent on the count of adults on MFIP in each
15 county and tribe at four points in time in the most recent
16 12-month period for which data is available multiplied by the
17 county or tribe's caseload difficulty factor.

18 (3) "Caseload difficulty factor" means a factor determined
19 by the commissioner for each county and tribe based upon the
20 self-support index described in section 256J.751, subdivision 2,
21 clause (7).

22 ~~(2)~~ (4) "Initial allocation" means the amount potentially
23 available to each county or tribe based on the formula in
24 paragraphs (b) through ~~(d)~~ (h).

25 ~~(3)~~ (5) "Final allocation" means the amount available to
26 each county or tribe based on the formula in paragraphs (b)
27 through ~~(d)~~ (h), after adjustment by subdivision 7.

28 ~~(4)~~ (6) "Base programs" means the:

29 (i) MFIP employment and training services under Minnesota
30 Statutes 2002, section 256J.62, subdivision 1, in effect June
31 30, 2002;

32 (ii) bilingual employment and training services to refugees
33 under Minnesota Statutes 2002, section 256J.62, subdivision 6,
34 in effect June 30, 2002;

35 (iii) work literacy language programs under Minnesota
36 Statutes 2002, section 256J.62, subdivision 7, in effect June

1 30, 2002;

2 (iv) supported work program authorized in Laws 2001, First
3 Special Session chapter 9, article 17, section 2, in effect June
4 30, 2002;

5 (v) administrative aid program under section 256J.76 in
6 effect December 31, 2002; and

7 (vi) emergency assistance program under Minnesota Statutes
8 2002, section 256J.48, in effect June 30, 2002.

9 (b)~~(i)~~-~~Beginning July 1, 2003,~~ The commissioner shall:

10 (1) beginning July 1, 2003, determine the initial
11 allocation of funds available under this section according to
12 clause (2);

13 (2) allocate all of the funds available for the period
14 beginning July 1, 2003, and ending December 31, 2004, ~~shall be~~
15 ~~allocated~~ to each county or tribe in proportion to the county's
16 or tribe's share of the statewide 2002 historic spending base;

17 ~~(c)~~ (3) determine for calendar year 2005, ~~the commissioner~~
18 ~~shall determine~~ the initial allocation of funds to be made
19 available under this section in proportion to the county or
20 tribe's initial allocation for the period of July 1, 2003, to
21 December 31, 2004;

22 ~~(d)~~-~~The formula under this subdivision sunsets December 31,~~
23 ~~2005.~~ (4) determine for calendar year 2006 the initial
24 allocation of funds to be made available under this section
25 based 90 percent on the proportion of the county or tribe's
26 share of the statewide 2002 historic spending base and ten
27 percent on the proportion of the county or tribe's share of the
28 adjusted caseload factor;

29 (5) determine for calendar year 2007 the initial allocation
30 of funds to be made available under this section based 70
31 percent on the proportion of the county or tribe's share of the
32 statewide 2002 historic spending base and 30 percent on the
33 proportion of the county or tribe's share of the adjusted
34 caseload factor; and

35 (6) determine for calendar year 2008 and subsequent years
36 the initial allocation of funds to be made available under this

1 section based 50 percent on the proportion of the county or
2 tribe's share of the statewide 2002 historic spending base and
3 50 percent on the proportion of the county or tribe's share of
4 the adjusted caseload factor.

5 ~~(e)~~ (c) With the commencement of a new or expanded tribal
6 TANF program or an agreement under section 256.01, subdivision
7 2, paragraph (g), in which some or all of the responsibilities
8 of particular counties under this section are transferred to a
9 tribe, the commissioner shall:

10 (1) in the case where all responsibilities under this
11 section are transferred to a tribal program, determine the
12 percentage of the county's current caseload that is transferring
13 to a tribal program and adjust the affected county's allocation
14 accordingly; and

15 (2) in the case where a portion of the responsibilities
16 under this section are transferred to a tribal program, the
17 commissioner shall consult with the affected county or counties
18 to determine an appropriate adjustment to the allocation.

19 ~~(f)~~ (d) Effective January 1, 2005, counties and tribes will
20 have their final allocations adjusted based on the performance
21 provisions of subdivision 7.

22 Sec. 8. Minnesota Statutes 2004, section 256J.626,
23 subdivision 7, is amended to read:

24 Subd. 7. [PERFORMANCE BASE FUNDS.] (a) Beginning calendar
25 year 2005, each county and tribe will be allocated 95 percent of
26 their initial calendar year allocation. Counties and tribes
27 will be allocated additional funds based on performance as
28 follows:

29 (1) for calendar year 2005, a county or tribe that achieves
30 a 30 percent rate or higher on the MFIP participation rate under
31 section 256J.751, subdivision 2, clause (8), as averaged across
32 the four quarterly measurements for the most recent year for
33 which the measurements are available, will receive an additional
34 allocation equal to 2.5 percent of its initial allocation; and

35 (2) for calendar year 2006, a county or tribe that achieves
36 a 40 percent rate or a five percentage point improvement over

1 the previous year's MFIP participation rate under section
2 256J.751, subdivision 2, clause (8), as averaged across the four
3 quarterly measurements for the most recent year for which the
4 measurements are available, will receive an additional

5 allocation equal to 2.5 percent of its initial allocation; and

6 (3) for calendar year 2007, a county or tribe that achieves
7 a 50 percent rate or a five percentage point improvement over
8 the previous year's MFIP participation rate under section

9 256J.751, subdivision 2, clause (8), as averaged across the four
10 quarterly measurements for the most recent year for which the
11 measurements are available, will receive an additional

12 allocation equal to 2.5 percent of its initial allocation; and

13 (4) for calendar year 2008 and yearly thereafter, a county
14 or tribe that achieves a 50 percent MFIP participation rate
15 under section 256J.751, subdivision 2, clause (8), as averaged

16 across the four quarterly measurements for the most recent year
17 for which the measurements are available, will receive an
18 additional allocation equal to 2.5 percent of its initial

19 allocation; and

20 (5) for calendar years 2005 and thereafter, a county or
21 tribe that performs above the top of its annualized range of
22 expected performance on the three-year self-support index under
23 section 256J.751, subdivision 2, clause (7), in-both

24 ~~measurements-in-the-preceding-year~~ will receive an additional
25 allocation equal to five percent of its initial allocation; or

26 (6) for calendar years 2005 and thereafter, a county or
27 tribe that performs within its range of expected performance on
28 the annualized three-year self-support index under section

29 256J.751, subdivision 2, clause (7), ~~in-both-measurements-in-the~~
30 ~~preceding-year, or above the top of its range of expected~~
31 ~~performance-in-one-measurement-and-within-its-expected-range-of~~

32 ~~performance-in-the-other-measurement,~~ will receive an additional
33 allocation equal to 2.5 percent of its initial allocation.

34 (b) Performance-based funds for a federally approved tribal
35 TANF program in which the state and tribe have in place a
36 contract under section 256.01, addressing consolidated funding,

1 will be allocated as follows:

2 (1) for calendar year 2006 and yearly thereafter, a tribe
3 that achieves the participation rate approved in its federal
4 TANF plan using the average of four quarterly measurements for
5 the most recent year for which the measurements are available,
6 will receive an additional allocation equal to 2.5 percent of
7 its initial allocation; and

8 (2) for calendar years 2006 and thereafter, a tribe that
9 performs above the top of its annualized range of expected
10 performance on the three-year self-support index under section
11 256J.751, subdivision 2, clause (7), will receive an additional
12 allocation equal to five percent of its initial allocation; or

13 (3) for calendar years 2006 and thereafter, a tribe that
14 performs within its range of expected performance on the
15 annualized three-year self-support index under section 256J.751,
16 subdivision 2, clause (7), will receive an additional allocation
17 equal to 2.5 percent of its initial allocation.

18 ~~(b)~~ (c) Funds remaining unallocated after the
19 performance-based allocations in paragraph (a) are available to
20 the commissioner for innovation projects under subdivision 5.

21 ~~(c)~~ (d)(1) If available funds are insufficient to meet
22 county and tribal allocations under paragraph (a), the
23 commissioner may make available for allocation funds that are
24 unobligated and available from the innovation projects through
25 the end of the current biennium.

26 (2) If after the application of clause (1) funds remain
27 insufficient to meet county and tribal allocations under
28 paragraph (a), the commissioner must proportionally reduce the
29 allocation of each county and tribe with respect to their
30 maximum allocation available under paragraph (a).

31 Sec. 9. Minnesota Statutes 2004, section 256J.626,
32 subdivision 8, is amended to read:

33 Subd. 8. [REPORTING REQUIREMENT AND REIMBURSEMENT.] (a)
34 The commissioner shall specify requirements for reporting
35 according to section 256.01, subdivision 2, clause (17). Each
36 county or tribe shall be reimbursed for eligible expenditures up

1 to the limit of its allocation and subject to availability of
2 funds.

3 (b) Reimbursements for county administrative-related
4 expenditures determined through the income maintenance random
5 moment time study shall be reimbursed at a rate of 50 percent of
6 eligible expenditures.

7 (c) The commissioner of human services shall review county
8 and tribal agency expenditures of the MFIP consolidated fund as
9 appropriate and may reallocate unencumbered or unexpended money
10 appropriated under this section to those county and tribal
11 agencies that can demonstrate a need for additional money, as
12 follows:

13 (1) to the extent that particular county or tribal
14 allocations are reduced from the previous year's amount due to
15 the phase-in under subdivision 6, paragraph (b), clauses (4) to
16 (6), those tribes or counties would have first priority for
17 reallocated funds; and

18 (2) to the extent that unexpended funds are insufficient to
19 cover demonstrated need, funds will be prorated to those
20 counties and tribes in relation to demonstrated need.

21 Sec. 10. Minnesota Statutes 2004, section 256J.751,
22 subdivision 2, is amended to read:

23 Subd. 2. [QUARTERLY COMPARISON REPORT.] The commissioner
24 shall report quarterly to all counties on each county's
25 performance on the following measures:

26 (1) percent of MFIP caseload working in paid employment;

27 (2) percent of MFIP caseload receiving only the food
28 portion of assistance;

29 (3) number of MFIP cases that have left assistance;

30 (4) ~~federal-participation-requirements-as-specified-in~~
31 ~~Title-1-of-Public-Law-104-193,~~

32 ~~(5)~~ median placement wage rate;

33 ~~(6)~~ (5) caseload by months of TANF assistance;

34 ~~(7)~~ (6) percent of MFIP and diversionary work program (DWP)
35 cases off cash assistance or working 30 or more hours per week
36 at one-year, two-year, and three-year follow-up points from a

1 baseline quarter. This measure is called the self-support
2 index. ~~Twice-annually~~, The commissioner shall report quarterly
3 an expected range of performance for each county, county
4 grouping, and tribe on the self-support index. The expected
5 range shall be derived by a statistical methodology developed by
6 the commissioner in consultation with the counties and tribes.
7 The statistical methodology shall control differences across
8 counties in economic conditions and demographics of the MFIP and
9 DWP case load; and

10 ~~(8)~~ (7) the MFIP work participation rate, defined as the
11 participation requirements specified in title 1 of Public Law
12 104-193 applied to all MFIP cases except child only cases and
13 cases exempt under section 256J.56.

14 Sec. 11. Minnesota Statutes 2004, section 256J.751,
15 subdivision 5, is amended to read:

16 Subd. 5. [FAILURE TO MEET FEDERAL PERFORMANCE STANDARDS.]

17 (a) If sanctions occur for failure to meet the performance
18 standards specified in title 1 of Public Law 104-193 of the
19 Personal Responsibility and Work Opportunity Act of 1996, the
20 state shall pay 88 percent of the sanction. The remaining 12
21 percent of the sanction will be paid by the counties. The
22 county portion of the sanction will be distributed across all
23 counties in proportion to each county's percentage of the MFIP
24 average monthly caseload during the period for which the
25 sanction was applied.

26 (b) If a county fails to meet the performance standards
27 specified in title 1 of Public Law 104-193 of the Personal
28 Responsibility and Work Opportunity Act of 1996 for any year,
29 the commissioner shall work with counties to organize a joint
30 state-county technical assistance team to work with the county.
31 The commissioner shall coordinate any technical assistance with
32 other departments and agencies including the Departments of
33 Employment and Economic Development and Education as necessary
34 to achieve the purpose of this paragraph.

35 (c) For state performance measures, a low-performing county
36 is one that:

1 (1) performs below the bottom of their expected range for
2 the measure in subdivision 2, clause (7), in both-measurements
3 ~~during-the~~ an annualized measurement reported in October of each
4 year; or

5 (2) performs below 40 percent for the measure in
6 subdivision 2, clause (8), as averaged across the four quarterly
7 measurements for the year, or the ten counties with the lowest
8 rates if more than ten are below 40 percent.

9 (d) Low-performing counties under paragraph (c) must engage
10 in corrective action planning as defined by the commissioner.
11 The commissioner may coordinate technical assistance as
12 specified in paragraph (b) for low-performing counties under
13 paragraph (c).

14 Sec. 12. [REPEALER.]

15 Minnesota Rules, part 9500.1206, subparts 20, 26d, and 27,
16 are repealed.

Article 1 CHILD WELFARE: ALTERNATIVE RESPONSE.....	page	1
Article 2 CHILD WELFARE: PERMANENCY.....	page	31
Article 3 CHILD CARE.....	page	72
Article 4 CHILD SUPPORT.....	page	75
Article 5 FAMILY SUPPORTS.....	page	90

APPENDIX
Repealed Minnesota Statutes for S1710-2.

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 14;
- (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 609.3451;
- (10) solicitation of children to engage in sexual conduct under section 609.352;

APPENDIX

Repealed Minnesota Statutes for S1710-2

(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.

S. F. 1710 Lourey

H.F. 1889 Wilkin

TITLE: Children and Family Services Policy Bill

This proposal has no fiscal implications but is significant policy change and clarification. The policy changes are relatively non controversial, yet important to children, families and program services delivery.

Article 1 Child Welfare: Alternative Response

- Integrates a new approach for dealing with less serious cases that works with families to develop or restore a safe and nurturing home environment for the child. It preserves the investigative approach in existing law for more serious cases. An assessment and supports approach will be used for families in the child protection system that has less serious problems. In 2000, 20 Minnesota counties began a pilot project that provided workers the flexibility to offer a broad range of supportive services to families reported to the child protection system in cases where children were not in imminent danger. The project, called Alternative Response, was so successful that all 87 counties voluntarily implemented it as of January 2004.
- Clarifies the time frame for face to face contact with a child reported to be maltreated and with the child's primary care giver to five calendar days To assure the safety and well-being of children a timely contact with the child and care giver. This change aligns Minnesota with the clear and prompt timelines that are required under federal standards for initiating a response to a report of child maltreatment.
- Reduces the time frame to complete an investigation or family assessment from 90 days to 45 days and changes the time frame for creating protective services plans from 60 days to 30 days. This change assures that the intervention is applied at the point in time most likely to prevent subsequent maltreatment.

Article 2 – Child Welfare: Permanency

- Expands relative custody and adoption laws to include relatives gaining permanent legal custody of children under the order of a tribal court to participate in the relative custody program, minimize competing adoption proceedings in different court districts, bring the background check requirement for adoptive parents in line with foster care licensing

standards, clarify adoption record retention responsibilities and identify the families that are eligible for postadoption service grants.

- Amends juvenile court statutes to:
 - Achieve compliance with federal Title IV-E requirements for judicial determinations for reasonable efforts, agency responsibility, permanency planning and permanency hearings;
 - Clarify service and permanency requirements when a child is removed due to egregious harm;
 - Make the requirement for “compelling reasons” consistent throughout 260C;
 - Make review requirements consistent with juvenile court rules;
 - Change terms to be consistent with juvenile court rules and Title IV-E; and
 - Clarify requirements related to the agency’s duties to implement a case plan prior to adjudication and to the court’s authority to order the delivery of services under the plan once it is filed
- Brings state law into compliance with federal Title IV-E requirements for permanency hearings, allows a new disposition option called “trial home visit” that is allowable under federal law, clarifies the agency’s role and responsibilities for children ordered into long-term foster care, clarifies due process protections for the parent and child, makes consent to adoption irrevocable except as that is prohibited by ICWA and permits the Commissioner to identify and make an alternative adoptive placement without having to wait 12 months when the identified prospective adoptive home is not viable.
- Clarifies the requirements related to termination of parental rights, permits the court to order a trial home visit after a denial of a termination of rights petition when the child has been in placement 15 of the last 22 months and prohibits the agency from asking the court to order long-term foster care for a state ward until there have been exhaustive efforts to place the child for adoption for at least two years following termination.

Article 3 – Child Care

- Allows counties to have families fill out a streamlined Change Report Form rather than requiring a full re-determination if a family reports a change. A full re-determination of eligibility for child care will still be required every six months; however, a simplified process will be used when small changes occur during the interim;
- Expands the types of families who are included in the reallocation formula used to redistribute BSF funds among counties. The current formula includes families who are on the waiting list but does not include families whose cases have been closed due to a reduction in the county allocation. By modifying the reallocation formula to include these cases, funds could be redistributed more quickly to the counties with greatest need; and
- Revises current law to allow child care providers to be eligible for child care assistance for their own children during authorized activities.

Article 4 - Child Support

- Clarifies that the public authority can ask for location and asset information about program participants of third party contractors of employers, financial institutions, utility companies, etc. who hold, administer or distribute such information;
- Makes changes to the way other orders are considered in determining net income for guidelines support calculations;
- Improves and makes administrative the process for suspending and reinstating collection of child care child support amounts; and
- Changes current law to 12 months of consecutive payments, from 36 months, before the obligor may bring a motion to stop interest charging on overdue child support.

Article 5 - Family Supports

- Authorizes the use of up to 10% of Transitional Housing Program funding for more than 24 months in order to better serve long-term homeless currently assisted by transitional housing;
- Changes the housing with services statute to allow supportive housing participants, as defined in the Governor's Initiative to End Homelessness, to voluntarily register as housing with services participants;
- Allows registered supportive housing to contract to receive Group Residential Housing (GRH) payments so that eligible homeless adults will be able to use GRH to pay for permanent supportive housing and a GRH client to continue to receive a GRH service payment if relocating from a shelter to supportive housing;
- Continues allowing flexibility in the amount used per participant with Food Stamp Employment and Training (FSET) funds;
- Deletes obsolete language and uses more recent definitions of professionals qualified to determine a person's illness, injury or incapacity ; and
- Improves the MFIP Consolidated Fund formula by phasing-in an adjusted caseload factor that takes into consideration caseload difficulty.

Contact:

Anne Martineau 651-296-0310

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 1710 - DHS Child Protection, Child Care, and Child and Family Support Provisions Modifications (The Second Engrossment)

Author: Senator Becky Lourey

Prepared by: Joan White, Senate Counsel (651/296-3814) 

Date: April 18, 2005

Article 1, Child Welfare; Alternative Response. This article amends the Maltreatment of Minors Act, by incorporating the alternative response approach to child maltreatment into the act. The alternative response is currently an option to counties, but the bill will make it mandatory. The alternative response approach deals with the front end of child welfare, evaluating the family by completing a family assessment and an investigation if appropriate, and providing supports and services to the family in an effort to avoid placement of the child in foster care.

Section 1 (626.556, subdivision 1) incorporates the alternative response approach into public policy statement at the beginning of the maltreatment of minors statute.

Section 2 (626.556, subdivision 2) defines the term "family assessment," "investigation," "substantial child endangerment," and modifies the definition of "neglect" to include growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect. This section also strikes the existing definition of "assessment."

