

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 2748

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| DATE | D-PG | OFFICIAL STATUS |
|------------|-------|--|
| 02/26/2018 | 6208 | Introduction and first reading Referred to E-12 Policy |
| 03/12/2018 | 6384a | Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy |
| 03/19/2018 | | Comm report: To pass as amended and re-refer to E-12 Finance |

1.1 A bill for an act

1.2 relating to education; expanding grounds for teacher license revocation, suspension,

1.3 or denial; expanding grounds for teacher discharge; expanding mandatory reporting;

1.4 amending Minnesota Statutes 2016, section 626.556, subdivision 10a; Minnesota

1.5 Statutes 2017 Supplement, sections 122A.187, by adding a subdivision; 122A.20,

1.6 subdivision 1; 122A.40, subdivision 13; 122A.41, subdivision 6; 123B.03,

1.7 subdivision 1; 626.556, subdivisions 3, 10e.

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

1.9 Section 1. Minnesota Statutes 2017 Supplement, section 122A.187, is amended by adding

1.10 a subdivision to read:

1.11 Subd. 7. **Background check.** The Professional Educator Licensing and Standards Board

1.12 must request a criminal history background check from the superintendent of the Bureau

1.13 of Criminal Apprehension on a licensed teacher applying for a renewal license who has not

1.14 had a background check consistent with section 122A.18, subdivision 8, within the preceding

1.15 five years. The board may request payment from the teacher renewing their license in an

1.16 amount equal to the actual cost of the background check.

1.17 **EFFECTIVE DATE.** This section is effective July 1, 2018.

1.18 Sec. 2. Minnesota Statutes 2017 Supplement, section 122A.20, subdivision 1, is amended

1.19 to read:

1.20 Subdivision 1. **Grounds for revocation, suspension, or denial.** (a) The Professional

1.21 Educator Licensing and Standards Board or Board of School Administrators, whichever

1.22 has jurisdiction over a teacher's licensure, may, on the written complaint of the school board

1.23 employing a teacher, a teacher organization, or any other interested person, refuse to issue,

2.1 refuse to renew, suspend, or revoke a teacher's license to teach for any of the following
2.2 causes:

2.3 (1) immoral character or conduct;

2.4 (2) failure, without justifiable cause, to teach for the term of the teacher's contract;

2.5 (3) gross inefficiency or willful neglect of duty;

2.6 (4) failure to meet licensure requirements; or

2.7 (5) fraud or misrepresentation in obtaining a license.

2.8 The written complaint must specify the nature and character of the charges.

2.9 (b) The Professional Educator Licensing and Standards Board or Board of School
2.10 Administrators, whichever has jurisdiction over a teacher's licensure, ~~shall~~ must refuse to
2.11 issue, refuse to renew, or automatically revoke a teacher's license to teach without the right
2.12 to a hearing upon receiving a certified copy of a conviction showing that the teacher has
2.13 been convicted of:

2.14 (1) child abuse, as defined in section 609.185₂;

2.15 (2) sex trafficking in the first degree under section 609.322, subdivision 1₂;

2.16 (3) sex trafficking in the second degree under section 609.322, subdivision 1a₂;

2.17 (4) engaging in hiring, or agreeing to hire a minor to engage in prostitution under section
2.18 609.324, subdivision 1, ~~sexual abuse~~ 1a, or 2;

2.19 (5) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, 609.3451,
2.20 subdivision 3, or 617.23, subdivision 3₂;

2.21 (6) solicitation of children to engage in sexual conduct or communication of sexually
2.22 explicit materials to children under section 609.352₂;

2.23 (7) interference with privacy under section 609.746 or stalking under section 609.749
2.24 and the victim was a minor₂;

2.25 (8) using minors in a sexual performance under section 617.246₂;

2.26 (9) possessing pornographic works involving a minor under section 617.247₂; or

2.27 (10) any other offense not listed in this paragraph that requires the person to register as
2.28 a predatory offender under section 243.166, or a crime under a similar law of another state
2.29 or the United States.

3.1 The board ~~shall~~ must send notice of this licensing action to the district in which the teacher
3.2 is currently employed.

