

## DCT Creation and Executive Board Proposed Legislation Changes

### Summary of HF4692/SF4726 Proposed Changes by Section

**Section 1 (10.65, subd. 2)** adds DCT to this section of law. (Government-to-government consultation with tribes)

**Section 2 (13.46, subd.1)** adds DCT to this section of law. (Definition of welfare system within the government data practices act)

**Section 3 (13.46, subd.2)** adds DCT to this section of law. (Permits the disclosure of private data on individuals between DHS, DCT, DEED and DOE under specified purposes)

**Section 4 (13.46, subd. 10)** specifies that the responsible authority for DCT, for purposes of the government data practices act, is the chief executive officer of DCT.

**Sections 5 and 6 (15.01, 15.06, subd. 1)** strikes language added last session in chapter 61 that is not needed since Direct Care and Treatment will not be a state department with a commissioner, but an agency headed by a board.

**Section 7 - Remove**

**Section 8 - Remove**

**Section 9 - Remove**

**Section 10 (43A.08, subd. 1)** is a technical change clarifying that the chief executive officer in DCT is an unclassified position.

**Section 11 (43A.08, subd. 1a)** is a technical change adding DCT to this section, authorizing the executive board to designate unclassified positions.

**Section 12 (145.61, subd.5)** adds DCT to the definition of a “review organization” for purposes of providing certain protections to peer review participants gathering and reviewing information relating to the care and treatment of patients.

**Section 13 (246.018, subd. 3)** requires the medical director of DCT to consult with the DCT executive board and the chief executive officer regarding state operated programs.

**Section 14 (246.13, subd. 2)** technical change.

**Section 15 (246C.01)** technical change.

**Section 16 (246C.015)** establishes a definition section for chapter 246C.

**Section 17 (246C.02)** clarifies that DCT is an agency headed by an executive board.

**Section 18 (246C.04)** specifies that the commissioner of human services shall continue to exercise all statutory authorities and responsibilities for DCT until July 1, 2025, instead of January 1, 2025. (This language was enacted last session in chapter 61 and is currently contained in section 246C.03 which is being repealed.)

**Section 19 (246C.05)** makes conforming and technical changes.

**Section 20 (246C.06)** creates the executive board and specifies its membership and governance.

**Subd. 1** establishes the executive board.

**Subd. 2** expands the board membership to nine members, seven voting members, including the commissioner of human services, and two non-voting members. It also specifies that six of the voting members are appointed by the governor with advice and consent of the senate and the qualifications for membership of these six members. It also specifies that there will be two non-voting members, one member appointed by the association of counties, and one member appointed by joint representatives of the labor unions that represent staff at DCT facilities.

**Subd. 3** specifies that section 15.0575 covers the terms, compensation, removal and filling of vacancies for the executive board, unless otherwise provided.

**Subd. 4** states that the compensation of the board members is at a rate of \$500 a day, plus expenses. This does not include the commissioner of human services.

**Subd. 5** requires the governor to designate one of the members the governor appoints to be the acting chair and requires the board to elect a chair at the first meeting. Specifies that the board must elect a chair annually and that any elected officers serve for one year.

**Subd. 6** specifies the term limits of the members and the terms of the initial members.

**Subd. 7** requires members to reuse themselves from discussion or and voting on any official matter if the member has a conflict of interest.

**Subd. 8** requires the board to meet at least four times per a fiscal year at a time and place specified by the board.

**Subd. 9** specifies that a majority of voting members constitutes a quorum.

**Subd. 10** provides immunity to the members of the board from civil liability for any act or omission occurring within the scope of performing their duties and states that for purposes of indemnity the members are employees of the state.

**Subd. 11** gives the board rulemaking authority to implement chapter 246C and any responsibilities of DCT specified in law. Authorizes the board to use the expediated rulemaking process until July 1, 2030. Clarifies that any rule, order, delegation, permits, or other privileges issued by the commissioner of

human services with respect to DCT and in effect at the time of the establishment of DCT shall continue in effect.

**Section 21 (246C.07)** establishes the powers and duties of the executive board.

**Subd.1** specifies that the executive board must operate according to chapter 246C and applicable state and federal law, and that the overall management and control of the agency is vested in the board. This subdivision also requires the board to appoint a chief executive officer and that the chief executive officer is responsible for the administrative and operational duties of the agency. It also authorizes the board to delegate any statutory duty or power as it deems appropriate to any employee other than the chief executive officer of DCT as long as the delegation is made by written order and the order is filed with the secretary of state.