Section 3 (626.556, subdivision 3) adds probation or correctional services to persons who are mandated to report maltreatment. Also makes conforming changes with regard to the new family assessment approach to child maltreatment.

Section 4 (626.556, subdivision 3d) adds a new subdivision giving the agency that is responsible for assessing and investigating reports of child maltreatment the authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with

knowledge of the abuse or neglect for the purpose of gathering facts, assessing safety and risk to the child, and formulating a plan.

Section 5 (626.556, subdivision 10) lists the duties of the local welfare agency and local law enforcement agency upon receipt of a maltreatment report, using the alternative response approach.

This section also clarifies that upon receipt of a report the local welfare agency shall conduct a face-to-face contact with the child who is the subject of the report, and with the child's primary caregiver. The contact must be sufficient to complete a safety assessment and ensure the immediate safety of the child. The face-to-face contact must occur immediately if substantial child endangerment is alleged and within five calendar days for all other reports.

Section 6 (626.556, subdivision 10b) makes a conforming change by updating a cross-reference.

Section 7 (626.556, subdivision 10e) shortens from 90 to 45 days the time-frame for the local welfare agency to conclude the family assessment or investigation. The local welfare agency must determine if services are needed to address the safety of the child and other family members and must also determine the risk of subsequent maltreatment.

Section 8 (626.556, subdivision 10f) requires the local welfare agency to notify the parent or guardian of the child of the need for services to address child safety concerns or the significant risk of subsequent child maltreatment within ten working days of the conclusion of the family assessment.

Section 9 (626.556, subdivision 10i) specifies that administrative reconsideration is not applicable for family assessments because no determination concerning maltreatment is made.

Section 10 (626.556, subdivision 10l) requires the local welfare agency to document the outcome of the family assessment or investigation when a case is closed, if the family received services. The documentation must include a description of services provided and the removal or reduction of risk to the child, if a risk existed.

Section 11 (626.556, subdivision 10m) adds a new subdivision requiring the local welfare agency to create a written plan, in collaboration with the family whenever possible, within 30 days of the determination that protective services are needed or upon joint agreement that family support and preservation services are needed.

Section 12 (626.556, subdivision 11) makes a conforming change by updating a cross-reference.

Section 13 (626.556, subdivision 11c) makes conforming changes with regard to family assessments.

Section 14 repeals the permissive alternative response language and time-frames in rule, which were clarified in this article.

Article 2
Child Welfare; Permanency

The article amends the child custody, adoption, and child protection chapters of law .

Sections 1 and 2 amend the relative custody assistance program, a program in which a relative is given permanent legal and physical custody of a child, and the relative receives assistance for the care of the child.

Section 1 (257.85, subdivision 2) modifies the scope of the relative custody assistance program, by expanding this program to a tribal court order on or after July 1, 2005.

Section 2 (257.85, subdivision 3) amends the relative custody assistance program to include “tribal social services” in the definition of “local agency,” and updates a cross-reference.

Sections 3 to 10 amend the adoption chapter of law

Section 3 (259.23, subdivision 1) amends the adoption chapter of law, by clarifying venue for an adoption proceeding when the child is committed to the guardianship of the Commissioner of Human Services.

Section 4 (259.23, subdivision 2) is technical.

Section 5 (259.41, subdivision 3) modifies the background check statute, by requiring the addresses of prospective adoptive parent’s residences for the previous five years instead of the previous ten years, and strikes language related to fingerprints, which is moved to a new paragraph (d).

Sections 6 and 7 (259.67, subdivisions 2 and 4) modify the adoption assistance agreement statute and the adoption assistance eligibility statute, respectively, by prohibiting the placing agency from certifying a child who remains under the jurisdiction of the sending agency under the interstate compact act for state-funded adoption assistance when Minnesota is the receiving state.

Section 8 (259.75, subdivision 1) amends the adoption exchange by striking the requirement that the exchange include a book that is updated monthly of each child who has been legally freed for adoption. The exchange still requires a photograph and description of the child, which is made available to local social service agencies and other child placing agencies to assist in the adoptive placement of the child.

Section 9 (259.79, subdivision 1) requires the Commissioner of Human Services to maintain a permanent record of all adoptions granted in district court for children who fall under any of the categories in this section. This section also specifies what must be contained in the record.

Section 10 (259.85, subdivision 1) modifies the postadoption service grants program, by clarifying that this program is available to individuals who are not receiving adoption assistance.

Section 11 (260.012) amends the chapter of law related to juveniles, specifically the duty of the court to ensure that reasonable efforts have been made to prevent placement and reunite the family. Many of the changes made in this section are to achieve compliance with federal Title IV-E requirements related to judicial determinations for reasonable efforts, agency responsibilities, permanency planning, and permanency hearings.

This section also clearly states that a permanency hearing must be held within 30 days of the court making a prima facie determination of any of the following: egregious harm, the parent's parental rights have been involuntary terminated with regard to another child or the parent's custodial rights to another child have been involuntarily transferred to another person, and abandonment of a child.

Further, in cases governed by the Indian Child Welfare Act, the responsible social services agency must provide active efforts as required under federal law.

This section also modifies the definition of "reasonable efforts to prevent placement" and makes several clarifying and conforming changes related to federal law.

Sections 12 to 20 amend the child protection chapter of law.

Section 12 (260C.001, subdivision 3) amends the permanency and termination of parental rights statute, to clarify when reasonable efforts to reunify the child with the parent are not required.

Section 13 (260C.007, subdivision 8) modifies the definition of "compelling reasons" by making clarifying changes.

Section 14 (260C.151, subdivision 6) clarifies that if the court finds that the child is in surroundings that endanger the child's health, safety, or welfare, the responsible social services agency, instead of the court, assumes custody for placement of the child in foster care, and clarifies that this action is consistent with the court ordering emergency protective care as defined in the juvenile court rules.

Section 15 (260C.178) changes the heading of the statute from "detention hearing" to "emergency removal hearing," and modifies and clarifies court duties and agency duties with regard to the emergency removal hearing. This section clarifies when a court can order the child into foster care, and specifies the findings the court must make regarding reasonable efforts made by the responsible social services agency. This section specifies what the agency must do if a parent refuses to cooperate with the case planning and the parent's right to ask the court to modify the plan to require different or additional services. Makes other conforming changes.

Section 16 (260C.201, subdivision 1) modifies the disposition of a case when a child is in need of protection or services or neglected and in foster care by allowing a court to order a trial home visit, in which the child is returned to the home for a period not to exceed six months. This section specifies the duties of the responsible social services agency if a trial home visit is ordered by the court.

Section 17 (260C.201, subdivision 10) specifies that the court shall review the out-of-home placement of a child at least every 90 days. This section also specifies when the court review is not required.

Section 18 (260C.201, subdivision 11) makes several changes in the statute that requires a review of court-ordered placements and a possible permanent placement determination. This section specifies that the court, at the “admit-deny” hearing, must determine whether there is a prima facie basis for finding that the agency made reasonable efforts, or in the case of an Indian child, active efforts. This section also clarifies the agency’s role and responsibilities when a child is ordered into long-term foster care, allows the commissioner to identify and make an alternative adoptive placement without having to wait 12 months, when the prospective adoptive home is not viable, and requires proper notice that consent given is irrevocable upon acceptance by the court.

Section 19 (260C.312) allows the court to order a trial home visit when a child has been in placement for 15 out of the last 22 months.

Section 20 (260C.317, subdivision 3) prohibits an agency from requesting the court to order long-term foster care for a child under the guardianship of the agency unless there have been exhaustive efforts to recruit, identify, and place the child in an adoptive home.

Article 3 Child Care

Section 1 (119B.025, subdivision 1) amends the factors that must be verified when applying for child care assistance, by streamlining the process to allow, the applicant to use a child care addendum under certain circumstances, and by requiring that eligibility be redetermined every six months.

Section 2 (119B.03, subdivision 6) modifies the child care assistance allocation formula to expand the families who are included in the formula used to redistribute basic sliding fee funds among counties, to include families whose cases were closed due to a reduction in the county allocation.

Section 3 (119B.09, subdivision 4) requires that the participant’s income be “recalculated” instead of “redetermined” for purposes of determining eligibility for the child care assistance program.

Section 4 (119B.09, subdivision 9) allows child care providers to be eligible for child care assistance for their own children during the time they are participating in authorized activities.

Article 4 Child Support

Section 1 (256.978, subdivision 2) allows the public authority to request and obtain information from any third party who contracts with an obligor for purposes of gathering information to determine child support.

Section 2 (518.551, subdivision 5) amends the child support guidelines. Current law allows the child support obligor's income to be reduced in an amount equal to the amount of a child support order "being paid." The bill strikes that language, and allows the obligor's income to be reduced by a child support order amount, whether the child support is being paid, and clarifies that payments for child support arrears or maintenance debts do not reduce the obligor's income for purposes of determining child support. This section also allows the suspension of child care payments when either party informs the public authority that there are no child care costs being incurred and the public authority verifies the accuracy of the information, and allows the public authority to administratively resume the collection for child care expenses when the costs have resumed.

Section 3 (518.68, subdivision 2) modifies the notice that is provided in a court order apprising the parties of the authority of the public authority to suspend and resume payments made for child care expenses.

Section 4 (548.091, subdivision 1a) amends the statute related to a child support judgment by operation of law, to allow the obligor to make a motion to the court to stop the accrual of interest on a child support debt if there have been 12 months of consecutive payments, instead of 36 months of consecutive payments.

Article 5 Family Supports

Section 1 (119A.43, subdivision 2) modifies the Department of Education transitional housing program by allowing the commissioner to use up to ten percent of the appropriation available for this program for persons needing housing assistance longer than 24 months.

Section 2 (144D.025) modifies the housing with services chapter of law to allow a supportive housing establishment developed and funded in whole or in part with funds provided specifically as part of the plan to end long-term homelessness to register as a housing with services establishment. The session law referenced in this section is the "working group on supportive housing for long-term homelessness," which was required to report to the legislature on February 15, 2004.

Section 3 (256D.02, subdivision 17) makes the definition of "professional certification" under GAMC the same as the definition of "qualified professional" under MFIP.

Section 4 (256D.051, subdivision 6c) amends the food stamp employment and training program. Last session, the statute was changed, which resulted in the county's cost of services for FSET not to exceed "the annual allocated amount" instead of "an average of \$400 per participant." A sunset of June 30, 2005, was also added. The bill strikes the sunset.

Sections 5 and 6 amend the group residential housing (GRH) program.

Section 5 (256I.04, subdivision 2a) expands the GRH program to allow housing with services establishments to contract with the county to provide GRH services. Current law specifically excludes housing with services establishment from GRH funding.

Section 6 (256I.05, subdivision 1g) allows a county to negotiate a supplemental service rate for recipients of GRH, not to exceed \$456.75, who relocate from a homeless shelter licensed and registered by the Commissioner of Health to a supportive housing establishment developed and funded in whole or in part with the plan in the Governor's budget to end long-term homelessness.

Sections 7 to 11 amend Minnesota Family Investment Program Statutes.

Section 7 (256J.626, subdivision 6) modifies the base allocation to counties and tribes for the Minnesota Family Investment Program, by defining "adjusted caseload factor," and by changing the allocation formula for 2006 to 2008.

Section 8 (256J.626, subdivision 7) modifies the MFIP performance base funds, by providing an allocation formula for performance-based funds for federally approved tribal TANF programs.

Section 9 (256J.626, subdivision 8) allows the commissioner to reallocate unencumbered or unexpended money appropriated according to the new formula in the bill.

Section 10 (256J.751, subdivision 2) requires the commissioner to report quarterly, instead of twice annually, an expected range of performance for each county, county grouping, and tribe on the self-support index.

Section 11 (256J.751, subdivision 5) amends the statute related to the county's failure to meet federal performance standards, by changing the definition of low-performing county.

Section 12 repeals the definitions of "medical certification," "qualified professional," and "qualified provider" in rule.

JW:rdr

1 To: Senator Cohen, Chair
 2 Committee on Finance
 3 Senator Berglin,
 4 Chair of the Health and Human Services Budget Division, to
 5 which was referred

6 S.F. No. 1710: A bill for an act relating to human
 7 services; implementing child protection, child care, and child
 8 and family support provisions; amending Minnesota Statutes 2004,
 9 sections 119A.43, subdivision 2; 119B.025, subdivision 1;
 10 119B.03, subdivision 6; 119B.09, subdivisions 4, 9; 144D.025;
 11 256.978, subdivision 2; 256D.02, subdivision 17; 256D.051,
 12 subdivision 6c; 256I.04, subdivision 2a; 256I.05, by adding a
 13 subdivision; 256J.626, subdivisions 6, 7, 8; 256J.751,
 14 subdivisions 2, 5; 257.85, subdivisions 2, 3; 259.23,
 15 subdivisions 1, 2; 259.41, subdivision 3; 259.67, subdivisions
 16 2, 4; 259.75, subdivision 1; 259.79, subdivision 1; 259.85,
 17 subdivision 1; 260.012; 260C.001, subdivision 3; 260C.007,
 18 subdivision 8; 260C.151, subdivision 6; 260C.178; 260C.201,
 19 subdivisions 1, 10, 11; 260C.312; 260C.317, subdivision 3;
 20 518.551, subdivision 5; 518.68, subdivision 2; 548.091,
 21 subdivision 1a; 626.556, subdivisions 1, 2, 3, 10, 10b, 10e,
 22 10f, 10i, 11, 11c, by adding subdivisions; repealing Minnesota
 23 Statutes 2004, sections 626.5551, subdivisions 1, 2, 3, 4, 5;
 24 Minnesota Rules, parts 9500.1206, subparts 20, 26d, 27;
 25 9560.0220, subpart 6, item B; 9560.0230, subpart 2.

26 Reports the same back with the recommendation that the bill
 27 do pass and be referred to the full committee.

28

29

30

31

32

33

34

Jinda Berglin
 (Division Chair)

April 19, 2005.....
 (Date of Division action)

1 A bill for an act

2 relating to human services; modifying discharge plans
3 for offenders with serious and persistent mental
4 illness; clarifying eligibility for medical assistance
5 for offenders released for work release; authorizing
6 commissioner of corrections to enter into a purchasing
7 pool for prescription drugs; allocating housing funds
8 for projects that provide employment support;
9 appropriating money; amending Minnesota Statutes 2004,
10 sections 241.01, by adding a subdivision; 244.054;
11 256B.055, by adding a subdivision.

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

13 Section 1. Minnesota Statutes 2004, section 241.01, is
14 amended by adding a subdivision to read:

15 Subd. 10. [PURCHASING FOR PRESCRIPTION DRUGS.] In
16 accordance with section 241.021, subdivision 4, the commissioner
17 may contract with a separate entity to purchase prescription
18 drugs for persons confined in institutions under the control of
19 the commissioner. Local governments may participate in this
20 purchasing pool in order to purchase prescription drugs for
21 those persons confined in local correctional facilities in which
22 the local government has responsibility for providing health
23 care. If any county participates, the commissioner shall
24 appoint a county representative to any committee convened by the
25 commissioner for the purpose of establishing a drug formulary to
26 be used for state and local correctional facilities.

27 Sec. 2. Minnesota Statutes 2004, section 244.054, is
28 amended to read:

1 244.054 [DISCHARGE PLANS; OFFENDERS WITH SERIOUS AND
2 PERSISTENT MENTAL ILLNESS.]

3 Subdivision 1. [OFFER TO DEVELOP PLAN.] The commissioner
4 of human services, in collaboration with the commissioner of
5 corrections, shall offer to develop a discharge plan for
6 community-based services for every offender with serious and
7 persistent mental illness, as defined in section 245.462,
8 subdivision 20, paragraph (c), and every offender who has had a
9 diagnosis of mental illness and would otherwise be eligible for
10 case management services under section 245.462, subdivision 20,
11 paragraph (c), but for the requirement that the offender be
12 hospitalized or in residential treatment, who is being released
13 from a correctional facility. If an offender is being released
14 pursuant to section 244.05, the offender may choose to have the
15 discharge plan made one of the conditions of the offender's
16 supervised release and shall follow the conditions to the extent
17 that services are available and offered to the offender.

18 Subd. 2. [CONTENT OF PLAN.] If an offender chooses to have
19 a discharge plan developed, the commissioner of human services
20 shall develop and implement a discharge plan, which must include
21 at least the following:

22 (1) at least 90 days before the offender is due to be
23 discharged, the commissioner of human services shall designate
24 ~~an-agent-of-the-Department-of-Human-Services~~ a discharge planner
25 with mental health training to serve as the primary person
26 responsible for carrying out discharge planning activities;

27 (2) at least 75 days before the offender is due to be
28 discharged, the offender's ~~designated-agent~~ discharge planner
29 shall:

30 (i) obtain informed consent and releases of information
31 from the offender that are needed for transition services, and
32 forward them to the appropriate local entity;

33 (ii) contact the county human services department in the
34 community where the offender expects to reside following
35 discharge, and inform the department of the offender's impending
36 discharge and the planned date of the offender's return to the

1 community; determine whether the county or a designated
2 contracted provider will provide case management services to the
3 offender; refer the offender to the case management services
4 provider; and confirm that the case management services provider
5 will have opened the offender's case prior to the offender's
6 discharge; and

7 ~~(iii) refer the offender to appropriate staff in the county~~
8 ~~human services department in the community where the offender~~
9 ~~expects to reside following discharge, for enrollment of the~~
10 ~~offender if eligible in medical assistance or general assistance~~
11 ~~medical care, using special procedures established by process~~
12 ~~and Department of Human Services bulletin~~ assist the offender in
13 filling out an application for medical assistance, general
14 assistance medical care, or MinnesotaCare and submit the
15 application for eligibility determination to the commissioner.
16 The commissioner shall determine an offender's eligibility no
17 more than 45 days, or no more than 60 days if the offender's
18 disability status must be determined, from the date that the
19 application is received by the department. The effective date
20 of eligibility for the health care program shall be no earlier
21 than the date of the offender's release. If eligibility is
22 approved, the commissioner shall mail a Minnesota health care
23 program membership card to the facility in which the offender
24 resides and transfer the offender's case to MinnesotaCare
25 operations within the department or the appropriate county human
26 services agency in the county where the offender expects to
27 reside following release for ongoing case management;

28 (3) at least 2-1/2 months before discharge, the offender's
29 ~~designated agent~~ discharge planner shall secure timely
30 appointments for the offender with a psychiatrist no later than
31 30 days following discharge, and with other program staff at a
32 community mental health provider that is able to serve former
33 offenders with serious and persistent mental illness;

34 (4) at least 30 days before discharge, the offender's
35 ~~designated agent~~ discharge planner shall convene a pre-discharge
36 assessment and planning meeting of key staff from the programs

1 in which the offender has participated while in the correctional
2 facility, the offender, the supervising agent, and the mental
3 health case management services provider assigned to the
4 offender. At the meeting, attendees shall provide background
5 information and continuing care recommendations for the
6 offender, including information on the offender's risk for
7 relapse; current medications, including dosage and frequency;
8 therapy and behavioral goals; diagnostic and assessment
9 information, including results of a chemical dependency
10 evaluation; confirmation of appointments with a psychiatrist and
11 other program staff in the community; a relapse prevention plan;
12 continuing care needs; needs for housing, employment, and
13 finance support and assistance; and recommendations for
14 successful community integration, including chemical dependency
15 treatment or support if chemical dependency is a risk factor.
16 Immediately following this meeting, the offender's designated
17 agent discharge planner shall summarize this background
18 information and continuing care recommendations in a written
19 report;

20 (5) immediately following the pre-discharge assessment and
21 planning meeting, the provider of mental health case management
22 services who will serve the offender following discharge shall
23 offer to make arrangements and referrals for housing, financial
24 support, benefits assistance, employment counseling, and other
25 services required in sections 245.461 to 245.486;

26 (6) at least ten days before the offender's first scheduled
27 postdischarge appointment with a mental health provider, the
28 offender's ~~designated-agent~~ discharge planner shall transfer the
29 following records to the offender's case management services
30 provider and psychiatrist: the pre-discharge assessment and
31 planning report, medical records, and pharmacy records. These
32 records may be transferred only if the offender provides
33 informed consent for their release;

34 (7) upon discharge, the offender's ~~designated-agent~~
35 discharge planner shall ensure that the offender leaves the
36 correctional facility with at least a ten-day supply of all

1 necessary medications; and

2 (8) upon discharge, the prescribing authority at the
3 offender's correctional facility shall telephone in
4 prescriptions for all necessary medications to a pharmacy in the
5 community where the offender plans to reside. The prescriptions
6 must provide at least a ~~30-day~~ 60-day supply of all necessary
7 medications, and must be able to be refilled once for one
8 additional 30-day supply.

