The annual fee must be paid by December 31 of each year. If the fee is not paid when due, the commissioner shall revoke or refuse to issue or renew the license under chapter 297. The annual fee must be deposited into the general fund.

Sec. 7. **EFFECTIVE DATE.**

Sections 1 to 6 are effective August 1, 1997.

Presented to the governor May 5, 1997

Signed by the governor May 6, 1997, 2:47 p.m.

CHAPTER 107—S.F.No. 101

An act relating to human services; adding an exclusion to elderly housing with services establishment; downsizing the number of IMD beds; modifying the appeal process for nursing facilities; changing procedure for permanent placement of a child and provisions for reimbursement for family foster care; removing the time limitation on family general assistance; amending Minnesota Statutes 1996, sections 144D.01, subdivision 4; 245.466, by adding a subdivision; 256B.059, subdivisions 1, 2, 5, and by adding a subdivision; 256B.17, subdivision 7; 256B.431, subdivision 18; 256B.50, subdivisions 1, 1b, 1c, and 1e; 256D.01, subdivision 1a; 257.071, subdivision 2; 260.191, subdivision 3b; 260.192; 260.242, subdivision 2; and 382.18; repealing Minnesota Statutes 1996, sections 256B.17, subdivisions 1, 2, 3, 4, 5, 6, and 8; and 256B.50, subdivisions 1d, 1g, 1h, and 2.

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

Section 1. Minnesota Statutes 1996, section 144D.01, subdivision 4, is amended to read:

Subd. 4. **ELDERLY HOUSING WITH SERVICES ESTABLISHMENT OR ESTABLISHMENT.** "Elderly housing with services establishment" or "establishment" means an establishment providing sleeping accommodations to one or more adult residents, at least 80 percent of which are 55 years of age or older, and offering or providing, for a fee, one or more health–related or supportive service, whether offered or provided directly by the establishment or by another entity arranged for by the establishment.

Elderly housing with services establishment does not include:

(1) a nursing home licensed under chapter 144A;

(2) a hospital, boarding care home, or supervised living facility licensed under sections 144.50 to 144.56;

(3) a board and lodging establishment licensed under chapter 157 and Minnesota Rules, parts 9520.0500 to 9520.0670, 9525.0215 to 9525.0355, 9525.0500 to 9525.0660, or 9530.4100 to 9530.4450;

(4) a board and lodging establishment which serves as a shelter for battered women or other similar purpose;

(5) a family adult foster care home licensed under Minnesota Rules, parts 9543.0010 to 9543.0150; ~~or~~

(6) private homes in which the residents are related by kinship, law, or affinity with the providers of services; or

(7) residential settings for persons with mental retardation or related conditions in which the services are licensed under Minnesota Rules, parts 9525.2100 to 9525.2140, or applicable successor rules or laws.

Sec. 2. Minnesota Statutes 1996, section 245.466, is amended by adding a subdivision to read:

Subd. 7. **IMD DOWNSIZING FLEXIBILITY.** (a) If a county presents a budget–neutral plan for a net reduction in the number of institution for mental disease (IMD) beds funded under group residential housing, the commissioner may transfer the net savings from group residential housing and general assistance medical care to medical assistance and mental health grants to provide appropriate services in non–IMD settings. For the purposes of this subdivision, "a budget neutral plan" means a plan that does not increase the state share of costs.

(b) The provisions of paragraph (a) do not apply to a facility that has its reimbursement rate established under section 256B.431, subdivision 4, paragraph (c).

Sec. 3. Minnesota Statutes 1996, section 256B.059, is amended by adding a subdivision to read:

Subdivision 1. **INSTITUTIONALIZED SPOUSE.** The provisions of this section apply only when a spouse is institutionalized for a continuous period beginning on or after October 1, 1989.

Sec. 4. Minnesota Statutes 1996, section 256B.059, subdivision 1, is amended to read:

~~Subdivision 1.~~ Subd. 1a. **DEFINITIONS.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Community spouse" means the spouse of an institutionalized spouse.