3.3 (c) A person whose license to teach has been revoked, not issued, or not renewed under
3.4 paragraph (b), may petition the board to reconsider the licensing action if the person's
3.5 conviction for child abuse or sexual abuse is reversed by a final decision of the Court of
3.6 Appeals or the Supreme Court or if the person has received a pardon for the offense. The
3.7 petitioner ~~shall~~ must attach a certified copy of the appellate court's final decision or the
3.8 pardon to the petition. Upon receiving the petition and its attachment, the board ~~shall~~ must
3.9 schedule and hold a disciplinary hearing on the matter under section 214.10, subdivision 2,
3.10 unless the petitioner waives the right to a hearing. If the board finds that, notwithstanding
3.11 the reversal of the petitioner's criminal conviction or the issuance of a pardon, the petitioner
3.12 is disqualified from teaching under paragraph (a), clause (1), the board ~~shall~~ must affirm
3.13 its previous licensing action. If the board finds that the petitioner is not disqualified from
3.14 teaching under paragraph (a), clause (1), it ~~shall~~ must reverse its previous licensing action.

3.15 (d) The Professional Educator Licensing and Standards Board or Board of School
3.16 Administrators, whichever has jurisdiction over a teacher's licensure, must review and may
3.17 refuse to issue, refuse to renew, or revoke a teacher's license to teach if the teacher has been
3.18 convicted of:

3.19 (1) a qualified domestic violence-related offense as defined in section 609.02, subdivision
3.20 16;

3.21 (2) domestic assault under section 609.2242;

3.22 (3) embezzlement of public funds under section 609.54; or

3.23 (4) a felony involving a minor as the victim.

3.24 A person whose license to teach has been revoked, not issued, or not renewed under this
3.25 paragraph may petition the board to reconsider for good cause shown, in accordance with
3.26 procedures adopted by the board.

3.27 (e) The Professional Educator Licensing and Standards Board may suspend a teacher's
3.28 license to teach during the board's disciplinary investigation of a report of teacher misconduct
3.29 that would be a violation of paragraph (b). The teacher's license is suspended until the
3.30 licensing board completes their disciplinary investigation and makes a determination whether
3.31 or not disciplinary action is necessary.

3.32 ~~(d)~~ (f) For purposes of this subdivision, the Professional Educator Licensing and Standards
3.33 Board is delegated the authority to suspend or revoke coaching licenses.

4.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.2 Sec. 3. Minnesota Statutes 2017 Supplement, section 122A.40, subdivision 13, is amended
4.3 to read:

4.4 Subd. 13. **Immediate discharge.** (a) Except as otherwise provided in paragraph (b), a
4.5 board may discharge a continuing-contract teacher, effective immediately, upon any of the
4.6 following grounds:

4.7 (1) immoral conduct, insubordination, or conviction of a felony;

4.8 (2) conduct unbecoming a teacher which requires the immediate removal of the teacher
4.9 from classroom or other duties;

4.10 (3) failure without justifiable cause to teach without first securing the written release of
4.11 the school board;

4.12 (4) gross inefficiency which the teacher has failed to correct after reasonable written
4.13 notice;

4.14 (5) willful neglect of duty; or

4.15 (6) continuing physical or mental disability subsequent to a 12 months leave of absence
4.16 and inability to qualify for reinstatement in accordance with subdivision 12.

4.17 For purposes of this paragraph, conduct unbecoming a teacher includes an unfair
4.18 discriminatory practice described in section 363A.13.

4.19 Prior to discharging a teacher under this paragraph, the board must notify the teacher in
4.20 writing and state its ground for the proposed discharge in reasonable detail. Within ten days
4.21 after receipt of this notification the teacher may make a written request for a hearing before
4.22 the board and it ~~shall~~ must be granted before final action is taken. The board may suspend
4.23 a teacher with pay pending the conclusion of the hearing and determination of the issues
4.24 raised in the hearing after charges have been filed which constitute ground for discharge.
4.25 If a teacher has been charged with a felony and the underlying conduct that is the subject
4.26 of the felony charge is a ground for a proposed immediate discharge, the suspension pending
4.27 the conclusion of the hearing and determination of the issues may be without pay. If a
4.28 hearing under this paragraph is held, the board must reimburse the teacher for any salary
4.29 or compensation withheld if the final decision of the board or the arbitrator does not result
4.30 in a penalty to or suspension, termination, or discharge of the teacher.