9 Sec. 3. Minnesota Statutes 2004, section 256B.055, is
10 amended by adding a subdivision to read:

11 Subd. 14. [PERSONS DETAINED BY LAW.] (a) An inmate of a
12 correctional facility who is conditionally released as
13 authorized under section 241.26, 244.065, or 631.425 is eligible
14 for medical assistance if the individual does not require the
15 security of a public detention facility and is housed in a
16 halfway house or community correction center, or under house
17 arrest and monitored by electronic surveillance in a residence
18 approved by the commissioner of corrections.

19 (b) An individual, regardless of age, who is involuntarily
20 detained by law in the custody of a correctional or detention
21 facility as an individual accused or convicted of a crime, is
22 not eligible for medical assistance. An individual is not
23 determined to be involuntarily detained for purposes of medical
24 assistance eligibility if the individual is placed in a
25 detention facility for a temporary period pending other
26 arrangements appropriate to the individual's needs.

27 Sec. 4. [PRIORITY IN JANITORIAL CONTRACTS.]

28 When awarding contracts to provide the janitorial services
29 for the new Department of Human Services and Department of
30 Health buildings, the commissioner of administration shall give
31 priority to supported work vendors.

32 Sec. 5. [APPROPRIATION.]

33 For the biennium ending June 30, 2007, the commissioner of
34 the Housing Finance Agency shall allocate \$..... from the
35 housing trust fund account in the housing development fund for
36 supportive housing projects that provide employment support.

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 1000 - Offenders with Mental Illness (Second Engrossment)

Author: Senator Linda Berglin

Prepared by: Katie Cavanor, Senate Counsel (651/296-3801) *KTC*
Chris Turner, Senate Research (651/296-4350)

Date: April 18, 2005

S.F. No. 1000 modifies certain provisions involving offenders with mental illness.

Section 1 (241.01) authorizes the commissioner of corrections to contract with a separate entity to purchase prescription drugs for the inmates confined in correctional institutions. It also permits local governments to participate in the purchasing pool and states that if the commissioner convenes a committee to determine a drug formulary that a county representative is to be included in the committee.

Section 2, subdivision 1 (244.054), expands who may be eligible for a discharge plan.

Subdivision 2 requires an offender's designated agent to forward to the appropriate local entity any informed consent and releases needed for transition services. This section also requires the designated agent to determine whether the offender is eligible for medical assistance or general assistance medical care as part of the discharge plan and enroll the offender if eligible using special procedures established by process and a Department of Human Services bulletin. This subdivision also requires that upon discharge, the correctional facility must provide the offender with a prescription for at least a 60-day supply of all necessary medications. (Current law requires a prescription for 30-day supply.)

Section 3, subdivision 14, paragraph (a) (256B.055), states that an inmate of a correctional facility who is conditionally released through work release and who is not housed in a detention facility but at a halfway house, community correctional center, or at home is eligible for medical assistance.

Paragraph (b) states that an individual who is involuntarily detained at a correctional or detention facility is not eligible for medical assistance. If the individual is placed in a detention facility for a temporary period pending other arrangements appropriate to the individual's needs, the individual shall remain eligible for medical assistance.

Section 4 requires the Commissioner of Administration to give priority to supported work vendors when awarding contracts to provide janitorial services for the new Department of Human Services buildings.

Section 5 requires the Commissioner of the Housing Finance Agency to allocate a blank amount from the housing trust fund account in the housing development fund for supportive housing projects that provide employment services.

KC:CT:ph

Preliminary

Consolidated Fiscal Note – 2005-06 Session

Bill #: S1000-1A Complete Date:

Chief Author: BERGLIN, LINDA

Title: CORRECTIONAL HUMAN SERVICES PROV

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agencies: Human Services Dept
Housing Finance Agency (03/24/05)

Corrections Dept (04/07/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
General Fund	0	2,023	1,701	1,705	1,746
Human Services Dept	0	1,359	1,037	1,041	1,082
Corrections Dept		664	664	664	664
Revenues					
General Fund	0	115	82	67	67
Human Services Dept	0	115	82	67	67
Net Cost <Savings>					
General Fund	0	1,908	1,619	1,638	1,679
Human Services Dept	0	1,244	955	974	1,015
Corrections Dept		664	664	664	664
Total Cost <Savings> to the State	0	1,908	1,619	1,638	1,679

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund	0.00	11.50	11.00	10.50	10.50
Human Services Dept	0.00	3.50	3.00	2.50	2.50
Corrections Dept		8.00	8.00	8.00	8.00
Total FTE	0.00	11.50	11.00	10.50	10.50

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1000-1A **Complete Date:**

Chief Author: BERGLIN, LINDA

Title: CORRECTIONAL HUMAN SERVICES PROV

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Human Services Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund	0	1,359	1,037	1,041	1,082
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund	0	1,359	1,037	1,041	1,082
Revenues					
General Fund	0	115	82	67	67
Net Cost <Savings>					
General Fund	0	1,244	955	974	1,015
Total Cost <Savings> to the State	0	1,244	955	974	1,015

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund	0.00	3.50	3.00	2.50	2.50
Total FTE	0.00	3.50	3.00	2.50	2.50

Preliminary

NARRATIVE: SF 1000-1A

Bill Description

This bill includes provisions to authorize the commissioner of corrections to enter into a purchasing pool for prescription drugs; modify discharge plans for offenders with serious and persistent mental illness (SPMI); clarify when an offender is eligible for medical assistance; and appropriate money for supportive housing projects that provide employment services.

Sec. 1: Amends Minn. Stat. §241.01 by adding Subd. 10 to allow the commissioner of corrections to contract with a separate entity to purchase prescription drugs for persons confined in correctional institutions. Local governments may participate in this purchasing pool for persons confined in local correctional facilities. The bill also requires the commissioner to appoint a county representative to any committee convened for the purpose of establishing a drug formulary for state and local correctional facilities.

Sec. 2: Amends Minn. Stat. §244.054:

Subd. 1: to broaden the offer to develop a discharge plan to every offender who has had a diagnosis of serious and persistent mental illness and would otherwise be eligible for case management services but for the requirement that the offender be hospitalized or in residential treatment;

Subd. 2: to replace the terms "agent of the Department of Human Services" and "designated agent" with the term "discharge planner"; requires the commissioner to determine an offender's eligibility for health care. Cases are transferred to counties or MinnesotaCare operations for ongoing case maintenance.

Sec. 3: Amends Minn. Stat. §256B.055 by adding Subd. 14 to define when an inmate is eligible for medical assistance as follows: (a) An inmate who is conditionally released for work release is eligible for medical assistance if the individual doesn't require the security of a public detention facility and is housed in a half-way house or community correction center, or under house arrest and monitored by electronic surveillance in a residence approved by the commissioner of corrections; and (b) an individual, regardless of age, who is involuntarily detained by law in the custody of a correctional or detention facility (as accused or convicted) is not eligible for medical assistance. An individual is not considered to be involuntarily detained, and therefore eligible for medical assistance, if the individual is placed in a detention facility.

Sec. 4: Appropriates money from the commissioner of the Housing Finance Agency for supportive housing projects that provide employment support.

Assumptions

This proposal will cause a 2 month delay in HealthMatch. The complex design of the innovative HealthMatch system is near completion and programming has begun. Due to the intricacies of programming a new system, any change prior to system completion requires substantial analysis and design rework, in addition to programming the actual changes. This effort delays the HealthMatch implementation date and results in costs of \$889,000 per month of delay. Currently, for each month of delay to the project, the associated vendor cost for maintaining staff on the project is \$600,000. Concurrent state staff costs per month are \$289,000. These numbers reflect 100% of the cost; state budget costs are less when adjusted for federal participation.

Once HealthMatch is completely built and implemented, the cost for making requested changes will be significantly lower. Legislation with effective dates of August 1, 2006, or upon HealthMatch implementation, whichever is later, will not incur the state staff and associated vendor costs caused by implementation delay, although they will, as with current systems, require investments of time for analysis and design.

See attached spreadsheets.

Expenditure and/or Revenue Formula

FISCAL SUMMARY

General Fund

Description	FY06	FY07	FY08	FY09
Administrative Costs	288	206	166	166
Systems Costs	622	0	0	0
Program Costs	449	831	875	916
Total Costs	1,359	1,037	1,041	1,082
FFP Earned @ 40%	115	82	67	67
Net Cost to State	1,244	955	974	1,015

Preliminary

Senate File 1000

Discharge planning for mentally ill offenders

HCEA admin needed for enrollment

-Assumptions:

-Approximately 800 applications annually

-FTE requested will plan and implement procedures, and process applications.

-Once eligibility is processed, case will be transferred to county or MinnesotaCare for ongoing service.

2005 Session

ADMINISTRATIVE COSTS

	<u>FY2006</u>	<u>FY2007</u>	<u>FY2008</u>	<u>FY2009</u>
FTE needed to process applications for MHCP				
GENERAL FUND	2.00	2.00	2.00	2.00
FTE to develop program, train, develop time tracking, etc	1.00	0.50	0.50	0.50
FTE for processing and time tracking	3.00	2.50	2.50	2.50
Direct costs	174,000	145,000	145,000	145,000
Salary + fringe =\$58,000				
FTE to develop program	0.50	0.50	0.00	0.00
Direct costs	35,000	35,000	0	0
TOTAL FTE	3.50	3.00	2.50	2.50
TOTAL DIRECT COSTS	209,000	180,000	145,000	145,000
Indirect costs/overhead	78,750	25,500	21,250	21,250
TOTAL COSTS	287,750	205,500	166,250	166,250
40% federal reimbursement offset	115,100	82,200	66,500	66,500
HCEA costs (state share) not including systems	172,650	123,300	99,750	99,750
<u>SYSTEMS COSTS</u>				
MMIS Costs	0	0	0	0
MMIS Costs, state share (35%)	0			
MAXIS Costs--	0	0	0	0
MAXIS Costs, state share (45%)	0			
HealthMatch costs--total	1,778,000	0	0	0
HealthMatch costs, state share (35%)	622,300	0	0	0

PROGRAM COSTS

Preliminary

Minnesota
 MEDICAL
 ASSISTANCE
 Fiscal Analysis of a Proposal to
 Modify Corrections Discharge Planning Requirements and
 Clarify Eligibility for Offenders on Work Release
 House File 1266
 2005 Session

Section 2 modifies requirements for discharge planning and requires discharge planners for offenders with serious and persistent mental illness to assist in the completion of application for DHS medical programs and to submit applications directly to DHS.

Based on 800 discharges per year to which these requirements apply, we assume that the effect of the requirements will be to increase MA average enrollment by 20% of 800, or 160, by speeding up the enrollment process and making MA enrollment of released offenders more likely.

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
Average monthly enrollees	80	160	160	160
Average monthly cost	809.74	748.51	788.63	825.01
Total annual MA cost	777,354	1,437,143	1,514,175	1,584,019

Section 3 clarifies that offenders on work release may be eligible for MA if they reside in the community and not in a correctional or detention facility. We project costs for this change as it applies to the state work release program, which has a population of about 250 offenders. We assume that 25 of these will qualify for MA under this change.

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
Average monthly enrollees	13	25	25	25
Average monthly cost	809.74	748.51	788.63	825.01
Total annual MA cost	121,462	224,554	236,590	247,503

We do not project any costs related to county jail work release under M.S. 631.425, for two reasons. First, the statute says that confinement in a correctional facility is required, unless otherwise ordered by the court, except for periods of employment. So in the usual situation there would be no MA eligibility. Second, we believe that there is already no bar to eligibility of offenders who have been released and are residing in the community.

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
Total MA Cost	898,815	1,661,697	1,750,765	1,831,522
Federal share	449,408	830,848	875,382	915,761
State share	449,408	830,848	875,382	915,761

Long-Term Fiscal Considerations

Preliminary

Local Government Costs

References/Sources

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1000-1A **Complete Date:** 03/24/05

Chief Author: BERGLIN, LINDA

Title: CORRECTIONAL HUMAN SERVICES PROV

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Housing Finance Agency

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

Preliminary

Bill Description:

This bill makes changes to the law governing discharge planning for offenders with a serious or persistent mental illness and offenders who have had a diagnosis of mental illness. It also estimates medical assistance eligibility for certain inmates of correctional facilities who are conditionally released.

Section 4 of the bill directs the commissioner of the Housing Finance Agency to allocate an unspecified portion of the funds in the Housing Trust Fund account for supportive housing projects that provide employment supports. It does not appropriate additional funds to this account.

Assumptions:

Because the portion of the Housing Trust Fund account that must be allocated for supportive housing projects with employment support is not specified, it is not possible to estimate the impact on the program on MHFA staff. It is assumed that the requirements established by rules promulgated under the administrative procedures act that projects must demonstrate overall project feasibility and the applicant must demonstrate sufficient organizational capacity in order to receive funding remain in effect. If this assumption is not valid, the allocation could require Agency staff to provide levels of technical assistance well beyond what is typically provided.

Agency Contact Name: Tonja M. Orr (651) 296-9820
FN Coord Signature: JULIE STAHL
Date: 03/24/05 Phone: 296-2291

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 03/24/05 Phone: 296-7642

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1000-1A Complete Date: 04/07/05

Chief Author: BERGLIN, LINDA

Title: CORRECTIONAL HUMAN SERVICES PROV

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Corrections Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		664	664	664	664
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		664	664	664	664
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		664	664	664	664
Total Cost <Savings> to the State		664	664	664	664

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		8.00	8.00	8.00	8.00
Total FTE		8.00	8.00	8.00	8.00

Preliminary

SF 1000-1A Correctional Human Services Provision

Bill Description

This bill provides discharge planning for offenders with a diagnosis of mental illness.

Assumptions

- There are approximately 1,500 offenders meeting the mental illness criteria as outlined in this bill.
- Fifty percent of these offenders are released every year so approximately 750 will require a discharge plan.
- An average plan takes approximately 20 hours to complete.
- This will require eight discharge planners. This will require an annual salary and operating budget of \$83,000 per discharge planner for a total annual cost of \$664,000.
- Staff will be hired at the beginning of the fiscal year to ensure they can attend the training academy prior to working with offenders.
- This bill indicates that the Department of Human Services, in collaboration with the Department of Corrections, will provide this discharge planning. The cost of these positions will be reflected in the fiscal note for the Department of Corrections and funding must be appropriated for this purpose.
- Although not stated in the bill it is assumed the bill is effective 8/1/05.

Expenditure and/or Revenue Formula

Fiscal Year	2005	2006	2007	2008	2009
Discharge Planners	\$0	\$664	\$664	\$664	\$664
Total DOC Cost (1=1,000)	\$0	\$664	\$664	\$664	\$664
FTE	0	8	8	8	8

Long-Term Fiscal Considerations

The cost for this bill will be recognized in subsequent years.

Local Government Costs

N/A

References/Sources

Minnesota Department of Corrections staff.
Minnesota Department of Human Services staff.

FN Coord Signature: DENNY FONSECA

Date: 04/01/05 Phone: 642-0220

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING

Date: 04/07/05 Phone: 296-7964

1 A bill for an act

2 relating to health; establishing a cancer drug
3 repository program; proposing coding for new law in
4 Minnesota Statutes, chapter 144.

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

6 Section 1. [144.707] [CANCER DRUG REPOSITORY PROGRAM.]

7 Subdivision 1. [DEFINITIONS.] (a) For the purposes of this
8 section, the terms defined in this subdivision have the meanings
9 given.

10 (b) "Cancer drug" means a prescription drug that is used to
11 treat:

12 (1) cancer or the side effects of cancer; or
13 (2) the side effects of any prescription drug that is used
14 to treat cancer or the side effects of cancer.

15 (c) "Cancer drug repository" means a medical facility or
16 pharmacy that has notified the commissioner of its election to
17 participate in the cancer drug repository program.

18 (d) "Cancer supply" or "supplies" means prescription and
19 nonprescription cancer supplies needed to administer a cancer
20 drug.

21 (e) "Commissioner" means the commissioner of health.

22 (f) "Dispense" has the meaning given in section 151.01,
23 subdivision 30.

24 (g) "Distribute" means to deliver, other than by
25 administering or dispensing.

1 (h) "Medical facility" means an institution defined in
2 section 144.50, subdivision 2.

3 (i) "Medical supplies" means any prescription and
4 nonprescription medical supply needed to administer a cancer
5 drug.

6 (j) "Pharmacist" has the meaning given in section 151.01,
7 subdivision 3.

8 (k) "Pharmacy" means any pharmacy registered with the Board
9 of Pharmacy according to section 151.19, subdivision 1.

10 (l) "Practitioner" has the meaning given in section 151.01,
11 subdivision 23.

12 (m) "Prescription drug" means a legend drug as defined in
13 section 151.01, subdivision 17.

14 (n) "Side effects of cancer" means symptoms of cancer.

15 (o) "Single-unit-dose packaging" means a single-unit
16 container for articles intended for administration as a single
17 dose, direct from the container.

18 (p) "Tamper-evident unit dose packaging" means a container
19 within which a drug is sealed so that the contents cannot be
20 opened without obvious destruction of the seal.

21 Subd. 2. [ESTABLISHMENT.] The commissioner of health shall
22 establish and maintain a cancer drug repository program, under
23 which any person may donate a cancer drug or supply for use by
24 an individual who meets the eligibility criteria specified under
25 subdivision 4. Under the program, donations may be made on the
26 premises of a medical facility or pharmacy that elects to
27 participate in the program and meets the requirements specified
28 under subdivision 3.

29 Subd. 3. [REQUIREMENTS FOR PARTICIPATION BY PHARMACIES AND
30 MEDICAL FACILITIES.] (a) To be eligible for participation in the
31 cancer drug repository program, a pharmacy or medical facility
32 must be licensed and in compliance with all applicable federal
33 and state laws and administrative rules.

34 (b) Participation in the cancer drug repository program is
35 voluntary. A pharmacy or medical facility may elect to
36 participate in the cancer drug repository program by submitting

1 the following information to the commissioner, in a form
2 provided by the commissioner:

3 (1) the name, street address, and telephone number of the
4 pharmacy or medical facility;

5 (2) the name and telephone number of a pharmacist who is
6 employed by or under contract with the pharmacy or medical
7 facility, or other contact person who is familiar with the
8 pharmacy's or medical facility's participation in the cancer
9 drug repository program; and

10 (3) a statement indicating that the pharmacy or medical
11 facility meets the eligibility requirements under paragraph (a)
12 and the chosen level of participation under paragraph (c).