(c) "Spousal share" means one–half of the total value of all assets, to the extent that either the institutionalized spouse or the community spouse had an ownership interest at the time of institutionalization.

(d) "Assets otherwise available to the community spouse" means assets individually or jointly owned by the community spouse, other than assets excluded by subdivision 5, paragraph (c).

(e) "Community spouse asset allowance" is the value of assets that can be transferred under subdivision 3.

(f) "Institutionalized spouse" means a person who is:

(1) in a hospital, nursing facility, or intermediate care facility for persons with mental retardation, or receiving home and community–based services under section 256B.0915 or 256B.49, and is expected to remain in the facility or institution or receive the home and community–based services for at least 30 consecutive days; and

(2) married to a person who is not in a hospital, nursing facility, or intermediate care facility for persons with mental retardation, and is not receiving home and community–based services under section 256B.0915 or 256B.49.

Sec. 5. Minnesota Statutes 1996, section 256B.059, subdivision 2, is amended to read:

Subd. 2. **ASSESSMENT OF SPOUSAL SHARE.** At the beginning of a the first continuous period of institutionalization of a person beginning on or after October 1, 1989, at the request of either the institutionalized spouse or the community spouse, or upon application for medical assistance, the total value of assets in which either the institutionalized spouse or the community spouse had an interest at the time of the first period of institutionalization of 30 days or more shall be assessed and documented and the spousal share shall be assessed and documented.

Sec. 6. Minnesota Statutes 1996, section 256B.059, subdivision 5, is amended to read:

Subd. 5. **ASSET AVAILABILITY.** (a) At the time of initial determination of eligibility for medical assistance benefits following the first continuous period of institutionalization on or after October 1, 1989, assets considered available to the institutionalized spouse shall be the total value of all assets in which either spouse has an ownership interest, reduced by the following:

(1) prior to July 1, 1994, the greater of:

(i) $14,148;

(ii) the lesser of the spousal share or $70,740; or

(iii) the amount required by court order to be paid to the community spouse;

(2) for persons whose date of initial determination of eligibility for medical assistance following their first continuous period of institutionalization occurs on or after July 1, 1994, the greater of:

(i) $20,000;

(ii) the lesser of the spousal share or $70,740; or

(iii) the amount required by court order to be paid to the community spouse. If the community spouse asset allowance has been increased under subdivision 4, then the assets considered available to the institutionalized spouse under this subdivision shall be further reduced by the value of additional amounts allowed under subdivision 4.

(b) An institutionalized spouse may be found eligible for medical assistance even though assets in excess of the allowable amount are found to be available under paragraph (a) if the assets are owned jointly or individually by the community spouse, and the institutionalized spouse cannot use those assets to pay for the cost of care without the consent of the community spouse, and if: (i) the institutionalized spouse assigns to the commissioner the right to support from the community spouse under section 256B.14, subdivision 3; (ii) the institutionalized spouse lacks the ability to execute an assignment due to a physical or mental impairment; or (iii) the denial of eligibility would cause an imminent threat to the institutionalized spouse's health and well–being.

(c) After the month in which the institutionalized spouse is determined eligible for medical assistance, during the continuous period of institutionalization, no assets of the community spouse are considered available to the institutionalized spouse, unless the institutionalized spouse has been found eligible under paragraph (b).

(d) Assets determined to be available to the institutionalized spouse under this section must be used for the health care or personal needs of the institutionalized spouse.

(e) For purposes of this section, assets do not include assets excluded under the supplemental security income program.

