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S.F. No. 4165 – Human Services Reform Policy Omnibus (as amended by the A-2 amendment)

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ARTICLE 1 CHILDREN AND FAMILY SERVICES

Section 1 [145.4716, subdivision 4] requires funds appropriated under Safe Harbor to be used only for authorized activities and prohibits the commissioner from creating additional criteria to access the funds.

Section 2 [256E.35, subdivision 1] adds emergencies to the list of assets that low-income families are incentivized to accrue under the Minnesota family assets for independence initiative.

Section 3 [256E.35, subdivision 2, paragraph (d)] removes the seven-county metropolitan area limitation from the definition of fiduciary organization under the family assets for independence statute and adds federally recognized Tribal nations and nonprofits organizations to the definition.

Paragraph (h) updates the definition of permissible use to include contributions to emergency savings accounts and Minnesota 529 savings plans.

Section 4 [256E.35, subdivision 4a] updates the programming a financial coach shall provide to family assets for independence in Minnesota (FAIM) participants to include credit building, saving for emergencies, and saving for a child's education.

Section 5 [256E.35, subdivision 6] increases the lifetime limit for matching contributions from state grant and TANF funds and nonstate funds from \$3,000 to \$4,500.

Section 6 [256E.35, subdivision 7] adds the amount of contributions made to Minnesota 529 savings plans and emergency savings accounts to the quarterly report provided by fiscal agents of fiduciary organizations participating in the family assets for independence initiative.

Section 7 [256K.45, subdivision 6] adds a reference to provider repair and improvement grants as an allowable use of funds under the Homeless Youth Act.

Section 8 [256K.45, subdivision 7] requires grants under the Homeless Youth Act to be used only for authorized activities and prohibits the commissioner from creating additional criteria to access the grant money. Prohibits the commissioner from reducing an existing grant award amount unless it is determined the recipient failed to meet performance measures. Permits recipients to carry over unexpended funds from a first contract year to a second contract year.

Section 9 [256K.45, subdivision 8] adds grants up to \$100,000 for repairs or improvements to providers that serve homeless youth or youth at risk of homelessness and prohibits grantees from receiving a grant for two consecutive years.

Section 10 [256P.02, subdivision 4] excludes family asset accounts under the family assets for independence initiative and individual development accounts when determining the equity value of personal property for economic assistance programs.

Section 11 [256P.04, subdivision 11] allows an agency to contact a participant in an economic assistance program by phone or in writing when the participant submits an incomplete form rather than returning the incomplete form to the participant.

Section 12 [256P.06, subdivision 3] removes income and payments from service and rehabilitation programs that meet or exceed the state's minimum wage rate from the income calculation of an assistance unit.

Section 13 [268.19, subdivision 1] allows local and state welfare agencies to use wage data to monitor and evaluate other cash assistance programs, Supplemental Nutrition Assistance Program, and the Supplemental Nutrition Assistance Program Employment and Training program in conjunction with the Department of Human Services.

Section 14 [Laws 2021, First Special Session chapter 8, article 6, section 1, subdivision 7] changes the date of the final report provided by the Task Force on Shelter from August 31, 2022, to December 15, 2022.

Section 15 [Direction to Commissioner for Paperwork Reduction] directs the commissioner to consult with counties, local social services agencies, and Minnesota's Tribal governments on its continuing efforts to streamline and minimize the required paperwork for child protection cases.

ARTICLE 2 BEHAVIORAL HEALTH

Sections 1 to 4, 37 to 38, and 39 (paragraph (b)) establish a new Department of Behavioral Health, specify the duties of the commissioner of behavior health, instruct the commissioner of administration, with the permission of the governor, to begin the necessary reorganization of state agencies, and instruct the revisor and other agencies to draft legislative changes to give full effect to the establishment of the new department and the transfer of duties in statute.

Sections 5 to 26, 33 to 36, and 39 (paragraph (a)) contain technical and noncontroversial corrections to conform statute with the Mental Health Uniform Standards enacted in 2021.

Sections 27 to 32 make technical changes to the statute governing coordinated care through behavioral health homes.