13 (c) A pharmacy or medical facility may fully participate in
14 the cancer drug repository program by accepting, storing, and
15 dispensing donated drugs and supplies, or may limit its
16 participation to only accepting and storing donated drugs and
17 supplies. If a pharmacy or facility chooses to limit its
18 participation, the pharmacy or facility shall distribute any
19 donated drugs to a fully participating cancer drug repository in
20 accordance with subdivision 8.

21 (d) A pharmacy or medical facility may withdraw from
22 participation in the cancer drug repository program at any time
23 upon notification to the commissioner. A notice to withdraw
24 from participation may be given by telephone or regular mail.

25 Subd. 4. [INDIVIDUAL ELIGIBILITY REQUIREMENTS.] Any
26 Minnesota resident who is diagnosed with cancer is eligible to
27 receive drugs or supplies under the cancer drug repository
28 program. Drugs and supplies shall be dispensed according to the
29 priority given under subdivision 6, paragraph (d).

30 Subd. 5. [DONATIONS OF CANCER DRUGS AND SUPPLIES.] (a) Any
31 one of the following persons may donate legally obtained cancer
32 drugs or supplies to a cancer drug repository, if the drugs or
33 supplies meet the requirements under paragraph (b) or (c) as
34 determined by a pharmacist who is employed by or under contract
35 with a cancer drug repository:

36 (1) an individual who is 18 years old or older; or

1 (2) a pharmacy, medical facility, drug manufacturer, or
2 wholesale drug distributor, if the donated drugs have not been
3 previously dispensed.

4 (b) A cancer drug is eligible for donation under the cancer
5 drug repository program only if the following requirements are
6 met:

7 (1) the donation is accompanied by a cancer drug repository
8 donor form described under paragraph (d) that is signed by the
9 person making the donation or that person's authorized
10 representative;

11 (2) the drug's expiration date is at least six months later
12 than the date that the drug was donated;

13 (3) the drug is in its original, unopened, tamper-evident
14 unit dose packaging that includes the drug's lot number and
15 expiration date. Single-unit dose drugs may be accepted if the
16 single-unit-dose packaging is unopened; and

17 (4) the drug is not adulterated or misbranded.

18 (c) Cancer supplies are eligible for donation under the
19 cancer drug repository program only if the following
20 requirements are met:

21 (1) the supplies are not adulterated or misbranded;

22 (2) the supplies are in their original, unopened, sealed
23 packaging; and

24 (3) the donation is accompanied by a cancer drug repository
25 donor form described under paragraph (d) that is signed by the
26 person making the donation or that person's authorized
27 representative.

28 (d) The cancer drug repository donor form must be provided
29 by the commissioner and shall state that to the best of the
30 donor's knowledge the donated drug or supply has been properly
31 stored and that the drug or supply has never been opened, used,
32 tampered with, adulterated, or misbranded. The commissioner
33 shall make the cancer drug repository donor form available on
34 the Department of Health's Web site.

35 (e) Controlled substances and drugs and supplies that do
36 not meet the criteria under this subdivision are not eligible

1 for donation or acceptance under the cancer drug repository
2 program.

3 (f) Drugs and supplies may be donated on the premises of a
4 cancer drug repository to a pharmacist designated by the
5 repository. A drop box may not be used to deliver or accept
6 donations.

7 (g) Cancer drugs and supplies donated under the cancer drug
8 repository program must be stored in a secure storage area under
9 environmental conditions appropriate for the drugs or supplies
10 being stored. Donated drugs and supplies may not be stored with
11 nondonated inventory.

12 Subd. 6. [DISPENSING REQUIREMENTS.] (a) Drugs and supplies
13 must be dispensed by a licensed pharmacist pursuant to a
14 prescription by a practitioner or may be administered by a
15 practitioner in accordance with the requirements of chapter 151.

16 (b) Cancer drugs and supplies shall be visually inspected
17 by the pharmacist before being dispensed for adulteration,
18 misbranding, and date of expiration. Drugs or supplies that
19 have expired or appear upon visual inspection to be adulterated,
20 misbranded, or tampered with in any way may not be dispensed.

21 (c) Before a cancer drug or supply may be dispensed to an
22 individual, the individual must sign a cancer drug repository
23 recipient form provided by the commissioner acknowledging that
24 the individual understands the information stated on the form.
25 The form shall include the following information:

26 (1) that the drug or supply being dispensed has been
27 donated and may have been previously dispensed;

28 (2) that a visual inspection has been conducted by the
29 pharmacist to ensure that the drug has not expired, has not been
30 adulterated or misbranded, and is in its original, unopened
31 packaging; and

32 (3) that the dispensing pharmacist, the cancer drug
33 repository, the state Department of Health, and any other
34 participant of the cancer drug repository program cannot
35 guarantee the safety of the drug or supply being dispensed and
36 that the pharmacist has determined that the drug or supply is

1 safe to dispense based on the accuracy of the donor's form
2 submitted with the donated drug or supply and the visual
3 inspection required to be performed by the pharmacist before
4 dispensing.

5 The commissioner shall make the cancer drug repository form
6 available on the Department of Health's Web site.

7 (d) Drugs and supplies shall only be dispensed to
8 individuals who meet the eligibility requirements in subdivision
9 4 and in the following order of priority:

10 (1) individuals who are uninsured;

11 (2) individuals who are enrolled in medical assistance,
12 general assistance medical care, MinnesotaCare, Medicare, or
13 other public assistance health care; and

14 (3) all other individuals who are otherwise eligible under
15 subdivision 4 to receive drugs or supplies from a cancer drug
16 repository.

17 Subd. 7. [HANDLING FEES.] A cancer drug repository may
18 charge the individual receiving a drug or supply a handling fee
19 of no more than 250 percent of the medical assistance program
20 dispensing fee for each cancer drug or supply dispensed.

21 Subd. 8. [DISTRIBUTION OF DONATED CANCER DRUGS AND
22 SUPPLIES.] (a) Cancer drug repositories may distribute drugs and
23 supplies donated under the cancer drug repository program to
24 other repositories if requested by a participating repository.

25 (b) A cancer drug repository that has elected not to
26 dispense donated drugs or supplies shall distribute any donated
27 drugs and supplies to a participating repository upon request of
28 the repository.

29 (c) If a cancer drug repository distributes drugs or
30 supplies under paragraph (a) or (b), the repository shall
31 complete a cancer drug repository donor form provided by the
32 commissioner. The completed form and a copy of the donor form
33 that was completed by the original donor under subdivision 5
34 shall be provided to the fully participating cancer drug
35 repository at the time of distribution.

36 Subd. 9. [RESALE OF DONATED DRUGS OR SUPPLIES.] Donated

1 drugs and supplies may not be resold.

2 Subd. 10. [RECORD-KEEPING REQUIREMENTS.] (a) Cancer drug
3 repository donor and recipient forms shall be maintained for at
4 least five years.

5 (b) A record of destruction of donated drugs and supplies
6 that are not dispensed under subdivision 6 shall be maintained
7 by the dispensing repository for at least five years. For each
8 drug or supply destroyed, the record shall include the following
9 information:

10 (1) the date of destruction;

11 (2) the name, strength, and quantity of the cancer drug
12 destroyed;

13 (3) the name of the person or firm that destroyed the drug;
14 and

15 (4) the source of the drugs or supplies destroyed.

16 Subd. 11. [LIABILITY.] A medical facility or pharmacy
17 participating in the program, a pharmacist dispensing a drug or
18 supply pursuant to the program, a practitioner administering a
19 drug or supply pursuant to the program, or the donor of a cancer
20 drug or supply is immune from civil liability for an act or
21 omission relating to the quality of a cancer drug or supply that
22 causes injury to or the death of an individual to whom the
23 cancer drug or supply is dispensed and no disciplinary action
24 shall be taken against a pharmacist or practitioner so long as
25 the drug or supply is donated, accepted, distributed, and
26 dispensed in accordance with the requirements of this section.
27 This immunity does not apply if the act or omission involves
28 reckless, wanton, or intentional misconduct or professional or
29 medical malpractice.

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 227 - Cancer Drug Repository Program (Second Engrossment)

Author: Senator Yvonne Prettner Solon

Prepared by: Katie Cavanor, Senate Counsel (651/296-3801) *KTC*

Date: April 12, 2005

Section 1 (144.707) establishes the cancer drug repository program.

Subdivision 1 defines the following terms: “cancer drug,” “cancer drug repository,” “cancer supply,” “commissioner,” “dispense,” “distribute,” “medical facility,” “medical supplies,” “pharmacist,” “pharmacy,” “practitioner,” “prescription drug,” “side effects of cancer,” “single-unit-dose packaging,” and “tamper-evident unit dose packaging.”

Subdivision 2 requires the Commissioner of Health to establish and maintain a cancer drug repository program. Under the program, a person may donate a cancer or medical supply for use by an individual who meets certain eligibility requirements. Donations may be made to a medical facility or a pharmacy that elects to participate in the program and meets the requirements for participation. These donations may be dispensed to an eligible individual or distributed to another participating medical facility or pharmacy.

Subdivision 3 establishes the requirements for participation by pharmacies and medical facilities. States that participation in the program is voluntary.

Subdivision 4 states that any individual who is diagnosed with cancer is eligible to receive drugs or supplies under this program and that the drugs and supplies will be dispensed in accordance with **subdivision 6**.

Subdivision 5 establishes requirements that must be met before a cancer drug or medical supply can be accepted and dispensed under this program. States that any individual 18 years of age or older or a pharmacy, medical facility, drug manufacturer, or wholesale drug distributor may donate drugs. States that a drug or supply may be donated if:

- (1) it is accompanied by a donor form;
- (2) bear an expiration date that is later than six months after the date the drug was donated;
- (3) it is in its original, unopened, sealed, and tamper-evident unit dose packaging, or, if packaged in single-unit-doses, unopened; and
- (4) not be adulterated or misbranded, as determined by a pharmacist who has inspected the drug or supply before it is dispensed.

Requires the donor to fill out a donor form and describes the contents of the form. States that drugs and supplies may be donated on premises of a drug repository to a designated pharmacist, and that a drop box may not be used. Requires that donated drugs and supplies must be stored separately under a secure storage area under conditions appropriate for the drug or supply.

Subdivision 6 requires that the drugs or supplies be dispensed by a licensed pharmacist pursuant to a prescription by a practitioner in accordance with Minnesota Statutes, chapter 151. Requires the pharmacist to visually inspect the drug or supply before dispensing. Requires that before a drug or supply be dispensed to an individual, the individual must sign a recipient form. Establishes the priority in which the drugs or supplies are to be dispensed.

Subdivision 7 states that the medical facility or pharmacy may charge a handling fee to the individual who receives the drug or supply that does not exceed more than 250 percent of the medical assistance program dispensing fee.

Subdivision 8 permits cancer drug repositories to distribute donated drugs and supplies to other repositories if requested by a participating repository, and requires a repository that has elected not to dispense donated drugs or supplies to distribute any donated drug or supply to a participating repository upon request of a participating repository. A repository that distributes drugs or supplies to another repository must complete a donor form and must provide a copy of the donor form that was completed by the original donor to the participating repository at the time of distribution.

Subdivision 9 states that donated drugs and supplies may not be resold.

Subdivision 10 states that donor or recipient forms must be maintained for at least five years. Requires a record of destruction to be maintained for at least five years for any drug or supply that was not dispensed. States what information must be included in the form.

Subdivision 11 provides that a medical facility, pharmacist, pharmacy or practitioner participating in the program or a donor of a cancer drug or supply are immune from civil liability for injury to or the death of the individual to whom the drug or supply is dispensed and may not be disciplined for unprofessional conduct for their acts or omissions relating to donating, accepting, distributing, or dispensing a cancer drug or supply under this program. This immunity does not apply if the act or omission involves reckless, wanton, or intentional misconduct or professional or medical malpractice.

1 Senator moves to amend S.F. No. 227 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. [151.55] [CANCER DRUG REPOSITORY PROGRAM.]

4 Subdivision 1. [DEFINITIONS.] (a) For the purposes of this
5 section, the terms defined in this subdivision have the meanings
6 given.

7 (b) "Board" means the Board of Pharmacy.

8 (c) "Cancer drug" means a prescription drug that is used to
9 treat:

10 (1) cancer or the side effects of cancer; or

11 (2) the side effects of any prescription drug that is used
12 to treat cancer or the side effects of cancer.

13 (d) "Cancer drug repository" means a medical facility or
14 pharmacy that has notified the board of its election to
15 participate in the cancer drug repository program.

16 (e) "Cancer supply" or "supplies" means prescription and
17 nonprescription cancer supplies needed to administer a cancer
18 drug.

19 (f) "Dispense" has the meaning given in section 151.01,
20 subdivision 30.

21 (g) "Distribute" means to deliver, other than by
22 administering or dispensing.

23 (h) "Medical facility" means an institution defined in
24 section 144.50, subdivision 2.

25 (i) "Medical supplies" means any prescription and
26 nonprescription medical supply needed to administer a cancer
27 drug.

28 (j) "Pharmacist" has the meaning given in section 151.01,
29 subdivision 3.

30 (k) "Pharmacy" means any pharmacy registered with the Board
31 of Pharmacy according to section 151.19, subdivision 1.

32 (l) "Practitioner" has the meaning given in section 151.01,
33 subdivision 23.

34 (m) "Prescription drug" means a legend drug as defined in
35 section 151.01, subdivision 17.

36 (n) "Side effects of cancer" means symptoms of cancer.

1 (o) "Single-unit-dose packaging" means a single-unit
2 container for articles intended for administration as a single
3 dose, direct from the container.

4 (p) "Tamper-evident unit dose packaging" means a container
5 within which a drug is sealed so that the contents cannot be
6 opened without obvious destruction of the seal.

7 Subd. 2. [ESTABLISHMENT.] The Board of Pharmacy shall
8 establish and maintain a cancer drug repository program, under
9 which any person may donate a cancer drug or supply for use by
10 an individual who meets the eligibility criteria specified under
11 subdivision 4. Under the program, donations may be made on the
12 premises of a medical facility or pharmacy that elects to
13 participate in the program and meets the requirements specified
14 under subdivision 3.

15 Subd. 3. [REQUIREMENTS FOR PARTICIPATION BY PHARMACIES AND
16 MEDICAL FACILITIES.] (a) To be eligible for participation in the
17 cancer drug repository program, a pharmacy or medical facility
18 must be licensed and in compliance with all applicable federal
19 and state laws and administrative rules.

20 (b) Participation in the cancer drug repository program is
21 voluntary. A pharmacy or medical facility may elect to
22 participate in the cancer drug repository program by submitting
23 the following information to the board, in a form provided by
24 the board:

25 (1) the name, street address, and telephone number of the
26 pharmacy or medical facility;

27 (2) the name and telephone number of a pharmacist who is
28 employed by or under contract with the pharmacy or medical
29 facility, or other contact person who is familiar with the
30 pharmacy's or medical facility's participation in the cancer
31 drug repository program; and

32 (3) a statement indicating that the pharmacy or medical
33 facility meets the eligibility requirements under paragraph (a)
34 and the chosen level of participation under paragraph (c).

35 (c) A pharmacy or medical facility may fully participate in
36 the cancer drug repository program by accepting, storing, and

1 dispensing or administering donated drugs and supplies, or may
2 limit its participation to only accepting and storing donated
3 drugs and supplies. If a pharmacy or facility chooses to limit
4 its participation, the pharmacy or facility shall distribute any
5 donated drugs to a fully participating cancer drug repository in
6 accordance with subdivision 8.

7 (d) A pharmacy or medical facility may withdraw from
8 participation in the cancer drug repository program at any time
9 upon notification to the board. A notice to withdraw from
10 participation may be given by telephone or regular mail.

11 Subd. 4. [INDIVIDUAL ELIGIBILITY REQUIREMENTS.] Any
12 Minnesota resident who is diagnosed with cancer is eligible to
13 receive drugs or supplies under the cancer drug repository
14 program. Drugs and supplies shall be dispensed or administered
15 according to the priority given under subdivision 6, paragraph
16 (d).

17 Subd. 5. [DONATIONS OF CANCER DRUGS AND SUPPLIES.] (a) Any
18 one of the following persons may donate legally obtained cancer
19 drugs or supplies to a cancer drug repository, if the drugs or
20 supplies meet the requirements under paragraph (b) or (c) as
21 determined by a pharmacist who is employed by or under contract
22 with a cancer drug repository:

23 (1) an individual who is 18 years old or older; or
24 (2) a pharmacy, medical facility, drug manufacturer, or
25 wholesale drug distributor, if the donated drugs have not been
26 previously dispensed.

27 (b) A cancer drug is eligible for donation under the cancer
28 drug repository program only if the following requirements are
29 met:

30 (1) the donation is accompanied by a cancer drug repository
31 donor form described under paragraph (d) that is signed by the
32 person making the donation or that person's authorized
33 representative;

34 (2) the drug's expiration date is at least six months later
35 than the date that the drug was donated;

36 (3) the drug is in its original, unopened, tamper-evident

1 unit dose packaging that includes the drug's lot number and
2 expiration date. Single-unit dose drugs may be accepted if the
3 single-unit-dose packaging is unopened; and

4 (4) the drug is not adulterated or misbranded.

5 (c) Cancer supplies are eligible for donation under the
6 cancer drug repository program only if the following
7 requirements are met:

8 (1) the supplies are not adulterated or misbranded;

9 (2) the supplies are in their original, unopened, sealed
10 packaging; and

11 (3) the donation is accompanied by a cancer drug repository
12 donor form described under paragraph (d) that is signed by the
13 person making the donation or that person's authorized
14 representative.

15 (d) The cancer drug repository donor form must be provided
16 by the board and shall state that to the best of the donor's
17 knowledge the donated drug or supply has been properly stored
18 and that the drug or supply has never been opened, used,
19 tampered with, adulterated, or misbranded. The board shall make
20 the cancer drug repository donor form available on the
21 Department of Health's Web site.

22 (e) Controlled substances and drugs and supplies that do
23 not meet the criteria under this subdivision are not eligible
24 for donation or acceptance under the cancer drug repository
25 program.

26 (f) Drugs and supplies may be donated on the premises of a
27 cancer drug repository to a pharmacist designated by the
28 repository. A drop box may not be used to deliver or accept
29 donations.

30 (g) Cancer drugs and supplies donated under the cancer drug
31 repository program must be stored in a secure storage area under
32 environmental conditions appropriate for the drugs or supplies
33 being stored. Donated drugs and supplies may not be stored with
34 nondonated inventory.

35 Subd. 6. [DISPENSING REQUIREMENTS.] (a) Drugs and supplies
36 must be dispensed by a licensed pharmacist pursuant to a

1 prescription by a practitioner or may be dispensed or
2 administered by a practitioner in accordance with the
3 requirements of chapter 151 and within the practitioner's scope
4 of practice.

5 (b) Cancer drugs and supplies shall be visually inspected
6 by the pharmacist or practitioner before being dispensed or
7 administered for adulteration, misbranding, and date of
8 expiration. Drugs or supplies that have expired or appear upon
9 visual inspection to be adulterated, misbranded, or tampered
10 with in any way may not be dispensed or administered.