Sec. 7. Minnesota Statutes 1996, section 256B.17, subdivision 7, is amended to read:

Subd. 7. **EXCEPTION FOR ASSET TRANSFERS.** ~~Notwithstanding the provisions of subdivisions 1 to 6,~~ An institutionalized spouse, institutionalized before October 1, 1989, for a continuous period, who applies for medical assistance on or after July 1, 1983, may transfer liquid assets to a noninstitutionalized spouse ~~without loss of eligibility~~ if all of the following conditions apply:

(a) The noninstitutionalized spouse is not applying for or receiving assistance;

(b) Either (1) the noninstitutionalized spouse has less than $10,000 in liquid assets, including assets singly owned and 50 percent of assets owned jointly with the institutionalized spouse; or (2) the noninstitutionalized spouse has less than 50 percent of the total value of nonexempt assets owned by both parties, jointly or individually;

(c) The amount transferred, together with the noninstitutionalized spouse's own assets, totals no more than one-half of the total value of the liquid assets of the parties or $10,000 in liquid assets, whichever is greater; and

(d) The transfer may be effected only once, at the time of initial medical assistance application.

Sec. 8. Minnesota Statutes 1996, section 256B.431, subdivision 18, is amended to read:

Subd. 18. **APPRAISALS; UPDATING APPRAISALS, ADDITIONS, AND REPLACEMENTS.** (a) Notwithstanding Minnesota Rules, part 9549.0060, subparts 1 to 3, the appraised value, routine updating of the appraised value, and special reappraisals are subject to this subdivision.

(1) For rate years beginning after June 30, 1993, the commissioner shall permit a nursing facility to appeal its appraisal ~~according to the procedures provided in section 256B.50, subdivision 2~~. Any reappraisals conducted in connection with that appeal must utilize the comparative-unit method as described in the Marshall Valuation Service published by Marshall-Swift in establishing the nursing facility's depreciated replacement cost.

Nursing facilities electing to appeal their appraised value shall file written notice of appeal with the commissioner of human services before December 30, 1992. The cost of the reappraisal, if any, shall be considered an allowable cost under Minnesota Rules, parts 9549.0040, subpart 9, and 9549.0061.

(2) The redetermination of a nursing facility's appraised value under this paragraph shall have no impact on the rental payment rate determined under subdivision 13 but shall only be used for calculating the nursing facility's rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section for rate years beginning after June 30, 1993.

(3) For all rate years after June 30, 1993, the commissioner shall no longer conduct any appraisals under Minnesota Rules, part 9549.0060, for the purpose of determining property–related payment rates.

(b) Notwithstanding Minnesota Rules, part 9549.0060, subpart 2, for rate years beginning after June 30, 1993, the commissioner shall routinely update the appraised value of each nursing facility by adding the cost of capital asset acquisitions to its allowable appraised value.

The commissioner shall also annually index each nursing facility's allowable appraised value by the inflation index referenced in subdivision 3f, paragraph (a), for the purpose of computing the nursing facility's annual rental rate. In annually adjusting the nursing facility's appraised value, the commissioner must not include the historical cost of capital assets acquired during the reporting year in the nursing facility's appraised value.

In addition, the nursing facility's appraised value must be reduced by the historical cost of capital asset disposals or applicable credits such as public grants and insurance proceeds. Capital asset additions and disposals must be reported on the nursing facility's annual cost report in the reporting year of acquisition or disposal. The incremental increase in the nursing facility's rental rate resulting from this annual adjustment as determined under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section shall be added to the nursing facility's property–related payment rate for the rate year following the reporting year.

Sec. 9. Minnesota Statutes 1996, section 256B.50, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** A provider may appeal from a determination of a payment rate established pursuant to this chapter and reimbursement rules of the commissioner if the appeal, if successful, would result in a change to the provider's payment rate or to the calculation of maximum charges to therapy vendors as provided by section 256B.433, subdivision 3. Appeals must be filed in accordance with procedures in this section. This section does not apply to a request from a resident or ~~nursing~~ long–term care facility for reconsideration of the classification of a resident under section 144.0722 or 144.0723.