**Subd.2** specifies the overall principles that the executive board must follow in undertaking its duties and responsibilities of the agency.

**Subd. 3** specifies that the executive board has the power to:

- (1) Set the overall strategic direction for DCT;
- (2) Establish the policies and procedures to govern DCT;
- (3) Employ personnel and delegate duties and responsibilities as deemed appropriate;
- (4) Review and approve the operating budget for DCT;
- (5) Accept gifts, grants, or contributions from any nonstate sources or not accept if not in the best interest of the state;
- (6) Deposit all money received and gifts, grants, or contributions as required under chapter 246C;
- (7) Enter into information sharing agreements with federal and state agencies;
- (8) Enter into interagency or service level agreements with a state department, state agency, or the Department of Information Technology Services;
- (9) Enter into contractual agreements with federally recognized Indian tribes;
- (10) Enter into contracts with public and private agencies, organizations, and individuals;
- (11) Establish and maintain administrative units necessary for the performance of the administrative functions of DCT;
- (12) Authorize the method of payment to and from DCT;

(13) Inform Tribal nations and county agencies of changes in statutes, rule, federal law, regulation, and policy necessary for counties to administer direct care and treatment programs and services;

(14) Report to the legislature on the performance of DCT;

(15) Recommend to the legislature appropriate changes in law necessary to carry out the principles and improve performance of DCT; and

(16) Exercise all powers reasonably necessary to implement and administer the requirements of chapter 246C and applicable state and federal laws.

**Subd. 4** authorizes the board to establish bylaws.

**Subd. 5** requires the executive board to implement policies and procedures to establish an open and competitive procurement process for DCT that conforms to the principles contained in chapter 16B and 16C.

**Subd. 6** authorizes the board to enter into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of persons with a mental illness or a developmental disability. (Current law)

**Subd. 7** authorizes the board to accept uncompensated and voluntary services and to enter into contracts or agreements for these services. (Current law)

**Section 22 (246C.08)** establishes the position of chief executive officer.

**Subd. 1** requires the executive board to appoint the chief executive officer to DCT. It also specifies that the chief executive officer shall serve in the unclassified service with a compensation plan prepared by the board, submitted to the commissioner of management and budget for review and comment, and approved by the Legislative Coordinating Commission and the legislature.

**Subd. 2** specifies that the primary duty of the chief executive officer is to assist the executive board and is responsible for the administrative and operational management of the agency. It also specifies that the chief executive officer has all the powers and duties of the board unless the board directs otherwise and has the authority to speak for the board within the agency and outside the agency. It also specifies that if a vacancy occurs within the chief executive officer position for any reason the chief medical officer of DCT shall immediately become the temporary chief executive officer until the board appoints a new chief executive officer. And that during that period the chief medical officer shall have all the powers and authority delegated to the chief executive officer.

**Section 23 (246C.09)** establishes the following Direct Care and Treatment accounts in the special revenue fund of the state treasury: gifts, grants, and contributions account; facilities management account; systems account; and cemetery maintenance account.

**Sections 24 -28 (256.88 – 256.92)** provides DCT access to the social welfare fund that is established for the purpose of holding funds in trust for persons who have a developmental disability, mental illness or substance use disorder, or other wards or beneficiaries.

**Section 29** is technical, conforming the effective dates with the extension of the date that authority for DCT transfer from DHS to DCT.

**Section 33 [INITIAL APPOINTMENTS OF THE DIRECT CARE AND TREATMENT EXECUTIVE BOARD AND CHIEF EXECUTIVE OFFICER]**

**Subd. 1** requires the initial appointment of the Direct Care and Treatment executive board to be made by January 1, 2025. This subdivision also exempts the board from the open meeting law until the authority and responsibilities for DCT are transferred to the board.

**Subd. 2** specifies that the Direct Care and Treatment executive board must appoint for the initial chief executive officer position the chief executive officer of the direct care and treatment division of the Department of Human Services who holds that position at the time of the initial appointment. And that the initial appointment must be made by July 1, 2025. It also requires that the salary of the initial chief executive officer must not be less than the amount paid to the chief executive officer of the direct care and treatment division of the Department of Human Services as of the date of the initial appointment.

**Subd. 3** requires the commissioner of human services to consult with the executive board when the commissioner to preparing the budget estimates for the next fiscal biennium or any proposed legislative changes that involve DCT. If the board has not been appointed, the commissioner is required to provide the board with a summary of any budget estimate or proposal submitted for DCT.

**Section 34** repeals section 246C.03 since it is no longer needed and other sections where the language is incorporated into chapter 246C.