

Senator Wiklund from the Committee on Health and Human Services, to which was referred

S.F. No. 3770: A bill for an act relating to children, youth, and families; creating the statutory infrastructure for the new Department of Children, Youth, and Families; moving and copying statutes; amending Minnesota Statutes 2022, sections 13.46, subdivisions 1, 3; 116L.665, subdivision 2; 116L.86, subdivisions 1, 3; 119A.5411; 119B.03, subdivision 8; 119B.09, subdivision 12; 119B.24; 124D.13, subdivisions 2, 3, 4; 124D.135, subdivisions 1, 3; 124D.142, subdivision 1; 124D.15, subdivision 3a; 124D.16, by adding a subdivision; 124D.165, subdivision 1; 125A.02, subdivision 1a; 125A.28; 125A.35, subdivision 1; 125A.45; 125A.48; 144.225, subdivision 2b; 245A.02, subdivisions 6e, 12; 245A.03, subdivisions 1, 4; 245A.035, subdivision 4; 245A.04, subdivision 9; 245A.08, subdivision 2a; 245A.09, subdivision 7; 245A.10, subdivisions 1, 2; 245A.14, subdivisions 1, 14; 245A.1443, subdivision 2; 245A.1444; 245A.146, subdivisions 1, 2, 5, 6; 245A.147, subdivision 1; 245A.156, subdivisions 1, 2; 245A.16, subdivisions 3, 5; 245A.18, subdivision 1; 245A.25, subdivisions 1, 6, 8; 245A.66, subdivision 1; 245C.03, by adding a subdivision; 245C.08, subdivision 3; 245C.22, by adding a subdivision; 245C.25; 256.01, subdivisions 1, 2, 4, 5, 12, 16, 18, 18a, 34; 256.012, subdivision 2; 256.016; 256.017, subdivisions 1, 2, 3, 5, 7; 256.018; 256.019, subdivisions 1, 2; 256.0281; 256.029; 256.045, subdivisions 3b, 4, 6, 10; 256.0451, subdivisions 1, 2; 256.046, subdivision 2; 256.741, subdivisions 1, 2, 12a; 256.82; 256.87, subdivisions 1, 1a, 5; 256.981; 256.982; 256.983, as amended; 256.9831, subdivision 1; 256.986; 256.9861; 256.987, subdivision 1; 256.998, subdivision 7; 256D.64, subdivisions 1, 3; 256E.21, subdivision 1; 256E.22, subdivision 7; 256E.24; 256E.25, subdivisions 5, 6, 7; 256E.26; 256E.27; 256J.01, subdivision 2; 256J.021; 256J.08, subdivision 32; 256J.09, by adding a subdivision; 256J.351; 256J.395, subdivision 1; 256J.425, subdivision 8; 256J.645, subdivision 1; 256P.04, subdivision 13; 260.92, subdivision 1; 260C.178, subdivision 1; 260C.201, subdivision 1; 260C.215, subdivision 5; 260C.301, subdivision 1; 260D.02, subdivisions 5, 9; 260E.02, subdivision 2; 260E.03, subdivision 23; 260E.14, subdivision 1; 260E.20, subdivisions 3, 5; 260E.24, subdivision 5; 260E.28, subdivisions 1, 3; 260E.29, subdivision 2; 260E.30, subdivisions 3, 6; 260E.32, subdivision 3; 260E.33, subdivisions 2, 3, 5; 260E.34; 260E.35, subdivision 3; 260E.36, subdivision 4; 299A.72; 393.07, subdivisions 1, 2, 3, 4, 5, 7, 8, 10; 393.11, subdivision 2; 518A.26, by adding a subdivision; 518A.60; 631.40, subdivision 3; Minnesota Statutes 2023 Supplement, sections 13.46, subdivisions 2, 4; 119B.125, subdivisions 1a, 2, 3; 121A.19; 124D.142, subdivision 2; 125A.02, subdivision 1; 142A.02, subdivision 1; 142A.03, subdivision 2, by adding subdivisions; 144.225, subdivision 2; 245A.02, subdivision 5a; 245A.03, subdivision 2; 245A.04, subdivision 7; 245A.041, subdivision 6; 245A.05; 245A.07, subdivisions 1, 3; 245A.10, subdivisions 3, 4; 245A.13, subdivision 7; 245A.1435; 245A.16, subdivision 1; 245C.02, subdivision 22; 245C.03, subdivision 1; 245H.05; 256.045, subdivision 3; 256.046, subdivision 1; 256.0471, subdivision 1; 256.98, subdivision 8; 256D.65, subdivision 1; 256J.35; 256J.37, subdivision 3a; 256J.40; 260C.317, subdivision 3; 260E.02, subdivision 1; 609A.015, subdivisions 1, 2, 3; 609A.06, subdivisions 7, 12; Laws 2017, First Special Session chapter 5, article 8, section 9, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 142A; proposing coding for new law as Minnesota Statutes, chapters 142B; 142C; 142E; repealing Minnesota Statutes 2022, sections 245A.04, subdivision 17; 245A.09, subdivision 10; 245H.12; 256.01, subdivision 30; 256.741, subdivision 3; 256.9831, subdivisions 2, 3; 256J.01, subdivision 5; 256J.78, subdivision 3; Minnesota Statutes 2023 Supplement, section 245A.18, subdivision 2.