Sec. 10. Minnesota Statutes 1996, section 256B.50, subdivision 1b, is amended to read:

Subd. 1b. **FILING AN APPEAL.** To appeal, the provider shall file with the commissioner a written notice of appeal; the appeal must be postmarked or received by the commissioner within 60 days of the date the determination of the payment rate was mailed or personally received by a provider, whichever is earlier. The notice of appeal must specify each disputed item; the reason for the dispute; the total dollar amount in dispute for each separate disallowance, allocation, or adjustment of each cost item or part of a cost item; the computation that the provider believes is correct; the authority in statute or rule upon which the provider relies for each disputed item; the name and address of the person or firm with whom contacts may be made regarding the appeal; and other information required by the commissioner. ~~The commissioner shall review an appeal by a nursing facility, if the appeal was sent by certified mail and postmarked prior to August 1, 1991, and would have been received by the commissioner within the 60–day deadline if it had not been delayed due to an error by the postal service.~~

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 11. Minnesota Statutes 1996, section 256B.50, subdivision 1c, is amended to read:

Subd. 1c. **CONTESTED CASE PROCEDURES APPEALS REVIEW PROCESS.** ~~Except as provided in subdivision 2, the appeal~~ (a) Effective for desk audit appeals for rate years beginning on or after July 1, 1997, and for field audit appeals filed on or after that date, the commissioner shall review appeals and issue a written appeal determination on each appealed item within one year of the due date of the appeal. Upon mutual agreement, the commissioner and the provider may extend the time for issuing a determination for a specified period. The commissioner shall notify the provider by first class mail of the appeal determination. The appeal determination takes effect 30 days following the date of issuance specified in the determination.

(b) In reviewing the appeal, the commissioner may request additional written or oral information from the provider. The provider has the right to present information by telephone, in writing, or in person concerning the appeal to the commissioner prior to the issuance of the appeal determination within six months of the date the appeal was received by the commissioner. Written requests for conferences must be submitted separately from the appeal letter. Statements made during the review process are not admissible in a contested case hearing absent an express stipulation by the parties to the contested case.

(c) For an appeal item on which the provider disagrees with the appeal determination, the provider may file with the commissioner a written demand for a contested case hearing to determine the proper resolution of specified appeal items. The demand must be postmarked or received by the commissioner within 30 days of the date of issuance specified in the determination. A contested case demand for an appeal item nullifies the written appeal determination issued by the commissioner for that appeal item. The commissioner shall refer any contested case demand to the office of the attorney general.

(d) A contested case hearing must be heard by an administrative law judge according to sections 14.48 to 14.56. In any proceeding under this section, the appealing party must demonstrate by a preponderance of the evidence that the ~~commissioner's~~ determination of a payment rate is incorrect.

(e) Regardless of any rate appeal, the rate established must be the rate paid and must remain in effect until final resolution of the appeal or subsequent desk or field audit adjustment~~, notwithstanding any provision of law or rule to the contrary~~.

(f) To challenge the validity of rules established by the commissioner pursuant to this section and sections 256B.41, 256B.421, 256B.431, 256B.47, 256B.48, 256B.501, and 256B.502, a provider shall comply with section 14.44.

(g) The commissioner has discretion to issue to the provider a proposed resolution for specified appeal items upon a request from the provider filed separately from the notice of appeal. The proposed resolution is final upon written acceptance by the provider within 30 days of the date the proposed resolution was mailed to or personally received by the provider, whichever is earlier.

(h) The commissioner may use the procedures described in this subdivision to resolve appeals filed prior to July 1, 1997.

Sec. 12. Minnesota Statutes 1996, section 256B.50, subdivision 1e, is amended to read:

Subd. 1e. **ATTORNEY'S FEES AND COSTS.** (a) Notwithstanding section 15.472, paragraph (a), for an issue appealed under subdivision 1, the prevailing party in a contested case proceeding or, if appealed, in subsequent judicial review, must be awarded reasonable attorney's fees and costs incurred in litigating the appeal, if the prevailing party shows that the position of the opposing party was not substantially justified. The procedures for awarding fees and costs set forth in section 15.474 must be followed in determining the prevailing party's fees and costs except as otherwise provided in this subdivision. For purposes of this subdivision, "costs" means subpoena fees and mileage, transcript costs, court reporter fees, witness fees, postage and delivery costs, photocopying and printing costs, amounts charged the commissioner by the office of administrative hearings, and direct administrative costs of the department; and "substantially justified" means that a position had a reasonable basis in law and fact, based on the totality of the circumstances prior to and during the contested case proceeding and subsequent review.