Section 40 repeals the Alcohol and Other Drug Abuse Advisory Council and the Chemical Dependency Continuum of Care Pilot Project.

ARTICLE 3 COMMUNITY SUPPORTS

Section 1 [245A.03, subdivision 7] repeals an obsolete corporate foster care licensing moratorium exception.

Section 2 [245A.11, subdivision 2, paragraph (b)] requires a licensed residential program in an intermediate care facility for persons with developmental disabilities with a capacity of up to eight individuals in a single-family home to be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations, unless the town, municipal, or county zoning regulations provide otherwise.

Section 3 [245A.11, subdivision 2a] expands from five to six the maximum number of beds permitted in adult foster care settings and community residential settings under existing temporary variances to capacity limits in those settings. This section also expands from five to six the maximum number of permanent beds permitted in adult foster care settings and community residential settings when the addition of the beds satisfy specified conditions. Under current law the standard capacity limit is four, with temporary variances for a fifth bed and under special circumstances the permanent addition of a fifth bed.

Section 4 [245A.11, subdivision 2c] permits the commissioner to increase from six to eight the licensed capacity of a residential program in an intermediate care facility for persons with developmental disabilities provided the local zoning authority permits such an expansion.

Section 5 [245D.10, subdivision 3a] modifies the requirements for a termination of services by a home and community-based services provider licensed under chapter 245D by clarifying that the requirements apply to basic support services in addition to intensive support services. See also the amendments to section 256.045, subdivision 3.

Section 6 [245D.12, paragraph (b), clause (4)] requires providers of integrated community supports (ICS) to report the provider's setting capacity.

Section 7 [256.01, subdivision 12b, paragraphs (a) to (c)] establishes a Department of Human Services Systemic Critical Incident Review Team to identify systemic influences on critical incidences involving vulnerable adults, analyze compiled data on such incidences, and make recommendations regarding systematic changes that would decrease the number and severity of critical incidents and improve the quality of the home and community-based services system.

Paragraph (d) classifies the data, proceedings, and records of the review team as protected nonpublic data under section 13.02, and provides certain protections against discovery or introduction into evidence in a civil or criminal action against a professional, the state, or a county agency arising out of the matters that the team is reviewing.

Section 8 [256.0112, subdivision 11] creates requirements for contracts between a local agency and a private agency for the purchase of case management services related to the performance of individual case managers.

Section 9 [256.045, subdivision 3, paragraph (a), clause (12)] modifies the statute governing state agency hearings to clarify that a person issued a service termination notice for basic support services by a home and community-based service provider licensed under chapter 245D may request a hearing to challenge the termination on the grounds specified in paragraph (e).

Section 10 [256B.0625, subdivision 3b, paragraph (d)] permits telehealth visits provided through accessible video-based platforms to satisfy the face-to-face requirements for reimbursement as a cover medical assistance service under the payment methodologies that apply to federally qualified health center, rural health clinic, Indian health service, 638 Tribal clinic, and certified community behavioral health clinic.

Section 11 [256B.0659, subdivision 19] makes a conforming technical change to language governing reassessments for personal care assistance services.

Section 12 [256B.0911, subdivision 3a, paragraph (d)] extends an existing option to providers of customized living services under the brain injury (BI) waiver and the community access for disability inclusion (CADI) waiver that permits the provider with the service recipient's permission to submit a nursing assessment to the certified assessor prior to an assessment.

Paragraph (f) extends an existing provision to providers of customized living services under the brain injury (BI) waiver and the community access for disability inclusion (CADI) waiver that requires final written community support plan and customized living tool be provided to any provider that submitted a nursing assessment to an assessor under paragraph (d).

Paragraph (r) simplifies the requirements for a remote reassessment for waiver services, alternative care services, and essential community supports.

Section 13 [256B.0911, subdivision 3f] modifies the required tasks during a MnCHOICES reassessment to include an opportunity to provide a confidential performance assessment of the person's case manager.

Section 14 [256B.0949, subdivision 2] adds a definition for "advance certification" to the statutes governing early intensive developmental and behavioral intervention (EIDBI). The addition of this definition further specifies the requirements for Level 1 providers.