Reports the same back with the recommendation that the bill be amended as follows:

Page 11, line 10, delete "human" and insert "children, youth, and families"

Page 11, line 11, delete the first "services"

Page 16, line 15, delete "human services" and insert "children, youth, and families"

- 2.1 Page 17, delete line 14
- 2.2 Page 17, line 15, delete "for"
- 2.3 Page 17, line 16, before the period, insert ", is appropriated to the commissioner"
- 2.4 Page 19, delete section 27
- 2.5 Page 19, line 27, delete "35" and insert "31"
- 2.6 Page 27, line 3, delete "human services" and insert "children, youth, and families"
- 2.7 Page 34, line 5, before "3" insert "2," and delete "3b,"
- 2.8 Page 36, line 17, after "260E" insert "or section 626.557"
- 2.9 Page 53, line 3, delete "The sanctions in" and delete "apply" and insert "applies"
- 2.10 Page 54, after line 30, insert:
- 2.11 "Sec. 45. Minnesota Statutes 2022, section 245.814, subdivision 5, is amended to read:
- 2.12 Subd. 5. **Foster care parent liability insurance.** The commissioner of children, youth,
- 2.13 and families may use federal reimbursement money earned on an expenditure for foster
- 2.14 care parent liability insurance premiums to offset the costs of the premiums. The
- 2.15 commissioner of children, youth, and families and human services will work with the
- 2.16 insurance provider to transition coverage and responsibility as appropriate while avoiding
- 2.17 a lapse in coverage."
- 2.18 Page 68, after line 22, insert:
- 2.19 "Sec. 56. Minnesota Statutes 2022, section 256.012, is amended by adding a subdivision
- 2.20 to read:
- 2.21 Subd. 4. **Consultation with commissioner of children, youth, and families**
- 2.22 **required.** The commissioner must consult with the commissioner of children, youth, and
- 2.23 families on the administration of the merit system, including on the requirements in this
- 2.24 section."
- 2.25 Page 74, delete section 65
- 2.26 Page 97, after line 38, insert:
- 2.27 "260.014 142A.452"
- 2.28 Page 101, delete lines 13 to 16
- 2.29 Renumber the subdivisions in sequence