(b) When an award is made to the department under this subdivision, attorney fees must be calculated at the cost to the department. When an award is made to a provider under this subdivision, attorney fees must be calculated at the rate charged to the provider except that attorney fees awarded must be the lesser of the attorney's normal hourly fee or $100 per hour.

(c) In contested case proceedings involving more than one issue, the administrative law judge shall determine what portion of each party's attorney fees and costs is related to the issue or issues on which it prevailed and for which it is entitled to an award. In making that determination, the administrative law judge shall consider the amount of time spent on each issue, the precedential value of the issue, the complexity of the issue, and other factors deemed appropriate by the administrative law judge.

(d) When the department prevails on an issue involving more than one provider, the administrative law judge shall allocate the total amount of any award for attorney fees and costs among the providers. In determining the allocation, the administrative law judge shall consider each provider's monetary interest in the issue and other factors deemed appropriate by the administrative law judge.

(e) Attorney fees and costs awarded to the department for proceedings under this subdivision must not be reported or treated as allowable costs on the provider's cost report.

(f) Fees and costs awarded to a provider for proceedings under this subdivision must be reimbursed to them by reporting the amount of fees and costs awarded as allowable costs on the provider's cost report for the reporting year in which they were awarded. Fees and costs reported pursuant to this subdivision must be included in the general and administrative cost category but are not subject to ~~either the general and administrative or other operating cost limits~~ categorical or overall cost limitations established in rule or statute.

(g) If the provider fails to pay the awarded attorney fees and costs within 120 days of the final decision on the award of attorney fees and costs, the department may collect the amount due through any method available to it for the collection of medical assistance overpayments to providers. Interest charges must be assessed on balances outstanding after 120 days of the final decision on the award of attorney fees and costs. The annual interest rate charged must be the rate charged by the commissioner of revenue for late

payment of taxes that is in effect on the 121st day after the final decision on the award of attorney fees and costs.

(h) Amounts collected by the commissioner pursuant to this subdivision must be deemed to be recoveries pursuant to section 256.01, subdivision 2, clause 15.

(i) This subdivision applies to all contested case proceedings set on for hearing by the commissioner on or after April 29, 1988, regardless of the date the appeal was filed.

Sec. 13. Minnesota Statutes 1996, section 256D.01, subdivision 1a, is amended to read:

Subd. 1a. **STANDARDS.** (a) A principal objective in providing general assistance is to provide for persons ineligible for federal programs who are unable to provide for themselves. The minimum standard of assistance determines the total amount of the general assistance grant without separate standards for shelter, utilities, or other needs.

(b) The commissioner shall set the standard of assistance for an assistance unit consisting of an adult recipient who is childless and unmarried or living apart from children and spouse and who does not live with a parent or parents or a legal custodian. When the other standards specified in this subdivision increase, this standard must also be increased by the same percentage.

(c) For an assistance unit consisting of a single adult who lives with a parent or parents, the general assistance standard of assistance is the amount that the aid to families with dependent children standard of assistance would increase if the recipient were added as an additional minor child to an assistance unit consisting of the recipient's parent and all of that parent's family members, except that the standard may not exceed the standard for a general assistance recipient living alone. Benefits received by a responsible relative of the assistance unit under the supplemental security income program, a workers' compensation program, the Minnesota supplemental aid program, or any other program based on the responsible relative's disability, and any benefits received by a responsible relative of the assistance unit under the social security retirement program, may not be counted in the determination of eligibility or benefit level for the assistance unit. Except as provided below, the assistance unit is ineligible for general assistance if the available resources or the countable income of the assistance unit and the parent or parents with whom the assistance unit lives are such that a family consisting of the assistance unit's parent or parents, the parent or parents' other family members and the assistance unit as the only or additional minor child would be financially ineligible for general assistance. For the purposes of calculating the countable income of the assistance unit's parent or parents, the calculation methods, income deductions, exclusions, and disregards used when calculating the countable income for a single adult or childless couple must be used.