Section 15 [256B.0949, subdivision 13, paragraph (c)] requires all EIDBI providers, including those with advanced certification in one of the approved treatment modalities, to document the required qualifications to meet fidelity to the specific model.

Paragraph (g) adds interventions with a provider to client ratio of 2 to 1 or greater as a reimbursable service under the EIDBI medical assistance benefit.

Paragraph (j) removes the requirement that a coordinated care conference be conducted by a qualified supervising professional in order to be a reimbursable service under the EIDBI medical assistance benefit.

Paragraph (l) makes changes to conform with the requirements of telehealth as a covered service under medical assistance.

Section 16 [256B.49, subdivision 23] for community living settings extends from one to four the maximum number of permitted time-limited cosigned lease arrangement between a service provider, a service recipient, and a service recipient’s landlord. Under current law, a cosigned lease arrangement may last two years and be followed by one time-limited extension.

Section 17 [256G.02, subdivision 6] makes clarifying changes to the definition of “excluded time” for the purposes of determining the county of financial responsibility for the provision of integrated community supports and day support services.

Section 18 [256I.04, subdivision 3] modifies an existing housing support moratorium exception by permitting the supportive housing units to be developed in additional metropolitan counties and by removing certain restrictions on the individuals who may be served in the supportive housing unit. This proposal DOES NOT increase the number of units available under the moratorium exception.

Sections 19 to 21 [256K.26, subdivision 2; 256K.26, subdivision 6; and 256K.26, subdivision 7] clarify the role of Tribes in the administration and implementation of the long-term homelessness supportive grant program.

Section 22 [256Q.06, subdivision 6] modifies the Minnesota Achieving a Better Life Experience (ABLE) Act to align with federal rules by clarifying that if an eligible individual is unable to establish an ABLE account, other specified individuals may establish an account of the individual’s behalf.

Section 23 [Laws 2020, First Special Session chapter 7, section 1, subdivision 1, as amended by Laws 2021, First Special Session chapter 7, article 2, section 71] removes the requirement that the specified waivers and modifications to Department of Human Services programs issued by the commissioner of human services pursuant to the governor’s Executive Orders and subsequently extended by the legislature following the termination of the peacetime emergency are limited to those waivers and modifications required to comply with federal law.

Section 24 [Laws 2022, chapter 33, section 1, subdivision 8] modifies the definition of “unit of services” for the purposes of establishing service rates for individualized home supports with training to permit hour units when six or more hours of service are provided in a day.

Section 25 [Temporary Telephone-only Telehealth Authorization] retroactively and temporarily permits certain telehealth visits conducted by phone to meet the face-to-face requirements for reimbursement under the payment methods that apply to a federally qualified health center, rural health clinic, Indian health service, 638 Tribal clinic, and certified community behavioral health clinic.

ARTICLE 4 LICENSING

Sections 1 to 2 [245A.11, subdivisions 7 and 7a] remove community residential settings from the licensing requirements under chapter 245A related to alternative overnight supervision and the use

of alternative overnight supervision technology. Under current law, community residential settings are subject to chapter 245A for alternative overnight supervision and to chapter 245D for remote services. Under the proposal, the chapter 245D remote support provisions would govern overnight supervision in community residential settings.

Sections 3 to 5 are proposed amendments to background studies and home and community-based services standard to permit the provision of out-of-home respite to children in unlicensed settings.

Section 3 [245C.04, subdivision 1, paragraph (m)] requires the commissioner to perform Adam Walsh compliant background checks upon request of a chapter 245D licensed provider certified to provide children's out-of-home.

Section 4 [245C.05, subdivision 5] makes conforming changes to clarify the fingerprinting and photograph requirements for a background study on a subject prior to providing certified children's out-of-home respite.

Section 5 [245D.34] establishes certification requirements under chapter 245D for the provision of children's out-of-home respite in an unlicensed setting. The certification requirements, other than the addition of the Adam Walsh compliant background study for staff providing the respite service, are based on existing requirements for out-of-home respite provided to adults.