5.1 (b) A board must discharge a continuing-contract teacher, effective immediately, upon
5.2 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
5.3 license has been revoked due to a conviction for:

5.4 (1) child abuse, as defined in section 609.185;

5.5 (2) sex trafficking in the first degree under section 609.322, subdivision 1;

5.6 (3) sex trafficking in the second degree under section 609.322, subdivision 1a;

5.7 (4) engaging in hiring or agreeing to hire a minor to engage in prostitution under section
5.8 609.324, subdivision 1, 1a, or 2;

5.9 (5) criminal sexual abuse conduct under section 609.342, 609.343, 609.344, 609.345,
5.10 609.3451, subdivision 3, or 617.23, subdivision 3;

5.11 (6) solicitation of children to engage in sexual conduct or communication of sexually
5.12 explicit materials to children under section 609.352;

5.13 (7) interference with privacy under section 609.746 or stalking under section 609.749
5.14 and the victim was a minor;

5.15 (8) using minors in a sexual performance under section 617.246;

5.16 (9) possessing pornographic works involving a minor under section 617.247; or

5.17 (10) any other offense not listed in this paragraph that requires the person to register as
5.18 a predatory offender under section 243.166, or a crime under a similar law of another state
5.19 or the United States; or

5.20 (11) any other offense not listed in this paragraph that requires notice of a licensing
5.21 action to the district in accordance with section 122A.20, subdivision 1, paragraph (b) or
5.22 (d).

5.23 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes
5.24 a final determination of child maltreatment involving a teacher under section 626.556,
5.25 subdivision 11, the school principal or other person having administrative control of the
5.26 school must include in the teacher's employment record the information contained in the
5.27 record of the disciplinary action or the final maltreatment determination, consistent with
5.28 the definition of public data under section 13.41, subdivision 5, and must provide the
5.29 Professional Educator Licensing and Standards Board and the licensing division at the
5.30 department with the necessary and relevant information to enable the Professional Educator
5.31 Licensing and Standards Board and the department's licensing division to fulfill their statutory
5.32 and administrative duties related to issuing, renewing, suspending, or revoking a teacher's

6.1 license. Information received by the Professional Educator Licensing and Standards Board
6.2 or the licensing division at the department under this paragraph is governed by section 13.41
6.3 or other applicable law governing data of the receiving entity. In addition to the background
6.4 check required under section 123B.03, a school board or other school hiring authority must
6.5 contact the Professional Educator Licensing and Standards Board and the department to
6.6 determine whether the teacher's license has been suspended or revoked, consistent with the
6.7 discharge and final maltreatment determinations identified in this paragraph. Unless restricted
6.8 by federal or state data practices law or by the terms of a collective bargaining agreement,
6.9 the responsible authority for a school district must disseminate to another school district
6.10 private personnel data on a current or former teacher employee or contractor of the district,
6.11 including the results of background investigations, if the requesting school district seeks
6.12 the information because the subject of the data has applied for employment with the
6.13 requesting school district.

6.14 **EFFECTIVE DATE.** This section is effective for the 2018-2019 school year and later.

6.15 Sec. 4. Minnesota Statutes 2017 Supplement, section 122A.41, subdivision 6, is amended
6.16 to read:

6.17 Subd. 6. **Grounds for discharge or demotion.** (a) Except as otherwise provided in
6.18 paragraph (b), causes for the discharge or demotion of a teacher either during or after the
6.19 probationary period must be:

6.20 (1) immoral character, conduct unbecoming a teacher, or insubordination;

6.21 (2) failure without justifiable cause to teach without first securing the written release of
6.22 the school board having the care, management, or control of the school in which the teacher
6.23 is employed;

6.24 (3) inefficiency in teaching or in the management of a school, consistent with subdivision
6.25 5, paragraph (b);

6.26 (4) affliction with a communicable disease must be considered as cause for removal or
6.27 suspension while the teacher is suffering from such disability; or

6.28 (5) discontinuance of position or lack of pupils.

6.29 For purposes of this paragraph, conduct unbecoming a teacher includes an unfair
6.30 discriminatory practice described in section 363A.13.