(d) For an assistance unit consisting of a childless couple, the standards of assistance are the same as the first and second adult standards of the aid to families with dependent children program. If one member of the couple is not included in the general assistance grant, the standard of assistance for the other is the second adult standard of the aid to families with dependent children program.

(e) For an assistance unit consisting of all members of a family, the standards of assistance are the same as the standards of assistance that apply to a family under the aid to

families with dependent children program if that family had the same number of parents and children as the assistance unit under general assistance and if all members of that family were eligible for the aid to families with dependent children program. If one or more members of the family are not included in the assistance unit for general assistance, the standards of assistance for the remaining members are the same as the standards of assistance that apply to an assistance unit composed of the entire family, less the standards of assistance for a family of the same number of parents and children as those members of the family who are not in the assistance unit for general assistance. In no case shall the standard for family members who are in the assistance unit for general assistance, when combined with the standard for family members who are not in the general assistance unit, total more than the standard for the entire family if all members were in an AFDC assistance unit. A child may not be excluded from the assistance unit unless income intended for its benefit is received from a federally aided categorical assistance program or supplemental security income. The income of a child who is excluded from the assistance unit may not be counted in the determination of eligibility or benefit level for the assistance unit.

(f) An assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the aid to families with dependent children program, except that, ~~until June 30, 1995,~~ in cases where a county agency has developed or approved a case plan that includes reunification with the children, foster care maintenance payments made under state or local law for a child who is temporarily absent from the assistance unit must not be considered income to the child and the payments must not be counted in the determination of the eligibility or benefit level of the assistance unit. Otherwise, the standard of assistance must be determined according to paragraph (e); the first $50 of total child support received by an assistance unit in a month must be excluded and the balance counted as unearned income.

Sec. 14. Minnesota Statutes 1996, section 257.071, subdivision 2, is amended to read:

Subd. 2. **SIX-MONTH REVIEW OF PLACEMENTS.** There shall be an administrative review of the case plan of each child placed in a residential facility no later than 180 days after the initial placement of the child in a residential facility and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The case plan must be monitored and updated at each administrative review. As an alternative to the administrative review, the social service agency responsible for the placement may bring a petition as provided in section 260.131, subdivision 1a, to the court for review of the foster care to determine if placement is in the best interests of the child. This petition must be brought to the court within the applicable six months and is not in lieu of the requirements contained in subdivision 3 or 4. A court review conducted pursuant to section 260.191, subdivision 3b, shall satisfy the requirement for an administrative review so long as the other requirements of this section are met.

Sec. 15. Minnesota Statutes 1996, section 260.191, subdivision 3b, is amended to read:

Subd. 3b. **REVIEW OF COURT ORDERED PLACEMENTS; PERMANENT PLACEMENT DETERMINATION.** (a) If the court places a child in a residential facility, as defined in section 257.071, subdivision 1, the court shall conduct a hearing to determine the permanent status of the child not later than 12 months after the child was

placed out of the home of the parent. Not later than ten days prior to this hearing, the responsible social service agency shall file pleadings to establish the basis for the permanent placement determination. Notice of the hearing and copies of the pleadings must be provided pursuant to section 260.141. If a termination of parental rights petition is filed before the date required for the permanency planning determination, no hearing need be conducted under this section. The court shall determine whether the child is to be returned home or, if not, what permanent placement is consistent with the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated.