11 (c) Before a cancer drug or supply may be dispensed or
12 administered to an individual, the individual must sign a cancer
13 drug repository recipient form provided by the board
14 acknowledging that the individual understands the information
15 stated on the form. The form shall include the following
16 information:

17 (1) that the drug or supply being dispensed or administered
18 has been donated and may have been previously dispensed;

19 (2) that a visual inspection has been conducted by the
20 pharmacist or practitioner to ensure that the drug has not
21 expired, has not been adulterated or misbranded, and is in its
22 original, unopened packaging; and

23 (3) that the dispensing pharmacist, the dispensing or
24 administering practitioner, the cancer drug repository, the
25 state Department of Health, and any other participant of the
26 cancer drug repository program cannot guarantee the safety of
27 the drug or supply being dispensed or administered and that the
28 pharmacist or practitioner has determined that the drug or
29 supply is safe to dispense or administer based on the accuracy
30 of the donor's form submitted with the donated drug or supply
31 and the visual inspection required to be performed by the
32 pharmacist or practitioner before dispensing or administering.
33 The board shall make the cancer drug repository form available
34 on the Department of Health's Web site.

35 (d) Drugs and supplies shall only be dispensed or
36 administered to individuals who meet the eligibility

1 requirements in subdivision 4 and in the following order of
2 priority:

3 (1) individuals who are uninsured;

4 (2) individuals who are enrolled in medical assistance,
5 general assistance medical care, MinnesotaCare, Medicare, or
6 other public assistance health care; and

7 (3) all other individuals who are otherwise eligible under
8 subdivision 4 to receive drugs or supplies from a cancer drug
9 repository.

10 Subd. 7. [HANDLING FEES.] A cancer drug repository may
11 charge the individual receiving a drug or supply a handling fee
12 of no more than 250 percent of the medical assistance program
13 dispensing fee for each cancer drug or supply dispensed or
14 administered.

15 Subd. 8. [DISTRIBUTION OF DONATED CANCER DRUGS AND
16 SUPPLIES.] (a) Cancer drug repositories may distribute drugs and
17 supplies donated under the cancer drug repository program to
18 other repositories if requested by a participating repository.

19 (b) A cancer drug repository that has elected not to
20 dispense donated drugs or supplies shall distribute any donated
21 drugs and supplies to a participating repository upon request of
22 the repository.

23 (c) If a cancer drug repository distributes drugs or
24 supplies under paragraph (a) or (b), the repository shall
25 complete a cancer drug repository donor form provided by the
26 board. The completed form and a copy of the donor form that was
27 completed by the original donor under subdivision 5 shall be
28 provided to the fully participating cancer drug repository at
29 the time of distribution.

30 Subd. 9. [RESALE OF DONATED DRUGS OR SUPPLIES.] Donated
31 drugs and supplies may not be resold.

32 Subd. 10. [RECORD-KEEPING REQUIREMENTS.] (a) Cancer drug
33 repository donor and recipient forms shall be maintained for at
34 least five years.

35 (b) A record of destruction of donated drugs and supplies
36 that are not dispensed under subdivision 6 shall be maintained

1 by the dispensing repository for at least five years. For each
2 drug or supply destroyed, the record shall include the following
3 information:

4 (1) the date of destruction;

5 (2) the name, strength, and quantity of the cancer drug
6 destroyed;

7 (3) the name of the person or firm that destroyed the drug;
8 and

9 (4) the source of the drugs or supplies destroyed.

10 Subd. 11. [LIABILITY.] A medical facility or pharmacy
11 participating in the program, a pharmacist dispensing a drug or
12 supply pursuant to the program, a practitioner dispensing or
13 administering a drug or supply pursuant to the program, or the
14 donor of a cancer drug or supply is immune from civil liability
15 for an act or omission relating to the quality of a cancer drug
16 or supply that causes injury to or the death of an individual to
17 whom the cancer drug or supply is dispensed or administered and
18 no disciplinary action shall be taken against a pharmacist or
19 practitioner so long as the drug or supply is donated, accepted,
20 distributed, and dispensed or administered in accordance with
21 the requirements of this section. This immunity does not apply
22 if the act or omission involves reckless, wanton, or intentional
23 misconduct or professional or medical malpractice."

24 Amend the title as follows:

25 Page 1, line 4, delete "144" and insert "151"

1 A bill for an act

2 relating to human services; changing medical
3 assistance, general assistance, and MinnesotaCare
4 provisions to align with practice; allowing military
5 enrollees and military families to reenroll at certain
6 times; modifying the Consumer-Directed Community
7 Supports methodology; establishing a clinical trial
8 work group; amending Minnesota Statutes 2004, sections
9 256.045, subdivision 3a; 256B.02, subdivision 12;
10 256B.056, subdivisions 5, 5a, 5b, 7, by adding
11 subdivisions; 256B.057, subdivision 1; 256B.69,
12 subdivision 4; 256D.045; 256L.01, subdivisions 4, 5;
13 256L.03, subdivision 1b; 256L.04, subdivision 2, by
14 adding subdivisions; 256L.05, subdivisions 3, 3a;
15 256L.07, subdivisions 1, 3, by adding a subdivision;
16 256L.15, subdivisions 2, 3; 549.02, by adding a
17 subdivision; 549.04.

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

19 Section 1. Minnesota Statutes 2004, section 256.045,
20 subdivision 3a, is amended to read:

21 Subd. 3a. [PREPAID HEALTH PLAN APPEALS.] (a) All prepaid
22 health plans under contract to the commissioner under chapter
23 256B or 256D must provide for a complaint system according to
24 section 62D.11. When a prepaid health plan denies, reduces, or
25 terminates a health service or denies a request to authorize a
26 previously authorized health service, the prepaid health plan
27 must notify the recipient of the right to file a complaint or an
28 appeal. The notice must include the name and telephone number
29 of the ombudsman and notice of the recipient's right to request
30 a hearing under paragraph (b). ~~When a complaint is filed, the~~
31 ~~prepaid health plan must notify the ombudsman within three~~

1 ~~working-days~~. Recipients may request the assistance of the
2 ombudsman in the complaint system process. The prepaid health
3 plan must issue a written resolution of the complaint to the
4 recipient within 30 days after the complaint is filed with the
5 prepaid health plan. A recipient is not required to exhaust the
6 complaint system procedures in order to request a hearing under
7 paragraph (b).

8 (b) Recipients enrolled in a prepaid health plan under
9 chapter 256B or 256D may contest a prepaid health plan's denial,
10 reduction, or termination of health services, a prepaid health
11 plan's denial of a request to authorize a previously authorized
12 health service, or the prepaid health plan's written resolution
13 of a complaint by submitting a written request for a hearing
14 according to subdivision 3. A state human services referee
15 shall conduct a hearing on the matter and shall recommend an
16 order to the commissioner of human services. The commissioner
17 need not grant a hearing if the sole issue raised by a recipient
18 is the commissioner's authority to require mandatory enrollment
19 in a prepaid health plan in a county where prepaid health plans
20 are under contract with the commissioner. The state human
21 services referee may order a second medical opinion from the
22 prepaid health plan or may order a second medical opinion from a
23 nonprepaid health plan provider at the expense of the prepaid
24 health plan. Recipients may request the assistance of the
25 ombudsman in the appeal process.

26 (c) In the written request for a hearing to appeal from a
27 prepaid health plan's denial, reduction, or termination of a
28 health service, a prepaid health plan's denial of a request to
29 authorize a previously authorized service, or the prepaid health
30 plan's written resolution to a complaint, a recipient may
31 request an expedited hearing. If an expedited appeal is
32 warranted, the state human services referee shall hear the
33 appeal and render a decision within a time commensurate with the
34 level of urgency involved, based on the individual circumstances
35 of the case.

36 Sec. 2. Minnesota Statutes 2004, section 256B.02,

1 subdivision 12, is amended to read:

2 Subd. 12. [THIRD-PARTY PAYER.] "Third-party payer" means a
3 person, entity, or agency or government program that has a
4 probable obligation to pay all or part of the costs of a medical
5 assistance recipient's health services. Third-party payer
6 includes an entity under contract with the recipient to cover
7 all or part of the recipient's medical costs.

8 Sec. 3. Minnesota Statutes 2004, section 256B.056, is
9 amended by adding a subdivision to read:

10 Subd. 3d. [REDUCTION OF EXCESS ASSETS.] Assets in excess
11 of the limits set forth in subdivisions 3 to 3c may be reduced
12 to allowable limits as follows:

13 (a) Assets may be reduced in any of the three calendar
14 months before the month of application in which the applicant
15 seeks coverage by:

16 (1) designating burial funds up to \$1500 for each
17 applicant, spouse, and MA-eligible dependent child; and

18 (2) paying health service bills incurred in the retroactive
19 period for which the applicant seeks eligibility, starting with
20 the oldest bill. After assets are reduced to allowable limits,
21 eligibility begins with the next dollar of MA-covered health
22 services incurred in the retroactive period. Applicants
23 reducing assets under this subdivision who also have excess
24 income shall first spend excess assets to pay health service
25 bills and may meet the income spenddown on remaining bills.

26 (b) Assets may be reduced beginning the month of
27 application by:

28 (1) paying bills for health services that would otherwise
29 be paid by medical assistance; and

30 (2) using any means other than a transfer of assets for
31 less than fair market value as defined in section 256B.0595,
32 subdivision 1, paragraph (b).

33 Sec. 4. Minnesota Statutes 2004, section 256B.056,
34 subdivision 5, is amended to read:

35 Subd. 5. [EXCESS INCOME.] A person who has excess income
36 is eligible for medical assistance if the person has expenses

1 for medical care that are more than the amount of the person's
2 excess income, computed by deducting incurred medical expenses
3 from the excess income to reduce the excess to the income
4 standard specified in subdivision 5c. The person shall elect to
5 have the medical expenses deducted at the beginning of a
6 one-month budget period or at the beginning of a six-month
7 budget period. The commissioner shall allow persons eligible
8 for assistance on a one-month spenddown basis under this
9 subdivision to elect to pay the monthly spenddown amount in
10 advance of the month of eligibility to the state agency in order
11 to maintain eligibility on a continuous basis. If the recipient
12 does not pay the spenddown amount on or before the 20th last
13 business day of the month, the recipient is ineligible for this
14 option for the following month. The local agency shall code the
15 Medicaid Management Information System (MMIS) to indicate that
16 the recipient has elected this option. The state agency shall
17 convey recipient eligibility information relative to the
18 collection of the spenddown to providers through the Electronic
19 Verification System (EVS). A recipient electing advance payment
20 must pay the state agency the monthly spenddown amount on or
21 before noon on the 20th last business day of the month in order
22 to be eligible for this option in the following month.

23 [EFFECTIVE DATE.] This section is effective March 1, 2006,
24 or upon HealthMatch implementation, whichever is later.

25 Sec. 5. Minnesota Statutes 2004, section 256B.056,
26 subdivision 5a, is amended to read:

27 Subd. 5a. [INDIVIDUALS ON FIXED OR EXCLUDED INCOME.]
28 Recipients of medical assistance who receive only fixed unearned
29 or excluded income, when that income is excluded from
30 consideration as income or unvarying in amount and timing of
31 receipt throughout the year, shall report and verify their
32 income annually every 12 months. The 12-month period begins
33 with the month of application.

34 [EFFECTIVE DATE.] This section is effective March 1, 2006,
35 or upon HealthMatch implementation, whichever is later.

36 Sec. 6. Minnesota Statutes 2004, section 256B.056,

1 subdivision 5b, is amended to read:

2 Subd. 5b. [INDIVIDUALS WITH LOW INCOME.] Recipients of
3 medical assistance not residing in a long-term care facility who
4 have slightly fluctuating income which is below the medical
5 assistance income limit shall report and verify their income ~~on~~
6 a-semiannual-basis every six months. The six-month period
7 begins the month of application.

8 [EFFECTIVE DATE.] This section is effective March 1, 2006,
9 or upon HealthMatch implementation, whichever is later.

10 Sec. 7. Minnesota Statutes 2004, section 256B.056,
11 subdivision 7, is amended to read:

12 Subd. 7. [PERIOD OF ELIGIBILITY.] Eligibility is available
13 for the month of application and for three months prior to
14 application if the person was eligible in those prior
15 months. Eligibility for months prior to application is
16 determined independently from eligibility for the month of
17 application and future months. A redetermination of eligibility
18 must occur every 12 months. The 12-month period begins with the
19 month of application.

20 [EFFECTIVE DATE.] This section is effective March 1, 2006,
21 or upon HealthMatch implementation, whichever is later.

22 Sec. 8. Minnesota Statutes 2004, section 256B.056, is
23 amended by adding a subdivision to read:

24 Subd. 9. [NOTICE.] The state agency must be given notice
25 of monetary claims against a person, entity, or corporation that
26 may be liable to pay all or part of the cost of medical care
27 when the state agency has paid or becomes liable for the cost of
28 that care. Notice must be given according to paragraphs (a) to
29 (d).

30 (a) An applicant for medical assistance shall notify the
31 state or local agency of any possible claims when the applicant
32 submits the application. A recipient of medical assistance
33 shall notify the state or local agency of any possible claims
34 when those claims arise.

35 (b) A person providing medical care services to a recipient
36 of medical assistance shall notify the state agency when the

1 person has reason to believe that a third party may be liable
2 for payment of the cost of medical care.

3 (c) A party to a claim that may be assigned to the state
4 agency under this section shall notify the state agency of its
5 potential assignment claim in writing at each of the following
6 stages of a claim:

7 (1) when a claim is filed;

8 (2) when an action is commenced; and

9 (3) when a claim is concluded by payment, award, judgment,
10 settlement, or otherwise.

11 (d) Every party involved in any stage of a claim under this
12 subdivision is required to provide notice to the state agency at
13 that stage of the claim. However, when one of the parties to
14 the claim provides notice at that stage, every other party to
15 the claim is deemed to have provided the required notice for
16 that stage of the claim. If the required notice under this
17 paragraph is not provided to the state agency, all parties to
18 the claim are deemed to have failed to provide the required
19 notice. A party to the claim includes the injured person or the
20 person's legal representative, the plaintiff, the defendants, or
21 persons alleged to be responsible for compensating the injured
22 person or plaintiff, and any other party to the cause of action
23 or claim, regardless of whether the party knows the state agency
24 has a potential or actual assignment claim.

25 Sec. 9. Minnesota Statutes 2004, section 256B.057,
26 subdivision 1, is amended to read:

27 Subdivision 1. [INFANTS AND PREGNANT WOMEN.] (a)~~(1)~~ An
28 infant less than one year of age is eligible for medical
29 assistance if countable family income is equal to or less than
30 275 percent of the federal poverty guideline for the same family
31 size. A pregnant woman who has written verification of a
32 positive pregnancy test from a physician or licensed registered
33 nurse is eligible for medical assistance if countable family
34 income is equal to or less than ~~200~~ 275 percent of the federal
35 poverty guideline for the same family size. For purposes of
36 this subdivision, "countable family income" means the amount of

1 income considered available using the methodology of the AFDC
2 program under the state's AFDC plan as of July 16, 1996, as
3 required by the Personal Responsibility and Work Opportunity
4 Reconciliation Act of 1996 (PRWORA), Public Law 104-193, except
5 for the earned income disregard and employment deductions.

6 ~~(2)-For applications processed within one calendar month
7 prior to the effective date, eligibility shall be determined by
8 applying the income standards and methodologies in effect prior
9 to the effective date for any months in the six-month budget
10 period before that date and the income standards and
11 methodologies in effect on the effective date for any months in
12 the six-month budget period on or after that date.---The income
13 standards for each month shall be added together and compared to
14 the applicant's total countable income for the six-month budget
15 period to determine eligibility.~~

16 (b)(1) (Expired, 1Sp2003 c 14 art 12 s 19)

17 ~~(2)-For applications processed within one calendar month
18 prior to July 17, 2003, eligibility shall be determined by
19 applying the income standards and methodologies in effect prior
20 to July 17, 2003, for any months in the six-month budget period
21 before July 17, 2003, and the income standards and methodologies
22 in effect on the expiration date for any months in the six-month
23 budget period on or after July 17, 2003.---The income standards
24 for each month shall be added together and compared to the
25 applicant's total countable income for the six-month budget
26 period to determine eligibility.~~

27 (c) ~~Dependent care and child support paid under court order
28 shall be deducted from the countable income of pregnant
29 women. An amount equal to the amount of earned income exceeding
30 275 percent of the federal poverty guideline plus the earned
31 income disregards and deductions of the AFDC program under the
32 state's AFDC plan as of July 16, 1996, as required by the
33 Personal Responsibility and Work Opportunity Reconciliation Act
34 of 1996 (PRWORA), Public Law 104-193, that exceeds 275 percent
35 of the federal poverty guideline will be deducted for pregnant
36 women and infants less than one year of age.~~

1 (d) An infant born on or after January 1, 1991, to a woman
2 who was eligible for and receiving medical assistance on the
3 date of the child's birth shall continue to be eligible for
4 medical assistance without redetermination until the child's
5 first birthday, as long as the child remains in the woman's
6 household.

7 [EFFECTIVE DATE.] The amendments to paragraphs (a) and (b)
8 are effective retroactively from July 1, 2004, and the amendment
9 to paragraph (c) is effective retroactively from October 1, 2003.

10 Sec. 10. Minnesota Statutes 2004, section 256B.69,
11 subdivision 4, is amended to read:

12 Subd. 4. [LIMITATION OF CHOICE.] (a) The commissioner
13 shall develop criteria to determine when limitation of choice
14 may be implemented in the experimental counties. The criteria
15 shall ensure that all eligible individuals in the county have
16 continuing access to the full range of medical assistance
17 services as specified in subdivision 6.

18 (b) The commissioner shall exempt the following persons
19 from participation in the project, in addition to those who do
20 not meet the criteria for limitation of choice:

21 (1) persons eligible for medical assistance according to
22 section 256B.055, subdivision 1;

23 (2) persons eligible for medical assistance due to
24 blindness or disability as determined by the Social Security
25 Administration or the state medical review team, unless:

26 (i) they are 65 years of age or older; or

27 (ii) they reside in Itasca County or they reside in a
28 county in which the commissioner conducts a pilot project under
29 a waiver granted pursuant to section 1115 of the Social Security
30 Act;

31 (3) recipients who currently have private coverage through
32 a health maintenance organization;

33 (4) recipients who are eligible for medical assistance by
34 spending down excess income for medical expenses other than the
35 nursing facility per diem expense;

36 (5) recipients who receive benefits under the Refugee

1 Assistance Program, established under United States Code, title
2 8, section 1522(e);

3 (6) children who are both determined to be severely
4 emotionally disturbed and receiving case management services
5 according to section 256B.0625, subdivision 20;

6 (7) adults who are both determined to be seriously and
7 persistently mentally ill and received case management services
8 according to section 256B.0625, subdivision 20;

9 (8) persons eligible for medical assistance according to
10 section 256B.057, subdivision 10; and

11 (9) persons with access to cost-effective
12 employer-sponsored private health insurance or persons enrolled
13 in an non-Medicare individual health plan determined to be
14 cost-effective according to section 256B.0625, subdivision 15.
15 Children under age 21 who are in foster placement may enroll in
16 the project on an elective basis. Individuals excluded under
17 clauses (1), (6), and (7) may choose to enroll on an elective
18 basis. The commissioner may enroll recipients in the prepaid
19 medical assistance program for seniors who are (1) age 65 and
20 over, and (2) eligible for medical assistance by spending down
21 excess income.

22 (c) The commissioner may allow persons with a one-month
23 spenddown who are otherwise eligible to enroll to voluntarily
24 enroll or remain enrolled, if they elect to prepay their monthly
25 spenddown to the state.

26 (d) The commissioner may require those individuals to
27 enroll in the prepaid medical assistance program who otherwise
28 would have been excluded under paragraph (b), clauses (1), (3),
29 and (8), and under Minnesota Rules, part 9500.1452, subpart 2,
30 items H, K, and L.