- 3.1 Page 106, line 9, delete "facility or"
- 3.2 Page 109, line 6, delete everything after "(c)"
- 3.3 Page 109, line 7, delete "subdivision 1,"
- 3.4 Page 119, line 24, delete "245A.07" and insert "142B.18"
- 3.5 Page 133, line 30, delete "245A.06" and insert "142B.16"
- 3.6 Page 138, line 21, after "260E" insert "or the maltreatment of a vulnerable adult under
- 3.7 section 626.557"
- 3.8 Page 138, line 22, after "(b)" insert ", or 626.557, subdivision 9c, paragraph (c)"
- 3.9 Page 159, line 28, delete "245A.146" and insert "142B.45"
- 3.10 Page 163, line 28, before "Internal" insert "Maltreatment of minors"
- 3.11 Page 164, delete lines 21 and 22
- 3.12 Page 164, line 23, delete "3" and insert "2" and before "Ongoing" insert "Maltreatment
- 3.13 of minors"
- 3.14 Page 164, line 29, delete everything after "holders" and insert "and caregivers and foster
- 3.15 residence setting staff"
- 3.16 Page 164, after line 32, insert:
- 3.17 "Subd. 3. **Vulnerable adults.** License holders serving vulnerable adults are subject to
- 3.18 the requirements of section 245A.65."
- 3.19 Page 167, delete section 34
- 3.20 Page 171, after line 7, insert:
- 3.21 "Sec. 37. Minnesota Statutes 2023 Supplement, section 245A.03, subdivision 7, is amended
- 3.22 to read:
- 3.23 Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license
- 3.24 for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult
- 3.25 foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter
- 3.26 for a physical location that will not be the primary residence of the license holder for the
- 3.27 entire period of licensure. If a ~~family child foster care home~~ or family adult foster care home
- 3.28 license is issued during this moratorium, and the license holder changes the license holder's
- 3.29 primary residence away from the physical location of the foster care license, the
- 3.30 commissioner shall revoke the license according to section 245A.07. The commissioner

shall not issue an initial license for a community residential setting licensed under chapter 245D. When approving an exception under this paragraph, the commissioner shall consider the resource need determination process in paragraph (h), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

(1) a license for a person in a foster care setting that is not the primary residence of the license holder and where at least 80 percent of the residents are 55 years of age or older;

(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(4) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital-level care; or

(5) new foster care licenses or community residential setting licenses for people receiving customized living or 24-hour customized living services under the brain injury or community access for disability inclusion waiver plans under section 256B.49 or elderly waiver plan under chapter 256S and residing in the customized living setting for which a license is required. A customized living service provider subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until December 31, 2023. This exception is available when:

(i) the person's customized living services are provided in a customized living service setting serving four or fewer people in a single-family home operational on or before June 30, 2021. Operational is defined in section 256B.49, subdivision 28;

(ii) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and

(iii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the customized living setting as determined by the lead agency.

(b) The commissioner shall determine the need for newly licensed foster care homes or community residential settings as defined under this subdivision. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area in which the licensee seeks to operate, and the recommendation of the local county board. The determination by the commissioner must be final. A determination of need is not required for a change in ownership at the same address.

(c) When an adult resident served by the program moves out of a foster home that is not the primary residence of the license holder according to section 256B.49, subdivision 15, paragraph (f), or the adult community residential setting, the county shall immediately inform the Department of Human Services Licensing Division. The department may decrease the statewide licensed capacity for adult foster care settings.

(d) Residential settings that would otherwise be subject to the decreased license capacity established in paragraph (c) shall be exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder is certified under the requirements in subdivision 6a or section 245D.33.

(e) A resource need determination process, managed at the state level, using the available data required by section 144A.351, and other data and information shall be used to determine where the reduced capacity determined under section 256B.493 will be implemented. The commissioner shall consult with the stakeholders described in section 144A.351, and employ a variety of methods to improve the state's capacity to meet the informed decisions of those people who want to move out of corporate foster care or community residential settings, long-term service needs within budgetary limits, including seeking proposals from service providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet needs identified by the long-term services and supports reports and statewide data and information.

(f) At the time of application and reapplication for licensure, the applicant and the license holder that are subject to the moratorium or an exclusion established in paragraph (a) are required to inform the commissioner whether the physical location where the foster care

will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

(g) License holders of foster care homes identified under paragraph (f) that are not the primary residence of the license holder and that also provide services in the foster care home that are covered by a federally approved home and community-based services waiver, as authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human services licensing division that the license holder provides or intends to provide these waiver-funded services.