7.1 (b) A probationary or continuing-contract teacher must be discharged immediately upon
7.2 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
7.3 license has been revoked due to a conviction for:

7.4 (1) child abuse, as defined in section 609.185;

7.5 (2) sex trafficking in the first degree under section 609.322, subdivision 1;

7.6 (3) sex trafficking in the second degree under section 609.322, subdivision 1a;

7.7 (4) engaging in hiring or agreeing to hire a minor to engage in prostitution under section
7.8 609.324, subdivision 1, 1a, or 2;

7.9 (5) criminal sexual abuse conduct under section 609.342, 609.343, 609.344, 609.345,
7.10 609.3451, subdivision 3, or 617.23, subdivision 3;

7.11 (6) solicitation of children to engage in sexual conduct or communication of sexually
7.12 explicit materials to children under section 609.352;

7.13 (7) interference with privacy under section 609.746 or stalking under section 609.749
7.14 and the victim was a minor;

7.15 (8) using minors in a sexual performance under section 617.246;

7.16 (9) possessing pornographic works involving a minor under section 617.247; or

7.17 (10) any other offense not listed in this paragraph that requires the person to register as
7.18 a predatory offender under section 243.166, or a crime under a similar law of another state
7.19 or the United States; or

7.20 (11) any other offense not listed in this paragraph that requires notice of a licensing
7.21 action to the district in accordance with section 122A.20, subdivision 1, paragraph (b) or
7.22 (d).

7.23 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes
7.24 a final determination of child maltreatment involving a teacher under section 626.556,
7.25 subdivision 11, the school principal or other person having administrative control of the
7.26 school must include in the teacher's employment record the information contained in the
7.27 record of the disciplinary action or the final maltreatment determination, consistent with
7.28 the definition of public data under section 13.41, subdivision 5, and must provide the
7.29 Professional Educator Licensing and Standards Board and the licensing division at the
7.30 department with the necessary and relevant information to enable the Professional Educator
7.31 Licensing and Standards Board and the department's licensing division to fulfill their statutory
7.32 and administrative duties related to issuing, renewing, suspending, or revoking a teacher's

8.1 license. Information received by the Professional Educator Licensing and Standards Board
8.2 or the licensing division at the department under this paragraph is governed by section 13.41
8.3 or other applicable law governing data of the receiving entity. In addition to the background
8.4 check required under section 123B.03, a school board or other school hiring authority must
8.5 contact the Professional Educator Licensing and Standards Board and the department to
8.6 determine whether the teacher's license has been suspended or revoked, consistent with the
8.7 discharge and final maltreatment determinations identified in this paragraph. Unless restricted
8.8 by federal or state data practices law or by the terms of a collective bargaining agreement,
8.9 the responsible authority for a school district must disseminate to another school district
8.10 private personnel data on a current or former teacher employee or contractor of the district,
8.11 including the results of background investigations, if the requesting school district seeks
8.12 the information because the subject of the data has applied for employment with the
8.13 requesting school district.

8.14 **EFFECTIVE DATE.** This section is effective for the 2018-2019 school year and later.

8.15 Sec. 5. Minnesota Statutes 2017 Supplement, section 123B.03, subdivision 1, is amended
8.16 to read:

8.17 Subdivision 1. **Background check required.** (a) A school hiring authority ~~shall~~ must
8.18 request a criminal history background check from the superintendent of the Bureau of
8.19 Criminal Apprehension on all individuals who are offered employment in a school and on
8.20 all individuals, except enrolled student volunteers, who are offered the opportunity to provide
8.21 athletic coaching services or other extracurricular academic coaching services to a school,
8.22 regardless of whether any compensation is paid. In order for an individual to be eligible for
8.23 employment or to provide the services, the individual must provide an executed criminal
8.24 history consent form and a money order or check payable to either the Bureau of Criminal
8.25 Apprehension or the school hiring authority, at the discretion of the school hiring authority,
8.26 in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school
8.27 district of conducting the criminal history background check. A school hiring authority
8.28 deciding to receive payment may, at its discretion, accept payment in the form of a negotiable
8.29 instrument other than a money order or check and shall pay the superintendent of the Bureau
8.30 of Criminal Apprehension directly to conduct the background check. The superintendent
8.31 of the Bureau of Criminal Apprehension shall conduct the background check by retrieving
8.32 criminal history data as defined in section 13.87. A school hiring authority, at its discretion,
8.33 may decide not to request a criminal history background check on an individual who holds
8.34 an initial entrance license issued by the Professional Educator Licensing and Standards

9.1 Board or the commissioner of education within the 12 months preceding an offer of
9.2 employment.

9.3 (b) A school hiring authority may use the results of a criminal background check
9.4 conducted at the request of another school hiring authority if:

9.5 (1) the results of the criminal background check are on file with the other school hiring
9.6 authority or otherwise accessible;

9.7 (2) the other school hiring authority conducted a criminal background check within the
9.8 previous 12 months;

9.9 (3) the individual who is the subject of the criminal background check executes a written
9.10 consent form giving a school hiring authority access to the results of the check; and

9.11 (4) there is no reason to believe that the individual has committed an act subsequent to
9.12 the check that would disqualify the individual for employment.