31 (e) Before limitation of choice is implemented, eligible
32 individuals shall be notified and after notification, shall be
33 allowed to choose only among demonstration providers. The
34 commissioner may assign an individual with private coverage
35 through a health maintenance organization, to the same health
36 maintenance organization for medical assistance coverage, if the

1 health maintenance organization is under contract for medical
2 assistance in the individual's county of residence. After
3 initially choosing a provider, the recipient is allowed to
4 change that choice only at specified times as allowed by the
5 commissioner. If a demonstration provider ends participation in
6 the project for any reason, a recipient enrolled with that
7 provider must select a new provider but may change providers
8 without cause once more within the first 60 days after
9 enrollment with the second provider.

10 (f) An infant born to a woman who is eligible for and
11 receiving medical assistance and who is enrolled in the prepaid
12 medical assistance program shall be retroactively enrolled to
13 the month of birth in the same managed care plan as the mother
14 once the child is enrolled in medical assistance unless the
15 child is determined to be excluded from enrollment in a prepaid
16 plan under this section.

17 Sec. 11. Minnesota Statutes 2004, section 256D.045, is
18 amended to read:

19 256D.045 [SOCIAL SECURITY NUMBER REQUIRED.]

20 To be eligible for general assistance under sections
21 256D.01 to 256D.21, an individual must provide the individual's
22 Social Security number to the county agency or submit proof that
23 an application has been made. An individual who refuses to
24 provide a Social Security number because of a well-established
25 religious objection as described in Code of Federal Regulations,
26 title 42, section 435.910, may be eligible for general
27 assistance medical care under section 256D.03. The provisions
28 of this section do not apply to the determination of eligibility
29 for emergency general assistance under section 256D.06,
30 subdivision 2. This provision applies to eligible children
31 under the age of 18 effective July 1, 1997.

32 [EFFECTIVE DATE.] This section is effective March 1, 2006,
33 or upon HealthMatch implementation, whichever is later.

34 Sec. 12. Minnesota Statutes 2004, section 256L.01,
35 subdivision 4, is amended to read:

36 Subd. 4. [GROSS INDIVIDUAL OR GROSS FAMILY INCOME.] (a)

1 "Gross individual or gross family income" for nonfarm
2 self-employed means income calculated for the six-month period
3 of eligibility using as the baseline the adjusted gross income
4 reported on the applicant's federal income tax form for the
5 previous year and adding back in reported depreciation,
6 carryover loss, and net operating loss amounts that apply to the
7 business in which the family is currently engaged.

8 (b) "Gross individual or gross family income" for farm
9 self-employed means income calculated for the six-month period
10 of eligibility using as the baseline the adjusted gross income
11 reported on the applicant's federal income tax form for the
12 previous year and adding back in reported depreciation amounts
13 that apply to the business in which the family is currently
14 engaged.

15 ~~(c) Applicants shall report the most recent financial~~
16 ~~situation of the family if it has changed from the period of~~
17 ~~time covered by the federal income tax form. The report may be~~
18 ~~in the form of percentage increase or decrease~~ "Gross individual
19 or gross family income" means the total income for all family
20 members, calculated for the six-month period of eligibility.

21 [EFFECTIVE DATE.] This section is effective March 1, 2006,
22 or upon HealthMatch implementation, whichever is later.

23 Sec. 13. Minnesota Statutes 2004, section 256L.01,
24 subdivision 5, is amended to read:

25 Subd. 5. [INCOME.] (a) "Income" has the meaning given for
26 earned and unearned income for families and children in the
27 medical assistance program, according to the state's aid to
28 families with dependent children plan in effect as of July 16,
29 1996. The definition does not include medical assistance income
30 methodologies and deeming requirements. The earned income of
31 full-time and part-time students under age 19 is not counted as
32 income. Public assistance payments and supplemental security
33 income are not excluded income.

34 (b) For purposes of this subdivision, and unless otherwise
35 specified in this section, the commissioner shall use reasonable
36 methods to calculate gross earned and unearned income including,

1 but not limited to, projecting income based on income received
2 within the past 30 days, the last 90 days, or the last 12 months.

3 [EFFECTIVE DATE.] This section is effective July 1, 2005.

4 Sec. 14. Minnesota Statutes 2004, section 256L.03,
5 subdivision 1b, is amended to read:

6 Subd. 1b. [PREGNANT WOMEN; ELIGIBILITY FOR FULL MEDICAL
7 ASSISTANCE SERVICES.] ~~Beginning-January-17-1999,~~ A pregnant
8 woman who-is enrolled in MinnesotaCare ~~when-her-pregnancy-is~~
9 diagnosed is eligible for coverage of all services provided
10 under the medical assistance program according to chapter 256B
11 retroactive to the date the-pregnancy-is-medically-diagnosed of
12 conception. Co-payments totaling \$30 or more, paid after the
13 date the-pregnancy-is-diagnosed of conception, shall be refunded.

14 Sec. 15. Minnesota Statutes 2004, section 256L.04, is
15 amended by adding a subdivision to read:

16 Subd. 1a. [SOCIAL SECURITY NUMBER REQUIRED.] (a)
17 Individuals and families applying for MinnesotaCare coverage
18 must provide a Social Security number.

19 (b) The commissioner shall not deny eligibility to an
20 otherwise eligible applicant who has applied for a Social
21 Security number and is awaiting issuance of that Social Security
22 number.

23 (c) Newborns enrolled under section 256L.05, subdivision 3,
24 are exempt from the requirements of this subdivision.

25 (d) Individuals who refuse to provide a Social Security
26 number because of well-established religious objections are
27 exempt from the requirements of this subdivision. The term
28 "well-established religious objections" has the meaning given in
29 Code of Federal Regulations, title 42, section 435.910.

30 [EFFECTIVE DATE.] This section is effective March 1, 2006,
31 or upon HealthMatch implementation, whichever is later.

32 Sec. 16. Minnesota Statutes 2004, section 256L.04,
33 subdivision 2, is amended to read:

34 Subd. 2. [COOPERATION IN ESTABLISHING THIRD-PARTY
35 LIABILITY, PATERNITY, AND OTHER MEDICAL SUPPORT.] (a) To be
36 eligible for MinnesotaCare, individuals and families must

1 cooperate with the state agency to identify potentially liable
2 third-party payers and assist the state in obtaining third-party
3 payments. "Cooperation" includes, but is not limited
4 to, complying with the notice requirements in section 256B.056,
5 subdivision 9, identifying any third party who may be liable for
6 care and services provided under MinnesotaCare to the enrollee,
7 providing relevant information to assist the state in pursuing a
8 potentially liable third party, and completing forms necessary
9 to recover third-party payments.

10 (b) A parent, guardian, relative caretaker, or child
11 enrolled in the MinnesotaCare program must cooperate with the
12 Department of Human Services and the local agency in
13 establishing the paternity of an enrolled child and in obtaining
14 medical care support and payments for the child and any other
15 person for whom the person can legally assign rights, in
16 accordance with applicable laws and rules governing the medical
17 assistance program. A child shall not be ineligible for or
18 disenrolled from the MinnesotaCare program solely because the
19 child's parent, relative caretaker, or guardian fails to
20 cooperate in establishing paternity or obtaining medical support.

21 Sec. 17. Minnesota Statutes 2004, section 256L.04, is
22 amended by adding a subdivision to read:

23 Subd. 2a. [APPLICATIONS FOR OTHER BENEFITS.] To be
24 eligible for MinnesotaCare, individuals and families must take
25 all necessary steps to obtain other benefits as described in
26 Code of Federal Regulations, title 42, section 435.608.
27 Applicants and enrollees must apply for other benefits within 30
28 days.

29 [EFFECTIVE DATE.] This section is effective March 1, 2006,
30 or upon HealthMatch implementation, whichever is later.

31 Sec. 18. Minnesota Statutes 2004, section 256L.05,
32 subdivision 3, is amended to read:

33 Subd. 3. [EFFECTIVE DATE OF COVERAGE.] (a) The effective
34 date of coverage is the first day of the month following the
35 month in which eligibility is approved and the first premium
36 payment has been received. As provided in section 256B.057,

1 coverage for newborns is automatic from the date of birth and
2 must be coordinated with other health coverage. The effective
3 date of coverage for eligible newly adoptive children added to a
4 family receiving covered health services is the ~~date-of-entry~~
5 ~~into-the-family~~ month of placement. The effective date of
6 coverage for other new recipients members added to the family
7 ~~receiving-covered-health-services~~ is the first day of the month
8 following the month in which ~~eligibility-is-approved-or-at~~
9 ~~renewal, whichever-the-family-receiving-covered-health-services~~
10 prefers the change is reported. All eligibility criteria must
11 be met by the family at the time the new family member is
12 added. The income of the new family member is included with the
13 family's gross income and the adjusted premium begins in the
14 month the new family member is added.

15 (b) The initial premium must be received by the last
16 working day of the month for coverage to begin the first day of
17 the following month.

18 (c) Benefits are not available until the day following
19 discharge if an enrollee is hospitalized on the first day of
20 coverage.

21 (d) Notwithstanding any other law to the contrary, benefits
22 under sections 256L.01 to 256L.18 are secondary to a plan of
23 insurance or benefit program under which an eligible person may
24 have coverage and the commissioner shall use cost avoidance
25 techniques to ensure coordination of any other health coverage
26 for eligible persons. The commissioner shall identify eligible
27 persons who may have coverage or benefits under other plans of
28 insurance or who become eligible for medical assistance.

29 [EFFECTIVE DATE.] This section is effective March 1, 2006,
30 or upon HealthMatch implementation, whichever is later.

31 Sec. 19. Minnesota Statutes 2004, section 256L.05,
32 subdivision 3a, is amended to read:

33 Subd. 3a. [RENEWAL OF ELIGIBILITY.] (a) Beginning January
34 1, 1999, an enrollee's eligibility must be renewed every 12
35 months. The 12-month period begins in the month after the month
36 the application is approved.

1 (b) Beginning October 1, 2004, an enrollee's eligibility
2 must be renewed every six months. The first six-month period of
3 eligibility begins ~~in-the-month-after~~ the month the application
4 is ~~approved~~ received by the commissioner. The effective date of
5 coverage within the first six-month period of eligibility is as
6 provided in subdivision 3. Each new period of eligibility must
7 take into account any changes in circumstances that impact
8 eligibility and premium amount. An enrollee must provide all
9 the information needed to redetermine eligibility by the first
10 day of the month that ends the eligibility period. The premium
11 for the new period of eligibility must be received as provided
12 in section 256L.06 in order for eligibility to continue.

13 [EFFECTIVE DATE.] This section is effective March 1, 2006,
14 or upon HealthMatch implementation, whichever is later.

15 Sec. 20. Minnesota Statutes 2004, section 256L.07,
16 subdivision 1, is amended to read:

17 Subdivision 1. [GENERAL REQUIREMENTS.] (a) Children
18 enrolled in the original children's health plan as of September
19 30, 1992, children who enrolled in the MinnesotaCare program
20 after September 30, 1992, pursuant to Laws 1992, chapter 549,
21 article 4, section 17, and children who have family gross
22 incomes that are equal to or less than 150 percent of the
23 federal poverty guidelines are eligible without meeting the
24 requirements of subdivision 2 and the four-month requirement in
25 subdivision 3, as long as they maintain continuous coverage in
26 the MinnesotaCare program or medical assistance. Children who
27 apply for MinnesotaCare on or after the implementation date of
28 the employer-subsidized health coverage program, as described in
29 Laws 1998, chapter 407, article 5, section 45, who have family
30 gross incomes that are equal to or less than 150 percent of the
31 federal poverty guidelines, must meet the requirements of
32 subdivision 2 to be eligible for MinnesotaCare.

33 (b) Families enrolled in MinnesotaCare under section
34 256L.04, subdivision 1, whose income increases above 275 percent
35 of the federal poverty guidelines, are no longer eligible for
36 the program and shall be disenrolled by the commissioner.

1 Individuals enrolled in MinnesotaCare under section 256L.04,
2 subdivision 7, whose income increases above 175 percent of the
3 federal poverty guidelines are no longer eligible for the
4 program and shall be disenrolled by the commissioner. For
5 persons disenrolled under this subdivision, MinnesotaCare
6 coverage terminates the last day of the calendar month following
7 the month in which the commissioner determines that the income
8 of a family or individual exceeds program income limits.

9 (c)(1) Notwithstanding paragraph (b), families enrolled in
10 MinnesotaCare under section 256L.04, subdivision 1, may remain
11 enrolled in MinnesotaCare if ten percent of their annual income
12 is less than the annual premium for a policy with a \$500
13 deductible available through the Minnesota Comprehensive Health
14 Association. Families who are no longer eligible for
15 MinnesotaCare under this subdivision shall be given an 18-month
16 notice period from the date that ineligibility is determined
17 before disenrollment. This clause expires February 1, 2004.

18 (2) Effective February 1, 2004, notwithstanding paragraph
19 (b), children may remain enrolled in MinnesotaCare if ten
20 percent of their ~~annual~~ gross individual or gross family income
21 as defined in section 256L.01, subdivision 4, is less than the
22 ~~annual~~ premium for a six-month policy with a \$500 deductible
23 available through the Minnesota Comprehensive Health
24 Association. Children who are no longer eligible for
25 MinnesotaCare under this clause shall be given a 12-month notice
26 period from the date that ineligibility is determined before
27 disenrollment. The premium for children remaining eligible
28 under this clause shall be the maximum premium determined under
29 section 256L.15, subdivision 2, paragraph (b).

30 (d) Effective July 1, 2003, notwithstanding paragraphs (b)
31 and (c), parents are no longer eligible for MinnesotaCare if
32 gross household income exceeds ~~\$50,000~~ \$25,000 for the six-month
33 period of eligibility.

34 [EFFECTIVE DATE.] This section is effective March 1, 2006,
35 or upon HealthMatch implementation, whichever is later.

36 Sec. 21. Minnesota Statutes 2004, section 256L.07,

1 subdivision 3, is amended to read:

2 Subd. 3. [OTHER HEALTH COVERAGE.] (a) Families and
3 individuals enrolled in the MinnesotaCare program must have no
4 health coverage while enrolled or for at least four months prior
5 to application and renewal. Children enrolled in the original
6 children's health plan and children in families with income
7 equal to or less than 150 percent of the federal poverty
8 guidelines, who have other health insurance, are eligible if the
9 coverage:

10 (1) lacks two or more of the following:

11 (i) basic hospital insurance;

12 (ii) medical-surgical insurance;

13 (iii) prescription drug coverage;

14 (iv) dental coverage; or

15 (v) vision coverage;

16 (2) requires a deductible of \$100 or more per person per
17 year; or

18 (3) lacks coverage because the child has exceeded the
19 maximum coverage for a particular diagnosis or the policy
20 excludes a particular diagnosis.

21 The commissioner may change this eligibility criterion for
22 sliding scale premiums in order to remain within the limits of
23 available appropriations. The requirement of no health coverage
24 does not apply to newborns.

25 (b) Medical assistance, general assistance medical care,
26 and the Civilian Health and Medical Program of the Uniformed
27 Service, CHAMPUS, or other coverage provided under United States
28 Code, title 10, subtitle A, part II, chapter 55, are not
29 considered insurance or health coverage for purposes of the
30 four-month requirement described in this subdivision.

31 (c) For purposes of this subdivision, Medicare Part A or B
32 coverage under title XVIII of the Social Security Act, United
33 States Code, title 42, sections 1395c to 1395w-4, is considered
34 health coverage. An applicant or enrollee may not refuse
35 Medicare coverage to establish eligibility for MinnesotaCare.

36 (d) Applicants who were recipients of medical assistance or

1 general assistance medical care within one month of application
2 must meet the provisions of this subdivision and subdivision 2.

3 ~~(e) Effective-October-17-2003, applicants who were~~
4 ~~recipients of medical assistance and had~~ Cost-effective health
5 insurance ~~which that~~ was paid for by medical assistance are
6 ~~exempt from~~ is not considered health coverage for purposes of
7 the four-month requirement under this section, except if the
8 insurance continued after medical assistance no longer
9 considered it cost-effective or after medical assistance closed.

10 Sec. 22. Minnesota Statutes 2004, section 256L.07, is
11 amended by adding a subdivision to read:

12 Subd. 5. [VOLUNTARY DISENROLLMENT FOR MEMBERS OF
13 MILITARY.] Notwithstanding section 256L.05, subdivision 3b,
14 MinnesotaCare enrollees who are members of the military and
15 their families, who choose to voluntarily disenroll from the
16 program when one or more family members are called to active
17 duty, may reenroll during or following that member's tour of
18 active duty. Those individuals and families shall be considered
19 to have good cause for voluntary termination under section
20 256L.06, subdivision 3, paragraph (d). Income and asset
21 increases reported at the time of reenrollment shall be
22 disregarded. All provisions of sections 256L.01 to 256L.18,
23 shall apply to individuals and families enrolled under this
24 subdivision upon six-month renewal.

25 [EFFECTIVE DATE.] This section is effective July 1, 2005.

26 Sec. 23. Minnesota Statutes 2004, section 256L.15,
27 subdivision 2, is amended to read:

28 Subd. 2. [SLIDING FEE SCALE TO DETERMINE PERCENTAGE OF
29 MONTHLY GROSS INDIVIDUAL OR FAMILY INCOME.] (a) The commissioner
30 shall establish a sliding fee scale to determine the percentage
31 of monthly gross individual or family income that households at
32 different income levels must pay to obtain coverage through the
33 MinnesotaCare program. The sliding fee scale must be based on
34 the enrollee's monthly gross individual or family income. The
35 sliding fee scale must contain separate tables based on
36 enrollment of one, two, or three or more persons. The sliding

1 fee scale begins with a premium of 1.5 percent of monthly gross
2 individual or family income for individuals or families with
3 incomes below the limits for the medical assistance program for
4 families and children in effect on January 1, 1999, and proceeds
5 through the following evenly spaced steps: 1.8, 2.3, 3.1, 3.8,
6 4.8, 5.9, 7.4, and 8.8 percent. These percentages are matched
7 to evenly spaced income steps ranging from the medical
8 assistance income limit for families and children in effect on
9 January 1, 1999, to 275 percent of the federal poverty
10 guidelines for the applicable family size, up to a family size
11 of five. The sliding fee scale for a family of five must be
12 used for families of more than five. Effective October 1, 2003,
13 the commissioner shall increase each percentage by 0.5
14 percentage points for enrollees with income greater than 100
15 percent but not exceeding 200 percent of the federal poverty
16 guidelines and shall increase each percentage by 1.0 percentage
17 points for families and children with incomes greater than 200
18 percent of the federal poverty guidelines. The sliding fee
19 scale and percentages are not subject to the provisions of
20 chapter 14. If a family or individual reports increased income
21 after enrollment, premiums shall not be adjusted until
22 eligibility renewal.

23 (b)(1) Enrolled families whose gross annual income
24 increases above 275 percent of the federal poverty guideline
25 shall pay the maximum premium. This clause expires effective
26 February 1, 2004.

27 (2) Effective February 1, 2004, children in families whose
28 gross income is above 275 percent of the federal poverty
29 guidelines shall pay the maximum premium.

30 (3) The maximum premium is defined as a base charge for
31 one, two, or three or more enrollees so that if all
32 MinnesotaCare cases paid the maximum premium, the total revenue
33 would equal the total cost of MinnesotaCare medical coverage and
34 administration. In this calculation, administrative costs shall
35 be assumed to equal ten percent of the total. The costs of
36 medical coverage for pregnant women and children under age two

1 and the enrollees in these groups shall be excluded from the
2 total. The maximum premium for two enrollees shall be twice the
3 maximum premium for one, and the maximum premium for three or
4 more enrollees shall be three times the maximum premium for one.