If the child is not returned to the home, the dispositions available for permanent placement determination are:

(1) permanent legal and physical custody to a relative pursuant to the standards and procedures applicable under chapter 257 or 518. The social service agency may petition on behalf of the proposed custodian;

(2) termination of parental rights and adoption; the social service agency shall file a petition for termination of parental rights under section 260.231 and all the requirements of sections 260.221 to 260.245 remain applicable; or

(3) long–term foster care; transfer of legal custody and adoption are preferred permanency options for a child who cannot return home. The court may order a child into long–term foster care only if it finds that neither an award of legal and physical custody to a relative, nor termination of parental rights nor adoption is in the child's best interests. Further, the court may only order long–term foster care for the child under this section if it finds the following:

(i) the child has reached age 12 and reasonable efforts by the responsible social service agency have failed to locate an adoptive family for the child; or

(ii) the child is a sibling of a child described in clause (i) and the siblings have a significant positive relationship and are ordered into the same long–term foster care home.

(b) The court may extend the time period for determination of permanent placement to 18 months after the child was placed in a residential facility if:

(1) there is a substantial probability that the child will be returned home within the next six months;

(2) the agency has not made reasonable, or, in the case of an Indian child, active efforts, to correct the conditions that form the basis of the out–of–home placement; or

(3) extraordinary circumstances exist precluding a permanent placement determination, in which case the court shall make written findings documenting the extraordinary circumstances and order one subsequent review after six months to determine permanent placement. A court finding that extraordinary circumstances exist precluding a permanent placement determination must be supported by detailed factual findings regarding those circumstances.

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

(d) Once a permanent placement determination has been made and permanent placement has been established, further court reviews and dispositional hearings are only necessary if otherwise required by federal law, an adoption has not yet been finalized, or there is a disruption of the permanent or long–term placement. ~~If required, reviews must take place no less frequently than every six months.~~

(e) An order under this subdivision must include the following detailed findings:

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

(2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts, to reunify the child with the parent or parents;

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

(4) whether the conditions which led to the out–of–home placement have been corrected so that the child can return home; and

(5) if the child cannot be returned home, whether there is a substantial probability of the child being able to return home in the next six months.

(f) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social service agency is a party to the proceeding and must receive notice. An order for long–term foster care is reviewable upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child.

Sec. 16. Minnesota Statutes 1996, section 260.192, is amended to read:

260.192 **DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS.**

Upon a petition for review of the foster care status of a child, the court may:

(a) In the case of a petition required to be filed under section 257.071, subdivision 3, find that the child's needs are being met, that the child's placement in foster care is in the best interests of the child, and that the child will be returned home in the next six months, in which case the court shall approve the voluntary arrangement and continue the matter for six months to assure the child returns to the parent's home.

(b) In the case of a petition required to be filed under section 257.071, subdivision 4, find that the child's needs are being met and that the child's placement in foster care is in the best interests of the child, in which case the court shall approve the voluntary arrangement. The court shall order the social service agency responsible for the placement to bring a petition under section 260.131, subdivision 1 or 1a, as appropriate, within ~~two years~~ 12 months.

(c) Find that the child's needs are not being met, in which case the court shall order the social service agency or the parents to take whatever action is necessary and feasible to meet the child's needs, including, when appropriate, the provision by the social service agency of services to the parents which would enable the child to live at home, and order a disposition under section 260.191.

(d) Find that the child has been abandoned by parents financially or emotionally, or that the developmentally disabled child does not require out–of–home care because of the handicapping condition, in which case the court shall order the social service agency to file an appropriate petition pursuant to sections 260.131, subdivision 1, or 260.231.

Nothing in this section shall be construed to prohibit bringing a petition pursuant to section 260.131, subdivision 1 or 2, sooner than required by court order pursuant to this section.