(h) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings will be accomplished through a process identified in section 256B.493.

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

(j) The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph."

7.1 Page 171, after line 11, insert:

7.2 "Sec. 39. Minnesota Statutes 2023 Supplement, section 245A.04, subdivision 4, is amended
7.3 to read:

7.4 Subd. 4. **Inspections; waiver.** (a) Before issuing a license under this chapter, the
7.5 commissioner shall conduct an inspection of the program. The inspection must include but
7.6 is not limited to:

7.7 (1) an inspection of the physical plant;

7.8 (2) an inspection of records and documents;

7.9 (3) observation of the program in operation; and

7.10 (4) an inspection for the health, safety, and fire standards in licensing requirements for
7.11 a child care license holder.

7.12 (b) The observation in paragraph (a), clause (3), is not required prior to issuing a license
7.13 under subdivision 7. If the commissioner issues a license under this chapter, these
7.14 requirements must be completed within one year after the issuance of the license.

7.15 ~~(c) Before completing a licensing inspection in a family child care program or child care~~
7.16 ~~center, the licensing agency must offer the license holder an exit interview to discuss~~
7.17 ~~violations or potential violations of law or rule observed during the inspection and offer~~
7.18 ~~technical assistance on how to comply with applicable laws and rules. The commissioner~~
7.19 ~~shall not issue a correction order or negative licensing action for violations of law or rule~~
7.20 ~~not discussed in an exit interview, unless a license holder chooses not to participate in an~~
7.21 ~~exit interview or not to complete the exit interview. If the license holder is unable to complete~~
7.22 ~~the exit interview, the licensing agency must offer an alternate time for the license holder~~
7.23 ~~to complete the exit interview.~~

7.24 ~~(d) If a family child care license holder disputes a county licensor's interpretation of a~~
7.25 ~~licensing requirement during a licensing inspection or exit interview, the license holder~~
7.26 ~~may, within five business days after the exit interview or licensing inspection, request~~
7.27 ~~clarification from the commissioner, in writing, in a manner prescribed by the commissioner.~~
7.28 ~~The license holder's request must describe the county licensor's interpretation of the licensing~~
7.29 ~~requirement at issue, and explain why the license holder believes the county licensor's~~
7.30 ~~interpretation is inaccurate. The commissioner and the county must include the license~~
7.31 ~~holder in all correspondence regarding the disputed interpretation, and must provide an~~
7.32 ~~opportunity for the license holder to contribute relevant information that may impact the~~
7.33 ~~commissioner's decision. The county licensor must not issue a correction order related to~~

8.1 ~~the disputed licensing requirement until the commissioner has provided clarification to the~~
 8.2 ~~license holder about the licensing requirement.~~

8.3 ~~(e) The commissioner or the county shall inspect at least once each calendar year a child~~
 8.4 ~~care provider licensed under this chapter and Minnesota Rules, chapter 9502 or 9503, for~~
 8.5 ~~compliance with applicable licensing standards.~~

8.6 ~~(f) No later than November 19, 2017, the commissioner shall make publicly available~~
 8.7 ~~on the department's website the results of inspection reports of all child care providers~~
 8.8 ~~licensed under this chapter and under Minnesota Rules, chapter 9502 or 9503, and the~~
 8.9 ~~number of deaths, serious injuries, and instances of substantiated child maltreatment that~~
 8.10 ~~occurred in licensed child care settings each year."~~

8.11 Page 189, line 13, strike "Except for child foster care," and after "a" insert "children's"

8.12 Page 194, line 30, strike "245A.1435" and insert "142B.46"

8.13 Page 196, line 29, strike "and private"

8.14 Page 196, line 30, strike "agencies" and strike "or licensed"

8.15 Page 197, line 22, strike "245A.1435" and insert "142B.46"

8.16 Page 198, line 17, strike "and"

8.17 Page 198, line 18, strike "private"

8.18 Page 198, lines 28 and 31, strike "or private"

8.19 Page 199, lines 5 and 6, strike "and private"

8.20 Page 204, after line 11, insert:

8.21 "Sec. 73. Minnesota Statutes 2023 Supplement, section 245A.66, subdivision 4, is amended
 8.22 to read:

8.23 Subd. 4. **Ongoing training requirement.** ~~(a)~~ In addition to the orientation training
 8.24 required by the applicable licensing rules and statutes, children's residential facility ~~and~~
 8.25 ~~private child-placing agency~~ license holders must provide a training annually on the
 8.26 maltreatment of minors reporting requirements and definitions in chapter 260E to each
 8.27 mandatory reporter, as described in section 260E.06, subdivision 1.