5 [EFFECTIVE DATE.] This section is effective March 1, 2006,
6 or upon implementation of HealthMatch, whichever is later.

7 Sec. 24. Minnesota Statutes 2004, section 256L.15,
8 subdivision 3, is amended to read:

9 Subd. 3. [EXCEPTIONS TO SLIDING SCALE.] An-annual-premium
10 of-\$48-is-required-for-all Children in families with income at
11 or less-than below 150 percent of the federal poverty guidelines
12 pay a monthly premium of \$4.

13 [EFFECTIVE DATE.] This section is effective March 1, 2006,
14 or upon implementation of HealthMatch, whichever is later.

15 Sec. 25. Minnesota Statutes 2004, section 549.02, is
16 amended by adding a subdivision to read:

17 Subd. 3. [LIMITATION.] Notwithstanding subdivisions 1 and
18 2, where the state agency is named or intervenes as a party to
19 enforce the agency's rights under section 256B.056, the agency
20 shall not be liable for costs to any prevailing defendant.

21 Sec. 26. Minnesota Statutes 2004, section 549.04, is
22 amended to read:

23 549.04 [DISBURSEMENTS; TAXATION AND ALLOWANCE.]

24 Subdivision 1. [GENERALLY.] In every action in a district
25 court, the prevailing party, including any public employee who
26 prevails in an action for wrongfully denied or withheld
27 employment benefits or rights, shall be allowed reasonable
28 disbursements paid or incurred, including fees and mileage paid
29 for service of process by the sheriff or by a private person.

30 Subd. 2. [LIMITATION.] Notwithstanding subdivision 1,
31 where the state agency is named or intervenes as a party to
32 enforce the agency's rights under section 256B.056, the agency
33 shall not be liable for disbursements to any prevailing
34 defendant.

35 Sec. 27. [PLANNING PROCESS FOR MANAGED CARE.]

36 The commissioner of human services shall develop a planning

1 process for the purposes of implementing at least one additional
2 managed care arrangement to provide medical assistance services,
3 excluding continuing care services, to recipients enrolled in
4 the medical assistance fee-for-service program, effective
5 January 1, 2007. This planning process shall include an
6 advisory committee composed of current fee-for-service
7 consumers, consumer advocates, and providers, as well as
8 representatives of health plans and other provider organizations
9 qualified to provide basic health care services to persons with
10 disabilities. The department shall seek any additional federal
11 authority necessary to provide basic health care services
12 through contracted managed care arrangements.

13 Sec. 28. [CLINICAL TRIAL WORK GROUP; REPORT.]

14 The commissioners of health and commerce shall, in
15 consultation with the commissioner of employee relations,
16 convene a work group regarding health plan coverage of routine
17 care associated with clinical trials. The work group must
18 explore what high-quality clinical trials beyond cancer-only
19 clinical trials should be covered by health plans. All other
20 types of clinical trials, disease-based or technology-based such
21 as drug trials or device trials should be considered. The work
22 group shall use the current, cancer-only model voluntary
23 agreement that includes definitions of high-quality clinical
24 trials, protocol induced costs, and routine care costs as a
25 starting point for discussions. As determined appropriate, the
26 work group shall establish model voluntary agreement guidelines
27 for health plan coverage of routine patient care costs incurred
28 by patients participating in high quality clinical trials. The
29 work group shall be made up of representatives of consumers,
30 patient advocates, health plan companies, fully insured and
31 self-insured purchasers, providers, and other health care
32 professionals involved in the care and treatment of patients.
33 The commissioners shall submit the findings and recommendations
34 of the work group to the chairs of the senate and house
35 committees having jurisdiction over health policy and finance by
36 January 15, 2006.

1 Sec. 29. [CONSUMER-DIRECTED COMMUNITY SUPPORTS
2 METHODOLOGY.]

3 For persons using the home and community-based waiver for
4 persons with developmental disabilities whose Consumer-Directed
5 Community Supports budgets were reduced by the October 2004,
6 state-set budget methodology, the commissioner of human services
7 must allow exceptions to exceed the state-set budget formula up
8 to the amount being spent by the person as of September 30,
9 2004, when the individual's county of financial responsibility
10 determines that:

11 (1) necessary alternative services will cost the same or
12 more than the person's current budget; and

13 (2) administrative expenses or provider rates will result
14 in less hours of needed staffing for the person than under the
15 Consumer-Directed Community Supports option. Any exceptions the
16 county grants must be within the county's allowable aggregate
17 amount for the home and community-based waiver for persons with
18 developmental disabilities.

19 Sec. 30. [COSTS ASSOCIATED WITH PHYSICAL ACTIVITIES.]

20 The expenses allowed for adults under the Consumer-Directed
21 Community Supports option shall include costs, including
22 transportation, associated with physical exercise or other
23 physical activities to maintain or improve the person's health
24 and functioning.

25 Sec. 31. [WAIVER AMENDMENT.]

26 The commissioner of human services shall submit an
27 amendment to the Centers for Medicare and Medicaid Services
28 consistent with sections 29 and 30 by August 1, 2005.

29 Sec. 32. [INDEPENDENT EVALUATION AND REVIEW OF UNALLOWABLE
30 ITEMS.]

31 The commissioner of human services shall include in the
32 independent evaluation of the Consumer-Directed Community
33 Supports option provided through the home and community-based
34 services waivers for persons with disabilities under 65 years of
35 age:

36 (1) provision for ongoing, regular participation by

1 stakeholder representatives through June 30, 2007;

2 (2) recommendations on whether changes to the unallowable
3 items should be made to meet the health, safety, or welfare
4 needs of participants in the Consumer-Directed Community
5 Supports option within the allowed budget amounts. The
6 recommendations on allowable items shall be provided to the
7 senate and house of representatives committees with jurisdiction
8 over human services policy and finance issues by January 15,
9 2006; and

10 (3) a review of the statewide caseload changes for the
11 disability waiver programs for persons under 65 years of age
12 that occurred since the state-set budget methodology
13 implementation on October 1, 2004, and recommendations on the
14 fiscal impact of the budget methodology on use of the
15 Consumer-Directed Community Supports option.

16 Sec. 33. [EFFECTIVE DATE.]

17 Sections 29 and 30 are effective upon federal approval of
18 the waiver amendment in section 31. Sections 31 and 32 are
19 effective the day following final enactment.

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate
State of Minnesota

**S.F. No. 1837 - DHS Health Care Policy Amendments
(First Engrossment)**

Author: Senator Becky Lourey

Prepared by: Katie Cavanor, Senate Counsel (651/296-3801)
David Giel, Senate Research (651/296-7178)



Date: April 18, 2005

S.F. No. 1837 makes a variety of amendments affecting Department of Human Services (DHS) health care programs.

Section 1 (256.045, subdivision 3a) eliminates the requirement that a prepaid health plan notify the ombudsman within three days of a complaint being filed.

Section 2 (256B.02, subdivision 12) clarifies that a third-party payer includes an entity under contract with the recipient to cover all or part of the recipient's medical costs.

Section 3 (256B.056, subdivision 3d) enacts into law a former rule that governed allowable methods for Medical Assistance (MA) applicants and recipients to reduce excess assets. The rule was inadvertently repealed in 2002.

Section 4 (256B.056, subdivision 5) permits recipients to pay spenddown payments to DHS through the last business day of the month.

Section 5 (256B.056, subdivision 5a) clarifies that individuals on fixed or excluded income must report and verify their income every 12 months, which begins with the month of application.

Section 6 (256B.056, subdivision 5b) clarifies that individuals with low, fluctuating income must report and verify their income every six months with the six-month eligibility period beginning the month of application.

Section 7 (256B.065, subdivision 7) separates the eligibility for the MA retroactive period from the prospective renewal period and clarifies that the 12-month period of eligibility begins with the month of application.

Section 8 (256B.056, subdivision 9) restates language from an existing statute that requires various parties (MA applicants and recipients, providers of medical services, parties to certain claims) to provide notice to DHS about monetary claims against third-parties when DHS may be entitled to the claim to reimburse DHS for medical costs paid by the state. The language is being restated because other portions of the existing statute have been struck down by the courts.

Section 9 (256B.057, subdivision 1) reinstates the language restoring the MA income standard of 275 percent of the federal poverty guidelines (FPG) and the special work expense deduction for pregnant women and infants. (Restoring this language would make it consistent with implementation.)

Section 10 (256B.0644) excludes dentists from Rule 101 requirements, which requires providers to accept a certain percentage of public assistance patients in order to be able to serve state employees.

Section 11 (256D.045) permits an exemption to the requirement that an applicant provide a Social Security number if the applicant has a well-established religious objection as described in federal law.

Section 12 (256L.04, subdivision 4) aligns the income calculation in the MinnesotaCare program to the six-month eligibility period, which went into effect last year.

Section 13 (256L.01, subdivision 5) permits the commissioner some flexibility to establish reasonable methods for calculating gross earned and unearned income for MinnesotaCare. This would supercede the rule, which prescribes only one method of calculation.

Section 14 (256L.03, subdivision 1b) aligns MinnesotaCare and MA policy regarding when eligibility for benefits as a pregnant woman begins. MinnesotaCare benefits are to begin at the date of conception instead of the date the pregnancy was diagnosed.

Section 15 (256L.04, subdivision 1a) codifies the MinnesotaCare program's Social Security number rule requirements and establishes exceptions for newborns with automatic eligibility, individuals who have applied for and are awaiting issuance of a Social Security number, or for individuals who have a well-established religious objection.

Section 16 (256L.04, subdivision 2) requires enrollees to give notice to DHS in order to allow DHS to assert and recover its claim to medical payments from liable third parties as required by state and federal law.

Section 17 (256L.04, subdivision 2a) requires enrollees to take all necessary steps to obtain other benefits described in federal regulations and requires that the enrollee apply for these benefits within 30 days of application.

Section 18 (256L.05, subdivision 3) states that the effective date of coverage for adding new members to a family is the first day of the month following the month the change is reported, and for newly adopted children the effective date is the month of placement.

Section 19 (256L.05, subdivision 3a) clarifies that the six-month renewal period begins the month the renewal application is received by the commissioner.

Section 20 (256L.07, subdivision 1) aligns the income calculation and premium comparison for purposes of determining a child's continued coverage under the Minnesota Comprehensive Health Association exception with the six-month income projection and six-month renewals.

This section also changes the income limit for parents from \$50,000 annual income to \$25,000 six-month projection of income.

Section 21 (256L.07, subdivision 3) clarifies that cost effective insurance paid for by MA is not considered other health coverage for purposes of the four-month "no insurance" barrier, but if the insurance continued after it was no longer considered cost effective or after MA was closed, it would be considered and the four-month barrier would apply.

Section 22 (256L.07, subdivision 5) permits active duty military members and their dependents to voluntarily disenroll from MinnesotaCare and reenroll during or following the member's tour of active duty. Upon reenrollment, income and assets increases reported shall be disregarded until the next six-month renewal.

Section 23 (256L.15, subdivision 2) clarifies that the sliding fee scale references to income refer to monthly income and not annual or six-month income figures.

Section 24 (256L.15, subdivision 3) specifies that children in families with income below 150 percent of FPG pay a monthly premium of \$4.

Section 25 (549.02, subdivision 3) excludes DHS, in cases where DHS is seeking third-party recovery, from the statute requiring the plaintiff in district court to pay certain amounts stated in law to a defendant if the defendant prevails.

Section 26 (549.04) excludes DHS, in cases where DHS is seeking third-party recovery, from the statute requiring the plaintiff in district court to reimburse certain expenses of a defendant if the defendant prevails.

Section 27 requires DHS to develop a planning process to implement at least one additional managed care arrangement to provide MA services to persons with disabilities.

Section 28 requires the Commissioners of Health and Commerce to convene a work group to look at health plan coverage of routine care associated with clinical trials and submit the findings and recommendations to the chairs of the relevant Senate and House committees by January 15, 2006.

Section 29 requires DHS to allow Consumer-Directed Community Supports (CDCS) budget exceptions for persons whose CDCS grants were reduced by the new budget methodology. The exceptions cannot allow the grant to go beyond the amount used by the person as of September 2004. Exceptions are allowed only when the county of financial responsibility determines that (1) necessary alternative services will cost the same or more than the person's current budget, and (2) administrative expenses or provider rates will result in less hours of staffing for the person than under the CDCS option. Any exceptions must be within the county's allowable aggregate allocation for the DD waiver.

Section 30 requires the CDCS option to include, for adults, costs associated with physical exercise or other physical activities to maintain or improve health and functioning.

Section 31 requires DHS to submit a waiver amendment to the federal government by August 1, 2005, to implement **sections 29 and 30**.

Section 32 requires DHS to include the following components in an independent evaluation of CDCS:

- (1) provision for ongoing, regular participation by stakeholders;
- (2) recommendations on whether changes to the list of unallowable items should be made to meet the health, safety, or welfare needs of CDCS participants within the allowed budget amounts; and
- (3) a review of caseload changes after adoption of the new budget methodology and recommendations regarding the fiscal impact of the methodology on use of the CDCS option.

Section 33 is an effective date.

KC:DG:ph

Fiscal Note Request Worksheet

SF1837-1E

Bill #: ~~HF1873-1E~~ Title: DHS Health Care Policy Bill
 Companion #: SH1837 Author: ~~Ross~~ Lourey Agency: Human Services
 Urgent: Due Date: Committee:
 Consolidated: Lead Agency: Contact Person: Char Sadlak 651/296-5599

What version of the bill are you working on? 1-E
 (Changing the version of the bill will automatically create a new fiscal note request.)

(The following four fiscal impact questions must be answered before an agency can sign off on a fiscal note.)

Fiscal Impact	Yes	No
State (Does this bill have a fiscal impact to your Agency?)		X
Local (Does this bill have a fiscal impact to a Local Gov Body?)		X
Fee/Dept Earnings (Does this bill impact a Fee or Dept Earning?)		X
Tax Revenue (Does this bill impact Tax Revenues?)		X

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Fund					
Fund					
Fund					
Less Agency Can Absorb					
Fund					
Fund					
Fund					
Net Expenditures					
Fund					
Fund					
Fund					
Revenues					
Fund					
Fund					
Fund					
Net Cost <Savings>					
Fund					
Fund					
Fund					
Total Cost <Savings> to the State	0	0	0	0	0

	FY05	FY06	FY07	FY08	FY09
Full-Time Equivalents					
Fund					
Fund					
Fund					
Total FTE					

Bill Description

This bill makes policy changes related to public health care programs. These changes include reinstating the higher income limit and special work expense deduction for pregnant women under MA, exempting dental providers from the state health care program participation requirement, and facilitating MinnesotaCare reenrollment for members of the military. The bill also makes changes related to HealthMatch, the new automated eligibility system, and increases consistency between MA and MinnesotaCare.

ASSUMPTIONS

Section 1 Prepaid health plan appeals. Eliminates the requirement that a prepaid health plan, when a recipient complaint is filed, notify the ombudsman within three working days. (Amends § 256.045, subd. 3a.)

FISCAL ASSUMPTIONS

This change will have no fiscal impact on the department. No action was taken as a result of this notification. The same information is provided to the department on a regular basis by the prepaid health plans.

Sections 2, 8, 16, 25 & 26 Third-party payer. These amendments: clarify the definition of third-party payer to include benefits provided by contract to pay recipient's medical care; provide notice, to allow the department to recover medical expenses from a liable third party when a recipient is injured, and; exclude the department from liability cost or disbursements that may be awarded to a prevailing defendant. (Amends §256B.02, Subd. 12; §256B.056, §256L.04, Subd. 2; §549.02 and §549.04)

FISCAL ASSUMPTIONS

These changes have no fiscal impact on the department. It is not possible to predict when such recoveries are made, nor how much will be recovered. Any amount recovered goes to the general fund and not to the department.

Section 3 Reduction of excess assets. Restores language, inadvertently repealed in Rule, detailing the allowable methods to reduce assets to achieve MA eligibility in the retroactive period and month of application. (Amends §256B.056)

FISCAL ASSUMPTIONS

This change has no fiscal impact on the department.

Section 4 Client option spenddown timing requirements. Extending the due date for MA client option spend down payments to noon on the last business day of the month. (Amends §256B.056, subd.5)

FISCAL ASSUMPTIONS

This proposal is for purposes of improved customer service. This proposal would not change eligibility or the amount of coverage provided to enrollees who participate in client option spenddown.

Fewer client option spenddown enrollees would go to a "potluck" spenddown each month.

Staff who record spenddown payments may see a slight increase in the number of payments, as more enrollees are able to pay more consistently given the additional time. Conversely, they may receive fewer phone calls, complaints, inquiries, as fewer enrollees fall out of the client option.

Sections 5,6,7, 9 & 19 Align Eligibility Periods and Renewal Dates for MinnesotaCare and MA. Aligns the eligibility periods and renewal due dates for 6-month and annual renewals for MinnesotaCare and MA by beginning the eligibility periods and scheduling renewals from the month of application for both programs. To facilitate use of a consistent renewal date for MA, it also sets a separate eligibility period for retroactive MA. (Amends §256B.056, subd. 5a; 5b; 7; §256L.05, subd.3a.)

FISCAL ASSUMPTIONS

These changes are budget neutral to the department.

Improves accuracy and program integrity by updating information on a regular 6 month schedule for all household members

Families with parents enrolled in MinnesotaCare and children enrolled in MA will get one renewal form for both programs instead of two and will be more likely to maintain continuous coverage for all family members.

Slightly reduced printing and postage costs.

Changing the retroactive budget period in MA to align renewals impacts a very small portion of applicants.

Impacts only applicants (not enrollees) with incomes exceeding the MA income standard who have to spenddown

Impacts only applicants (not enrollees) requesting retroactive coverage.

Does not impact applicants electing a one month spenddown (approx. 98% of spenddown enrollees) or people in nursing facilities.

The approx. 2% of applicants with spenddown will likely experience a smaller spenddown amount for the retro period and a longer period of coverage without additional paperwork for the six month period beginning with the

month of application. If ongoing coverage is requested, a new spenddown must be met beginning in the month of application.

The limited impacts of changes to retroactive budget periods are easily mitigated by choosing a one month spenddown or applying for MA as soon as possible after medical bills are incurred.

Individuals who have income consistently within the standards (have relatively stable income that is consistently below the income standard) will not be affected by this change.

Sections 10 Clarifies that managed care enrollment exemptions apply only to non-Medicare private health plans found to be cost effective. (Amends § 256B.69, subd.4 (9).)

FISCAL ASSUMPTIONS

This change has no fiscal impact on the department.

Sections 11& 15 Establishing Social Security number exceptions for GAMC and state funded MinnesotaCare. (Amends §256D.045) Codifying the MinnesotaCare Social Security number requirement for all household members applying or required to enroll as household members, with specified exceptions. (Amends §256L.04)

FISCAL ASSUMPTIONS

This proposal would not have a fiscal impact because issues regarding Social Security numbers occur very infrequently.

When originally proposed in 2004, reports indicated fewer than 5 active MCRE cases that included one or more members whose eligibility was delayed, denied, or cancelled due to failure to provide a Social Security number.

Individuals who are prevented from coverage due to the absence of a Social Security number almost always have additional denial reasons

Section 13 MinnesotaCare Income Definition. Allowing the commissioner to establish reasonable methods to calculate gross earned and unearned income for MinnesotaCare; (Amends §256L.01, subd. 5)

FISCAL ASSUMPTIONS

This change has no fiscal impact. The Department is focused on improving the accuracy of income determinations. A variety of resources are available to establish income potential and flexibility is necessary to develop and evaluate verification policies and procedures that assure an accurate estimate of future earned and unearned.