Sec. 17. Minnesota Statutes 1996, section 260.242, subdivision 2, is amended to read:

Subd. 2. **GUARDIAN'S RESPONSIBILITIES.** (a) A guardian appointed under the provisions of this section has legal custody of a ward unless the court which appoints the guardian gives legal custody to some other person. If the court awards custody to a person other than the guardian, the guardian nonetheless has the right and responsibility of reasonable visitation, except as limited by court order.

(b) The guardian may make major decisions affecting the person of the ward, including but not limited to giving consent (when consent is legally required) to the marriage, enlistment in the armed forces, medical, surgical, or psychiatric treatment, or adoption of the ward. When, pursuant to this section, the commissioner of human services is appointed guardian, the commissioner may delegate to the local social services agency of the county in which, after the appointment, the ward resides, the authority to act for the commissioner in decisions affecting the person of the ward, including but not limited to giving consent to the marriage, enlistment in the armed forces, medical, surgical, or psychiatric treatment of the ward.

(c) A guardianship created under the provisions of this section shall not of itself include the guardianship of the estate of the ward.

(d) If the ward is in foster care, the court shall, upon its own motion or that of the guardian, conduct a dispositional hearing within 18 months of the child's initial foster care placement and once every ~~two years~~ 12 months thereafter to determine the future status of the ward including, but not limited to, whether the child should be continued in foster care for a specified period, should be placed for adoption, or should, because of the child's special needs or circumstances, be continued in foster care on a ~~permanent or~~ long–term basis. ~~When the court has determined that the special needs of the ward are met through a permanent or long–term foster care placement, no subsequent dispositional hearings are required.~~

Sec. 18. Minnesota Statutes 1996, section 382.18, is amended to read:

382.18 **OFFICIALS NOT TO BE INTERESTED IN CONTRACTS.**

No county official, or deputy or clerk or employee of such official; and no commissioner for tax-forfeited lands or commissioner's assistants, shall be directly or indirectly interested in any contract, work, labor, or business to which the county is a party or in which it is or may be interested or in the furnishing of any article to, or the purchase or sale of any property, real or personal, by, the county, or of which the consideration, price, or expense is payable from the county treasury. Nothing in this section shall prevent a person from receiving reimbursement from a county for providing licensed or tribally approved family foster care. Any violation of the provisions of this section shall be a gross misdemeanor.

Sec. 19. **REPEALER.**

Minnesota Statutes 1996, sections 256B.17, subdivisions 1, 2, 3, 4, 5, 6, and 8; and 256B.50, subdivisions 1d, 1g, 1h, and 2, are repealed.

Presented to the governor May 5, 1997

Signed by the governor May 6, 1997, 2:50 p.m.

CHAPTER 108—S.F.No. 166

An act relating to motor vehicles; allowing sale 15 days after notice of vehicles impounded in Minneapolis or St. Paul; amending Minnesota Statutes 1996, sections 168B.051, subdivision 2, and by adding a subdivision; 168B.06, subdivision 1; and 168B.07, subdivision 1.

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

Section 1. Minnesota Statutes 1996, section 168B.051, is amended by adding a subdivision to read:

Subd. 1a. **SALE 15 DAYS AFTER NOTICE BY CERTIFIED MAIL.** An unauthorized vehicle impounded by the city of Minneapolis or by the city of St. Paul is eligible for disposal or sale under section 168B.08, 15 days after notice is sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record. If, before the expiration of the 15-day period following notice of taking, the registered owner or lienholder of record delivers to the impound lot operator a written statement of intent to reclaim the vehicle, the vehicle is not eligible for disposal or sale until 45 days after the notice of taking, if the owner or lienholder has not reclaimed under section 168B.07. Notwithstanding section 168B.06, subdivision 3, a second notice shall not be required.

Sec. 2. Minnesota Statutes 1996, section 168B.051, subdivision 2, is amended to read:

Subd. 2. **SALE AFTER 45 DAYS.** An impounded vehicle is eligible for disposal or sale under section 168B.08, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle that was not impounded by the city of Minneapolis or the city of St. Paul.