9.13 (c) A school hiring authority may, at its discretion, request a criminal history background
9.14 check from the superintendent of the Bureau of Criminal Apprehension on any individual
9.15 who seeks to enter a school or its grounds for the purpose of serving as a school volunteer
9.16 or working as an independent contractor or student employee. In order for an individual to
9.17 enter a school or its grounds under this paragraph when the school hiring authority decides
9.18 to request a criminal history background check on the individual, the individual first must
9.19 provide an executed criminal history consent form and a money order, check, or other
9.20 negotiable instrument payable to the school district in an amount equal to the actual cost to
9.21 the Bureau of Criminal Apprehension and the school district of conducting the criminal
9.22 history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the
9.23 criminal history background check under this paragraph is the responsibility of the individual
9.24 unless a school hiring authority decides to pay the costs of conducting a background check
9.25 under this paragraph. If the school hiring authority pays the costs, the individual who is the
9.26 subject of the background check need not pay for it.

9.27 (d) In addition to the initial background check required for all individuals offered
9.28 employment in accordance with paragraph (a), a school hiring authority must request a new
9.29 criminal history background check from the superintendent of the Bureau of Criminal
9.30 Apprehension on all employees every three years. Notwithstanding any law to the contrary,
9.31 in order for an individual to be eligible for continued employment, an individual must
9.32 provide an executed criminal history consent form and a money order or check payable to
9.33 either the Bureau of Criminal Apprehension or the school hiring authority, at the discretion
9.34 of the school hiring authority, in an amount equal to the actual cost to the Bureau of Criminal

10.1 Apprehension and the school district of conducting the criminal history background check.
 10.2 A school hiring authority deciding to receive payment may, at its discretion, accept payment
 10.3 in the form of a negotiable instrument other than a money order or check and shall pay the
 10.4 superintendent of the Bureau of Criminal Apprehension directly to conduct the background
 10.5 check. A school hiring authority, at its discretion, may decide not to request a criminal
 10.6 history background check on an employee who provides the hiring authority with a copy
 10.7 of the results of a criminal history background check conducted within the previous 36
 10.8 months. A school hiring authority may, at its discretion, decide to pay the costs of conducting
 10.9 a background check under this paragraph.

10.10 ~~(d)~~ (e) For all nonstate residents who are offered employment in a school, a school hiring
 10.11 authority shall request a criminal history background check on such individuals from the
 10.12 superintendent of the Bureau of Criminal Apprehension and from the government agency
 10.13 performing the same function in the resident state or, if no government entity performs the
 10.14 same function in the resident state, from the Federal Bureau of Investigation. Such individuals
 10.15 must provide an executed criminal history consent form and a money order, check, or other
 10.16 negotiable instrument payable to the school hiring authority in an amount equal to the actual
 10.17 cost to the government agencies and the school district of conducting the criminal history
 10.18 background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal
 10.19 history background check under this paragraph is the responsibility of the individual.

10.20 ~~(e)~~ (f) At the beginning of each school year or when a student enrolls, a school hiring
 10.21 authority must notify parents and guardians about the school hiring authority's policy
 10.22 requiring a criminal history background check on employees and other individuals who
 10.23 provide services to the school, and identify those positions subject to a background check
 10.24 and the extent of the hiring authority's discretion in requiring a background check. The
 10.25 school hiring authority may include the notice in the student handbook, a school policy
 10.26 guide, or other similar communication. Nothing in this paragraph affects a school hiring
 10.27 authority's ability to request a criminal history background check on an individual under
 10.28 paragraph (c).