8.28 ~~(b) In addition to the orientation training required by the applicable licensing rules and~~
 8.29 ~~statutes, all family child foster care license holders and caregivers and foster residence~~
 8.30 ~~setting staff and volunteers that are mandatory reporters as described in section 260E.06,~~

9.1 ~~subdivision 1, must complete training each year on the maltreatment of minors reporting~~
9.2 ~~requirements and definitions in chapter 260E."~~

9.3 Page 204, after line 19, insert:

9.4 "245A.02, subdivision 12 142B.01, subdivision 23"

9.5 Page 213, line 30, delete "education or" and after "families" insert "for children from
9.6 birth through age two and by the rules of the commissioner of education for all other children"

9.7 Page 214, line 5, delete "to" and insert "through"

9.8 Page 214, line 6, after "addition" insert "to subdivision 1"

9.9 Page 214, line 8, delete "education or" and after "families" insert "for children from birth
9.10 through age two and by the rules of the commissioner of education for children ages three
9.11 through seven"

9.12 Page 214, after line 10, insert:

9.13 "Sec. 15. Minnesota Statutes 2022, section 125A.02, subdivision 2, is amended to read:

9.14 Subd. 2. **Not a child with a disability.** A child with a short-term or temporary physical
9.15 or emotional illness or disability, as determined by the rules of the commissioner of children,
9.16 youth, and families for children from birth through age two and by the rules of the
9.17 commissioner of education for all other children, is not a child with a disability."

9.18 Page 214, line 13, strike "17" and insert "18"

9.19 Page 214, line 14, strike "25" and insert "26"

9.20 Page 214, line 17, strike "Education" and insert "Children, Youth, and Families"

9.21 Page 214, line 27, after the fourth comma, insert "and children, youth, and families,"

9.22 Page 222, delete section 7

9.23 Page 300, after line 21, insert:

9.24 "Sec. 67. **EXECUTIVE AGENCIES' PRINTED AND ONLINE MATERIALS AND**
9.25 **INFORMATION TECHNOLOGY SYSTEMS.**

9.26 (a) Executive agencies are not required to immediately replace existing printed material
9.27 only to reflect changed statute numbers in this act and may do so when current printed
9.28 material is replaced and new printed material is obtained in the normal course of business.

10.1 (b) Executive agencies are not required to immediately edit online cross-references only
10.2 to reflect changed statute numbers in this act and may do so when online documents,
10.3 information technology systems, and websites are edited in the normal course of business."

10.4 Page 301, line 9, after the period, insert "The revisor of statutes must consult with
10.5 executive branch agencies that would be affected by the changes when making changes
10.6 pursuant to this section."

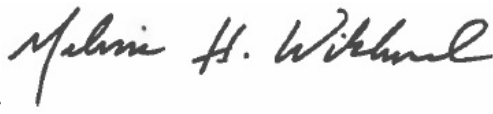
10.7 Page 301, line 16, after the period, insert "The revisor of statutes must consult with
10.8 executive branch agencies that would be affected by the changes when making changes
10.9 pursuant to this section."

10.10 Page 302, line 1, after "act" insert "or programs to be transferred"

10.11 Renumber the sections in sequence and correct the internal references

10.12 Amend the title numbers accordingly

10.13 And when so amended the bill do pass and be re-referred to the Committee on Education
10.14 Finance. Amendments adopted. Report adopted.

10.15 
10.16
(Committee Chair)

10.17 February 20, 2024.....
10.18 (Date of Committee recommendation)