

director of the county agency or the director's designee. The signature of the director or the director's designee does not require an acknowledgment.

(g) All recoveries under this section are recoveries under section 256B.15.

(h) For purposes of this section and chapter 256B, all property identified in the petition and all subsequent amendments to the petition shall constitute an estate.

#### Sec. 9. DAY SERVICES PROGRAMS.

The commissioners of human services, revenue, and finance, in consultation with representatives of interested groups, including family members, advocacy organizations, counties, service providers, and others, shall develop specific legislative recommendations on the transfer from county funds to the state general fund for the responsibility for funding day training and habilitation services under Minnesota Statutes, section 252.41, including a proposal for a home and community-based waiver for day services programs. The recommendation shall include estimated cost of the nonfederal share of medical assistance day services. The recommendations, including cost estimates, shall be provided to the chairs of the house health and human services policy and finance committees and the senate health and family security committee and budget division by January 1, 2001.

Presented to the governor April 11, 2000

Signed by the governor April 14, 2000, 2:45 p.m.

### CHAPTER 401—S.F.No. 3410

*An act relating to child protection; modifying provisions relating to child neglect and domestic violence; adding a definition for a child exposed to domestic violence; imposing notification requirements on emergency shelters; amending Minnesota Statutes 1998, section 626.556, by adding a subdivision; Minnesota Statutes 1999 Supplement, section 626.556, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 626.*

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

Section 1. Minnesota Statutes 1999 Supplement, section 626.556, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal

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sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

(7) "medical neglect" as defined in section 260C.007, subdivision 4, clause (5);

(8) that the parent or other person responsible for the care of the child:

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(i) engages in violent behavior that demonstrates a disregard for the well-being of the child as indicated by action that could reasonably result in serious physical, mental, or threatened injury, or emotional damage to the child;

(ii) engages in repeated domestic assault that would constitute a violation of section 609.2242, subdivision 2 or 4;

(iii) intentionally inflicts or attempts to inflict bodily harm against a family or household member, as defined in section 518B.01, subdivision 2, that is within sight or sound of the child; or

(iv) subjects the child to ongoing domestic violence by the abuser in the home environment that is likely to have a detrimental effect on the well-being of the child;

(9) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(10) (9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(d) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

(1) throwing, kicking, burning, biting, or cutting a child;

(2) striking a child with a closed fist;

(3) shaking a child under age three;

(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;

(5) unreasonable interference with a child's breathing;

(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

(7) striking a child under age one on the face or head;

(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior,

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motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances; or

(9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B; or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and visitation expeditor services.

(k) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

(m) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates, which are not injurious to the child's health, welfare, and safety.

**Sec. 2. [626.5552] CHILD EXPOSED TO DOMESTIC VIOLENCE.**

(a) A child is considered to have been exposed to domestic violence when:

(1) a parent or other person responsible for the care of the child engages in violent behavior that imminently or seriously endangers the child's physical or mental health;

(2) a parent or other person responsible for the care of the child engages in repeated domestic assault that would constitute a violation of section 609.2242, subdivision 2 or 4;

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(3) the child has witnessed repeated incidents of domestic violence as defined in section 518B.01; or

(4) a parent or other person responsible for the care of the child engages in chronic and severe use of alcohol or a controlled substance that adversely affects the child's basic needs and safety.

(b) In determining the protective action to take and the services to be offered to the child and family when a child has been exposed to domestic violence, the local welfare agency shall consider the safety and well-being of the child and the safety of a parent who is a victim of domestic violence. In determining whether there is a need for child protective services, the local welfare agency shall take into account the presence of protective factors in the child's environment. These factors include, but are not limited to:

(1) whether the child is or has been the victim of physical abuse, sexual abuse, or neglect as defined in section 626.556, subdivision 2;

(2) the age of the child;

(3) the length of time since an incident of being exposed to domestic violence;

(4) the child's relationship to the parent and the perpetrator of domestic violence;  
and

(5) whether steps are or have been taken to exclude the abuser from the home of the child or the adult victim sought protective services such as shelters, counseling, or advocacy services, legal recourse, or other remedies.

### **Sec. 3. BUDGET PROPOSAL; CHILD PROTECTION.**

In preparing the budget proposal for the 2002-2003 biennium, the commissioner of finance, in consultation with the commissioners of revenue and human services, shall present proposals and funding options to provide services to families who would be eligible for services under Minnesota Statutes, section 626.5551 or 626.5552, if enacted.

### **Sec. 4. [260C.501] PARENTAL AND LAW ENFORCEMENT NOTIFICATION.**

An emergency shelter and its agents, employees, and volunteers must comply with court orders, section 626.556, chapter 260C, and all other applicable laws. In any event, unless other legal requirements require earlier or different notification or actions, an emergency shelter must attempt to notify a runaway's parent or legal guardian of the runaway's location and status within 72 hours. The notification must include a description of the runaway's physical and emotional condition and the circumstances surrounding the runaway's admission to the emergency shelter, unless there are compelling reasons not to provide the parent or legal guardian with this information. Compelling reasons may include circumstances in which the runaway is or has been exposed to domestic violence or a victim of abuse, neglect, or abandonment.

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**Sec. 5. EFFECTIVE DATE.**

Sections 1 and 3 are effective the day following final enactment. Section 2 is effective July 1, 2001, if funding is authorized for implementation.

Presented to the governor April 11, 2000

Signed by the governor April 14, 2000, 2:46 p.m.

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**CHAPTER 402—S.F.No. 3082**

*An act relating to the city of Duluth; authorizing the city council to establish or grant additional powers to a human rights commission.*

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

**Section 1. DULUTH HUMAN RIGHTS COMMISSION.**

Notwithstanding any statute, city charter provision, or ordinance to the contrary, and in addition to all other powers conferred by statute or charter, the city council of the city of Duluth may, by ordinance, establish a human rights commission or grant additional powers to an existing human rights commission so that the rights and remedies afforded to persons claiming discriminatory housing practices qualify the human rights commission as a substantially equivalent agency under the regulations of the federal Department of Housing and Urban Development in Code of Federal Regulations, title 24, part 115, subpart B.

**Sec. 2. REMEDIES; ENFORCEMENT.**

The human rights commission authorized by this act may impose and, through the district court, enforce any remedy, sanction, or penalty enumerated in Code of Federal Regulations, title 24, section 115.202, in housing discrimination cases. The district court has jurisdiction to enforce the remedies, sanctions, or penalties when they are imposed by the human rights commission operating under this act in housing discrimination cases. The district court also has jurisdiction to impose and enforce the remedies, sanctions, or penalties in the exercise of its jurisdiction to enforce the housing discrimination provisions of the human rights ordinance of the city of Duluth, if the ordinance provides that original enforcement jurisdiction is in the district court. The time for filing a claim with the human rights commission or as an original civil action in the district court cannot exceed the time for filing a claim under Minnesota Statutes, section 363.06, subdivision 3. A party aggrieved by a final decision or order of the commission may seek judicial review in the district court within the time provided in cases of district court judicial review of local government action.

**Sec. 3. EFFECTIVE DATE; LOCAL APPROVAL.**

Sections 1 and 2 are effective the day after the governing body of the city of Duluth and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

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