10.29 Sec. 6. Minnesota Statutes 2017 Supplement, section 626.556, subdivision 3, is amended
 10.30 to read:

10.31 Subd. 3. **Persons mandated to report; persons voluntarily reporting.** (a) A person
 10.32 who knows or has reason to believe a child is being neglected or physically or sexually
 10.33 abused, as defined in subdivision 2, or has been neglected or physically or sexually abused
 10.34 within the preceding three years, shall immediately report the information to the local welfare

11.1 agency, agency responsible for assessing or investigating the report, police department,
11.2 county sheriff, tribal social services agency, or tribal police department if the person is:

11.3 (1) a professional or professional's delegate who is engaged in the practice of the healing
11.4 arts, social services, hospital administration, psychological or psychiatric treatment, child
11.5 care, education, correctional supervision, probation and correctional services, or law
11.6 enforcement; ~~or~~

11.7 (2) employed as a member of the clergy and received the information while engaged in
11.8 ministerial duties, provided that a member of the clergy is not required by this subdivision
11.9 to report information that is otherwise privileged under section 595.02, subdivision 1,
11.10 paragraph (c); or

11.11 (3) a member of the Professional Educator Licensing and Standards Board or the Board
11.12 of School Administrators.

11.13 (b) Any person may voluntarily report to the local welfare agency, agency responsible
11.14 for assessing or investigating the report, police department, county sheriff, tribal social
11.15 services agency, or tribal police department if the person knows, has reason to believe, or
11.16 suspects a child is being or has been neglected or subjected to physical or sexual abuse.

11.17 (c) A person mandated to report physical or sexual child abuse or neglect occurring
11.18 within a licensed facility shall report the information to the agency responsible for licensing
11.19 or certifying the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16;
11.20 or chapter 144H, 245D, or 245H; or a nonlicensed personal care provider organization as
11.21 defined in section 256B.0625, subdivision 19a. A health or corrections agency receiving a
11.22 report may request the local welfare agency to provide assistance pursuant to subdivisions
11.23 10, 10a, and 10b. A board or other entity whose licensees perform work within a school
11.24 facility, upon receiving a complaint of alleged maltreatment, shall provide information about
11.25 the circumstances of the alleged maltreatment to the commissioner of education. Section
11.26 13.03, subdivision 4, applies to data received by the commissioner of education from a
11.27 licensing entity.

11.28 (d) Notification requirements under subdivision 10 apply to all reports received under
11.29 this section.

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

11.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.1 Sec. 7. Minnesota Statutes 2016, section 626.556, subdivision 10a, is amended to read:

12.2 Subd. 10a. **Law enforcement agency responsibility for investigation; welfare agency**
12.3 **reliance on law enforcement fact-finding; welfare agency offer of services.** (a) If the
12.4 report alleges neglect, physical abuse, or sexual abuse by a person who is not a parent,
12.5 guardian, sibling, person responsible for the child's care functioning within the family unit,
12.6 or a person who lives in the child's household and who has a significant relationship to the
12.7 child, in a setting other than a facility as defined in subdivision 2, the local welfare agency
12.8 shall immediately notify the appropriate law enforcement agency, which shall conduct an
12.9 investigation of the alleged abuse or neglect if a violation of a criminal statute is alleged.

12.10 (b) The local agency may rely on the fact-finding efforts of the law enforcement
12.11 investigation conducted under this subdivision to make a determination whether or not
12.12 threatened injury or other maltreatment has occurred under subdivision 2 if an alleged
12.13 offender has minor children or lives with minors.

12.14 (c) If a child is the victim of an alleged crime under paragraph (a), the law enforcement
12.15 agency shall immediately notify the local welfare agency, which shall offer appropriate
12.16 social services for the purpose of safeguarding and enhancing the welfare of the abused or
12.17 neglected minor.

12.18 (d) The law enforcement agency must report to the Professional Educator Licensing and
12.19 Standards Board an investigation under paragraph (a), involving a person licensed by the
12.20 board.

12.21 Sec. 8. Minnesota Statutes 2017 Supplement, section 626.556, subdivision 10e, is amended
12.22 to read:

12.23 Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family
12.24 assessment or the investigation within 45 days of the receipt of a report. The conclusion of
12.25 the assessment or investigation may be extended to permit the completion of a criminal
12.26 investigation or the receipt of expert information requested within 45 days of the receipt of
12.27 the report.

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

12.31 (c) After conducting an investigation, the local welfare agency shall make two
12.32 determinations: first, whether maltreatment has occurred; and second, whether child

13.1 protective services are needed. No determination of maltreatment shall be made when the
13.2 alleged perpetrator is a child under the age of ten.