Section 14 MinnesotaCare eligibility for pregnant women & children. This proposal aligns MinnesotaCare and MA policy regarding eligibility for pregnancy benefits. (Amends §256L.03, subd. 1b)

FISCAL ASSUMPTIONS

This proposal would have a nominal fiscal impact, as very few pregnant women will be enrolled in MinnesotaCare following HealthMatch implementation. Given identical MA and MinnesotaCare income standards for pregnant women, HealthMatch will enroll pregnant women in MA as it will be the program with the lowest cost for the enrollee. Pregnant women who remain in MinnesotaCare will include only those who choose to pay a premium.

Section 17 Applications for other benefits. Requiring state-funded MinnesotaCare applicants to apply for other benefits for which they might be entitled; (Amends §256L.04)

FISCAL ASSUMPTIONS

It's seldom necessary to apply this provision. People generally seek out all sources of income available to them.

Some MCRE enrollees may begin to collect monetary benefits which could have an impact on their premium or eligibility.

Some MCRE enrollees may lose coverage due to noncompliance.

Some MCRE enrollees may convert to MA due to eventual receipt of SSI.

Section 18 Effective date of coverage. Requires that new household members be counted in the MinnesotaCare household the first day of the month after the month the change is reported. (Amends 256L.05, subd. 3) MinnesotaCare coverage for adopted children begins the month of placement or the month reported, whichever is later. (Amends §256L.05, subd. 3)

FISCAL ASSUMPTIONS

New household members: Given the variables, there is no way to calculate the number of people who would benefit from this change vs. people who would not. Therefore, the assumption is that they would be equal.

Household size, income, and number of covered members drive whether a new individual added to a household results in a higher premium, lower premium, ineligibility, or better benefits.

New member w/ income & Covered	Premium may increase due to income level Premium may decrease due to larger household size Premium may/may not increase due to add'l member covered
New member with no income & Covered	Premium may decrease due to larger household size (if fewer than 5 originally) Premium may increase (if fewer than 3 covered originally)
New member w/ income & Not Covered	Premium may increase due to income level Premium may decrease due to larger household size (depends on how much income the new member brings to the household)
New member w/income & Covered	Premium may increase due to income level (depends on how much income the new member brings to the household) Premium may decrease due to larger household size Premium may increase due to new covered member (if fewer than 3 covered originally)

Adopted children: This is basically language clean up. MMIS does not distinguish adopted children apart from other children, so it is not possible to identify how many adopted children are enrolled in MinnesotaCare. It appears that workers are seldom asked to add an adopted child to an existing household, so we believe this is extremely rare. We are not aware of any case where retroactive coverage was requested for an adopted child.

Sections 12, 20 & 23 MinnesotaCare 6 Month Income Projections. Changes the income calculation from a projection of annual income to a projection of the income a household expects to receive in the next 6 calendar months. (Amends §256L.01, subd.4, §256L.07, subd. 1; §256L.15, subd. 2 and 3)

FISCAL ASSUMPTIONS

This proposal would have no effect on MinnesotaCare households with steady, year-round wage or self-employment/farm income.

Households with sporadic or seasonal income may have a higher premium or be ineligible during the work season, and may have a lower premium, or qualify for MA or GAMC during the off-season (which is also possible under current policy) The extent of the variance will depend on when renewals are scheduled (a budget period may include some work months and some non-work months or may include all work months/all non-work months), whether individuals receive unemployment compensation, the length and regularity of the work seasons, etc... Given the variables, a six month budget period in MinnesotaCare would not systematically increase or decrease countable income program-wide, although it would affect eligibility for individual cases differently.

Section 22 Voluntary disenrollment for members of military. This proposal provides that insurance barriers related to voluntary disenrollment in MinnesotaCare do not apply to enrollees and their families when a family member is called to active duty, and income and asset increases reported at the time of reenrollment shall be disregarded. (Amends §256L.07)

FISCAL ASSUMPTIONS

This proposal would have a nominal fiscal impact for the following reasons:

This change would facilitate disenrollment and authorize temporary reenrollment under special terms;

The number of MCRE enrollees who are or could be called to active service is likely very small. Currently, fewer than 100 enrollees appear to be on active service or related to an active service member. (We estimate this number based on enrollees who report Tricare coverage.);

The language is permissive. It is impossible to predict how many of the small pool of active service members would opt to disenroll and reenroll.

Section 27 Planning process for managed care. Requires the commissioner of human services to develop a planning process to implement at least one additional managed care arrangement to provide services (excluding continuing care services) to MA fee-for-service enrollees, effective January 1, 2007. Specifies membership of an advisory committee and requires the department to seek any additional federal authority necessary to provide basic health care services through contracted managed care arrangements.

FISCAL ASSUMPTIONS

The development of the planning process will not have a fiscal impact on the department.

Section 28 Clinical trial work group report. Requires the commissioners of health and commerce to convene a work group regarding health plan coverage of routine care associated with clinical trials.

FISCAL ASSUMPTIONS

This section has no fiscal impact on the department.

Sections 29, 30, 31, 32, and 33. Consumer-directed community supports.

FISCAL ASSUMPTIONS

The language of these sections was the result of a compromise worked out with advocacy groups. The work required, of the department, is within the scope of ongoing activities and therefore is budget neutral.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

I have reviewed the content of this fiscal note and believe it is a reasonable estimate of the expenditures and revenues associated with this proposed legislation.

Fiscal Note Coordinator Signature: _____ Date: _____

1 A bill for an act

2 relating to human services; specifying criteria for
3 coverage of medical assistance special transportation
4 services; increasing special transportation
5 reimbursement rates; extending the prohibition on the
6 use of brokers or coordinators to manage special
7 transportation services; requiring a review of special
8 transportation services; amending Minnesota Statutes
9 2004, section 256B.0625, subdivision 17; Laws 2003,
10 First Special Session chapter 14, article 12, section
11 93.

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

13 Section 1. Minnesota Statutes 2004, section 256B.0625,
14 subdivision 17, is amended to read:

15 Subd. 17. [TRANSPORTATION COSTS.] (a) Medical assistance
16 covers transportation costs incurred solely for obtaining
17 emergency medical care or transportation costs incurred by
18 eligible persons in obtaining emergency or nonemergency medical
19 care when paid directly to an ambulance company, common carrier,
20 or other recognized providers of transportation services.

21 (b) Medical assistance covers special transportation, as
22 defined in Minnesota Rules, part 9505.0315, subpart 1, item F,
23 if the recipient has a physical or mental impairment that would
24 prohibit the recipient from safely accessing and using a bus,
25 taxi, other commercial transportation, or private automobile.
26 The commissioner may use an order by the recipient's attending
27 physician to certify that the recipient requires special
28 transportation services. Special transportation includes

1 driver-assisted service to eligible individuals.

2 Driver-assisted service includes passenger pickup at and return
3 to the individual's residence or place of business, assistance
4 with admittance of the individual to the medical facility, and
5 assistance in passenger securement or in securing of wheelchairs
6 or stretchers in the vehicle. Special transportation providers
7 must obtain written documentation from the health care service
8 provider who is serving the recipient being transported,
9 identifying the time that the recipient arrived. Special
10 transportation providers may not bill for separate base rates
11 for the continuation of a trip beyond the original destination.
12 Special transportation providers must take recipients to the
13 nearest appropriate health care provider, using the most direct
14 route available. The maximum medical assistance reimbursement
15 rates for special transportation services are:

16 (1) ~~\$18~~ \$18.75 for the base rate and ~~\$1.40~~ \$1.60 per mile
17 for services to eligible persons who need a
18 wheelchair-accessible van;

19 (2) \$12 for the base rate and \$1.35 per mile for services
20 to eligible persons who do not need a wheelchair-accessible van;
21 and

22 (3) ~~\$36~~ \$60 for the base rate and ~~\$1.40~~ \$2.40 per mile, and
23 an attendant rate of \$9 per trip, for services to eligible
24 persons who need a stretcher-accessible vehicle.

25 Sec. 2. Laws 2003, First Special Session chapter 14,
26 article 12, section 93, is amended to read:

27 Sec. 93. [REVIEW OF SPECIAL TRANSPORTATION ELIGIBILITY
28 CRITERIA AND POTENTIAL COST SAVINGS.]

29 The commissioner of human services, in consultation with
30 the commissioner of transportation and special transportation
31 service providers, shall review eligibility criteria for medical
32 assistance special transportation services and shall evaluate
33 whether the level of special transportation services provided
34 should be based on the degree of impairment of the client, as
35 well as the medical diagnosis. The commissioner shall also
36 evaluate methods for reducing the cost of special transportation

1 services, including, but not limited to:

2 (1) requiring providers to maintain a daily log book
3 confirming delivery of clients to medical facilities;

4 (2) requiring providers to implement commercially available
5 computer mapping programs to calculate mileage for purposes of
6 reimbursement;

7 (3) restricting special transportation service from being
8 provided solely for trips to pharmacies;

9 (4) modifying eligibility for special transportation;

10 (5) expanding alternatives to the use of special
11 transportation services;

12 (6) improving the process of certifying persons as eligible
13 for special transportation services; and

14 (7) examining the feasibility and benefits of licensing
15 special transportation providers.

16 The commissioner shall present recommendations for changes
17 in the eligibility criteria and potential cost-savings for
18 special transportation services to the chairs and ranking
19 minority members of the house and senate committees having
20 jurisdiction over health and human services spending by January
21 15, 2004. The commissioner is prohibited from using a broker or
22 coordinator to manage special transportation services until July
23 1, ~~2005~~ 2006, except for the purposes of checking for recipient
24 eligibility, authorizing recipients for appropriate level of
25 transportation, and monitoring provider compliance with
26 Minnesota Statutes, section 256B.0625, subdivision 17. This
27 prohibition does not apply to the purchase or management of
28 common carrier transportation.

29 Sec. 3. [EVALUATION OF SPECIAL TRANSPORTATION SERVICE
30 PROVIDERS.]

31 The commissioner of human services, in consultation with
32 the commissioner of transportation, special transportation
33 service providers, and the broker or coordinator for access
34 transportation service, shall evaluate methods for assuring
35 quality and safety and reducing the cost of special
36 transportation services, including, but not limited to:

1 (1) establishing an independent complaint and dispute
2 resolution process for clients and providers;

3 (2) establishing additional levels of service with
4 corresponding levels of reimbursement; and

5 (3) establishing appropriate safety standards for vehicles
6 and drivers, including standards for vehicle inspections and
7 driver background checks.

8 The commissioner of human services shall present
9 recommendations for changes in eligibility criteria and quality
10 and safety standards, and provide estimates of potential
11 cost-savings, to the chairs and ranking minority members of the
12 house and senate committees having jurisdiction over health and
13 human services spending by February 1, 2006.

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

**S.F. No. 1822 - Medical Assistance Coverage of Special
Transportation (The First Engrossment)**

Author: Senator Linda Higgins

Prepared by: David Giel, Senate Research (296-7178)

Date: April 18, 2005



S.F. No. 1822 increases special transportation reimbursement rates. It extends for an additional year, until July 1, 2006, the prohibition on using a broker or coordinator to manage all aspects of special transportation services. It requires an evaluation of special transportation service providers.

Section 1 (256B.0625, subdivision 17) increases the maximum MA rates for special transportation as follows:

- for persons who need a wheelchair-accessible van, the base rate is increased to \$18.75 from \$18 and the per mile rate is increased to \$1.60 from \$1.40; and
- for persons who need a stretcher-accessible vehicle, the base rate is increased to \$60 from \$36 and the per mile rate is increase to \$2.40 from \$1.40.

Section 2 delays until July 1, 2006, the authority of the Department of Human Services (DHS) to use a broker or coordinator to completely manage special transportation services. Under current law, until July 1, 2005, a coordinator may only be utilized to check recipient eligibility; authorize recipients for appropriate level of service; and monitor provider compliance with the statute authorizing MA coverage of special transportation and establishing provider requirements regarding documentation, billing, and trip routing.

Section 3 requires DHS, in consultation with interested parties, to evaluate methods for assuring special transportation quality and safety and reducing its cost, with a report due by February 1, 2006. A partial list of methods to be evaluated is included.

DG:rdr

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1822-1A **Complete Date:**

Chief Author: HIGGINS, LINDA

Title: MA SP TRANSPORTATION SVCS COVERAGE

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Human Services Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund	0	1,416	1,308	1,308	1,308
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund	0	1,416	1,308	1,308	1,308
Revenues					
General Fund	0	17	0	0	0
Net Cost <Savings>					
General Fund	0	1,399	1,308	1,308	1,308
Total Cost <Savings> to the State	0	1,399	1,308	1,308	1,308

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund	0.00	0.50	0.00	0.00	0.00
Total FTE	0.00	0.50	0.00	0.00	0.00

Preliminary

Narrative: SF 1822-1A

Bill Description

Special Transportation Services (STS) are non-emergency transportation services provided to medical assistance enrollees who are unable to use less expensive forms of transportation such as mileage for gas, bus fare, light rail transit, taxi or sedan transportation because of a physical or mental disability. STS is currently reserved for enrollees who need "station to station" assistance. "Station to station" means that the enrollee requires assistance from the transportation driver from their location in the building of the pick-up (from their bedside, for example) all the way into the office of the healthcare provider they are visiting (to the reception desk inside physician's office, for example).

This amended bill:

- 1) provides for an increase in base rate and mileage for STS wheelchair services from \$18.00 to \$18.75 and from \$1.40 per mile to \$1.60 per mile;
- 2) provides for an increase in base rate and mileage for STS stretcher services from \$36.00 to \$60.00 and from \$1.40 per mile to \$2.40 per mile;
- 3) by changing a sunset date, prevents the department from volume purchasing STS from a private sector contractor for another year (from 7/01/2005 to 7/01/2006);
- 4) provides for a third study of issues related to STS, to be completed by February 1, 2006.

Assumptions

See attached spreadsheet.

Expenditure and/or Revenue Formula

SF 1822-1A
MA Special Transportation
2005 Session

FISCAL SUMMARY
General Fund
(dollars in thousands)

<u>Item</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>
MA Program Costs	1,374	1,308	1,308	1,308
.50 FTE (FY06 only)	42	0	0	0
Total Costs	1,416	1,308	1,308	1,308
Revenue (FFP)	<u>17</u>	<u>0</u>	<u>0</u>	<u>0</u>
Net Cost To State	1,399	1,308	1,308	1,308

SPECIAL TRANSPORTATION CHANGES IN REIMBURSEMENT
on SF1822-1A (04/04)
2005 Session

Increase in Special Transportation Wheelchair Rates.

The bill proposes a .75 cent increase per special transportation wheelchair base rates, and a .20 per mile increase in wheelchair mileage rates. Based on CY 2004 data,

Number of Wheelchair base	206,500
Times .75 per base	154,875

Preliminary

Number of Wheelchair miles 2,863,116
 Times .20 per mile 572,623

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
TOTAL COST OF INCREASE STS WHEELCHAIR--State/Federal	727,498	727,498	727,498	727,498

Increase in Special Transportation Stretcher Rates

The proposed increase in Special Transportation Stretcher rates from 36.00 base to 60.00 base, and a mileage increase from 1.40 per mile to 2.40 per mile. This will increase costs due to both current utilization and an increased utilization based on the higher rate, but also would result in a decrease in the more expensive non-emergency ambulance services. It is anticipated that the larger, more appropriate rate for this type of service will result in a doubling of STS stretcher utilization. A phase-in of 50% is anticipated in FY 2006.

Increase in cost on current stretcher utilization (based on CY 2004 data)

3,400 trips x 24.00	114,466	114,466	114,466	114,466
48,680 miles x 1.00	48,680	48,680	48,680	48,680

Anticipated increase in stretcher utilization

3,400 trips x 60.00	204,000			
48,620 miles x 2.40	116,688			
	320,686	320,686	320,686	320,686
Phase in at 50%	160,343			

Offset in Ambulance Costs

It is anticipated that increases in utilization of special transportation stretcher would result in a decrease of ambulance trips and costs. Based on Calendar Year 2004 data, the average savings per trip would be \$149.20. A phase-in of 50% is anticipated in FY 2006.

3,400 trips x 149.20	(507,280)	(507,280)	(507,280)	(507,280)
Phase in at 50%	(253,640)			

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
TOTAL COST OF INCREASE STS STRETCHER--State/Federal	69,849	(23,448)	(23,448)	(23,448)

Extending the Prohibition Against Using a Broker for STS

The current forecast anticipates savings in FY 2006 by utilizing a broker for STS FFS services in the Metro Twin Cities area from savings due to lower negotiated rates from the broker, closer monitoring of STS mileage claims, and a reduction in trips to non-Medical Assistance covered services. If the prohibition on using the contracted approach for STS services on or after July 1, 2005 prevails, the department predicts a 47% reduction of the savings reflected in the forecast.

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
TOTAL COST OF EXTENDING THE PROHIBITION STS BROKER	1,100,000	1,100,000	1,100,000	1,100,000

Impact on Managed Care

Since the bill does not specifically limit the changes to fee for service clients, the Department anticipates that there will be impact on the Health Plans. An increase in the payment for transportation services would need to be passed on to the managed care plans.

Preliminary

Increase STS Wheelchair--Assume same cost as FFS	727,500	727,500	727,500	727,500
Increase STS Stretcher--Less Offset in Amb. Than in FFS	123,989	84,832	84,832	84,832
483, 832 in additional cost--Phase in for FY 2006				
399,000 per year offset in Amb.--Phase in for FY 2006				
	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
TOTAL COST OF IMPACT ON MANAGED CARE--State/Federal	851,489	812,332	812,332	812,332

BILL RECAP

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
TOTAL COST OF INCREASE STS WHEELCHAIR--State/Federal	727,498	727,498	727,498	727,498
TOTAL COST OF INCREASE STS STRETCHER--State/Federal	69,849	(23,448)	(23,448)	(23,448)
TOTAL COST OF EXTENDING THE PROHIBITION STS BROKER	1,100,000	1,100,000	1,100,000	1,100,000
TOTAL COST OF IMPACT ON MANAGED CARE--State/Federal	851,489	812,332	812,332	812,332
TOTAL COST OF THE BILL--STATE AND FEDERAL	2,748,836	2,616,382	2,616,382	2,616,382
FEDERAL SHARE (50%)	1,374,418	1,308,191	1,308,191	1,308,191
STATE SHARE (50%)	1,374,418	1,308,191	1,308,191	1,308,191

ADMINISTRATIVE COSTS

Study of Special Transportation Providers

The Department would need .5FTE to complete this function. It is anticipated that this would be for half-year only.

Midpoint of 14 level staff	50,000
Half Year	25,000
Benefits times .20	5,000
Estimates for supplies, equipment	12,000

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
TOTAL COST OF STUDYING STS PROVIDERS--State/Federal (.50 FTE)	42,000	0	0	0
TOTAL ADMINISTRATIVE COSTS--State/Federal	42,000	0	0	0

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
TOTAL GENERAL FUND COSTS	1,416,418	1,308,191	1,308,191	1,308,191
FEDERAL ADMIN. REIMBURSEMENT @40%	16,800	0	0	0
NET COST TO STATE	1,399,618	1,308,191	1,308,191	1,308,191

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

Preliminary

Agency Contact Name: John Kowalczyk 297-5611
FN Coord Signature: STEVE BARTA
Date: 04/15/05 Phone: 296-5685