13.3 (d) If the commissioner of education conducts an assessment or investigation, the
13.4 commissioner shall determine whether maltreatment occurred and what corrective or
13.5 protective action was taken by the school facility. If a determination is made that
13.6 maltreatment has occurred, the commissioner shall report to the employer, the school board,
13.7 and any appropriate licensing entity the determination that maltreatment occurred and what
13.8 corrective or protective action was taken by the school facility. In all other cases, the
13.9 commissioner shall inform the school board or employer and any appropriate licensing
13.10 entity that a report was received, the subject of the report, the date of the initial report, the
13.11 category of maltreatment alleged as defined in paragraph (f), the fact that maltreatment was
13.12 not determined, and a summary of the specific reasons for the determination.

13.13 (e) When maltreatment is determined in an investigation involving a facility, the
13.14 investigating agency shall also determine whether the facility or individual was responsible,
13.15 or whether both the facility and the individual were responsible for the maltreatment using
13.16 the mitigating factors in paragraph (i). Determinations under this subdivision must be made
13.17 based on a preponderance of the evidence and are private data on individuals or nonpublic
13.18 data as maintained by the commissioner of education.

13.19 (f) For the purposes of this subdivision, "maltreatment" means any of the following acts
13.20 or omissions:

13.21 (1) physical abuse as defined in subdivision 2, paragraph (k);

13.22 (2) neglect as defined in subdivision 2, paragraph (g);

13.23 (3) sexual abuse as defined in subdivision 2, paragraph (n);

13.24 (4) mental injury as defined in subdivision 2, paragraph (f); or

13.25 (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (c).

13.26 (g) For the purposes of this subdivision, a determination that child protective services
13.27 are needed means that the local welfare agency has documented conditions during the
13.28 assessment or investigation sufficient to cause a child protection worker, as defined in
13.29 section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment
13.30 if protective intervention is not provided and that the individuals responsible for the child's
13.31 care have not taken or are not likely to take actions to protect the child from maltreatment
13.32 or risk of maltreatment.

14.1 (h) This subdivision does not mean that maltreatment has occurred solely because the
14.2 child's parent, guardian, or other person responsible for the child's care in good faith selects
14.3 and depends upon spiritual means or prayer for treatment or care of disease or remedial care
14.4 of the child, in lieu of medical care. However, if lack of medical care may result in serious
14.5 danger to the child's health, the local welfare agency may ensure that necessary medical
14.6 services are provided to the child.

14.7 (i) When determining whether the facility or individual is the responsible party, or
14.8 whether both the facility and the individual are responsible for determined maltreatment in
14.9 a facility, the investigating agency shall consider at least the following mitigating factors:

14.10 (1) whether the actions of the facility or the individual caregivers were according to,
14.11 and followed the terms of, an erroneous physician order, prescription, individual care plan,
14.12 or directive; however, this is not a mitigating factor when the facility or caregiver was
14.13 responsible for the issuance of the erroneous order, prescription, individual care plan, or
14.14 directive or knew or should have known of the errors and took no reasonable measures to
14.15 correct the defect before administering care;

14.16 (2) comparative responsibility between the facility, other caregivers, and requirements
14.17 placed upon an employee, including the facility's compliance with related regulatory standards
14.18 and the adequacy of facility policies and procedures, facility training, an individual's
14.19 participation in the training, the caregiver's supervision, and facility staffing levels and the
14.20 scope of the individual employee's authority and discretion; and

14.21 (3) whether the facility or individual followed professional standards in exercising
14.22 professional judgment.

14.23 The evaluation of the facility's responsibility under clause (2) must not be based on the
14.24 completeness of the risk assessment or risk reduction plan required under section 245A.66,
14.25 but must be based on the facility's compliance with the regulatory standards for policies
14.26 and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota
14.27 Rules.

14.28 (j) Notwithstanding paragraph (i), when maltreatment is determined to have been
14.29 committed by an individual who is also the facility license or certification holder, both the
14.30 individual and the facility must be determined responsible for the maltreatment, and both
14.31 the background study disqualification standards under section 245C.15, subdivision 4, and
14.32 the licensing or certification actions under section 245A.06, 245A.07, 245H.06, or 245H.07
14.33 apply.