

CHAPTER 361—H.F.No. 3376

An act relating to human services; changing provisions in the MFIP work participation program licensing and child care; making technical changes; changing child welfare provisions; establishing the Interstate Compact for the Placement of Children; changing provisions for child placement; establishing child in voluntary foster care for treatment; changing data privacy provisions; amending Minnesota Statutes 2006, sections 13.46, by adding subdivisions; 119B.011, subdivision 17; 119B.03, subdivisions 1, 6; 119B.09, subdivisions 1, 9; 119B.125, by adding a subdivision; 119B.21, subdivision 10; 245C.24, subdivision 2; 256E.30, subdivision 1; 256E.35, subdivision 7; 256J.24, subdivision 5; 256J.425, subdivision 1; 256J.521, subdivision 4; 256J.54, subdivisions 2, 5; 256J.545; 259.20, subdivision 1; 259.21, by adding a subdivision; 259.22, subdivision 2; 259.23, subdivision 2; 259.43; 259.52, subdivision 2; 259.53, subdivision 3; 259.59, subdivisions 1, 2; 259.67, subdivisions 2, 3, by adding a subdivision; 259.75, subdivision 5; 259.89, subdivisions 1, 2, 4, by adding a subdivision; 260.835, subdivision 2; 260C.001, subdivision 2; 260C.007, subdivisions 5, 6, 13; 260C.101, subdivision 2; 260C.141, subdivision 2; 260C.171, subdivision 2; 260C.178, subdivision 1; 260C.205; 260C.212, subdivisions 7, 8, by adding a subdivision; 260C.325, subdivisions 1, 3; 524.2-114; 626.556, subdivision 7; Minnesota Statutes 2007 Supplement, sections 119B.12; 119B.125, subdivision 2; 119B.13, subdivisions 1, 7; 119B.21, subdivision 5; 119B.231, subdivision 5; 245C.08, subdivision 2; 256.01, subdivision 2; 256E.35, subdivision 2; 256J.20, subdivision 3; 256J.626, subdivisions 3, 7; 256J.95, subdivision 3; 259.41, subdivision 1; 259.57, subdivision 1; 259.67, subdivision 4; 260C.163, subdivision 1; 260C.209, subdivisions 1, 2, by adding a subdivision; 260C.212, subdivisions 1, 4; 626.556, subdivision 10a; Laws 2007, chapter 147, article 2, sections 21; 56; proposing coding for new law in Minnesota Statutes, chapters 259; 260; proposing coding for new law as Minnesota Statutes, chapter 260D; repealing Minnesota Statutes 2006, sections 256K.25; 260.851; 260B.241; 260C.141, subdivision 2a; 260C.207; 260C.431; 260C.435; Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 9; Minnesota Rules, parts 9560.0092; 9560.0093, subpart 2; 9560.0609.

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

ARTICLE 1

MFIP WORK PARTICIPATION AND LICENSING

Section 1. Minnesota Statutes 2006, section 245C.24, subdivision 2, is amended to read:

Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in paragraph (b), the commissioner may not set aside the disqualification of any individual

disqualified pursuant to this chapter, regardless of how much time has passed, if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

(b) For an individual in the chemical dependency or corrections field who was disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose disqualification was set aside prior to July 1, 2005, the commissioner must consider granting a variance pursuant to section 245C.30 for the license holder for a program dealing primarily with adults. A request for reconsideration evaluated under this paragraph must include a letter of recommendation from the license holder that was subject to the prior set-aside decision addressing the individual's quality of care to children or vulnerable adults and the circumstances of the individual's departure from that service.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 2. Minnesota Statutes 2007 Supplement, section 256.01, subdivision 2, is amended to read:

Subd. 2. **Specific powers.** Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall carry out the specific duties in paragraphs (a) through (cc):

(a) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(1) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(2) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(3) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(4) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(5) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017;

(6) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(7) enter into contractual agreements with federally recognized Indian tribes with a reservation in Minnesota to the extent necessary for the tribe to operate a federally approved family assistance program or any other program under the supervision of the commissioner. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included,

in order to avoid the duplication of county and tribal assistance program services. The commissioner may establish necessary accounts for the purposes of receiving and disbursing funds as necessary for the operation of the programs.

(b) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(c) Administer and supervise all child welfare activities; promote the enforcement of laws protecting disabled, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the State Board of Control.

(d) Administer and supervise all noninstitutional service to disabled persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise disabled. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(e) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(f) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(g) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(h) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as developmentally disabled. For children under the guardianship of the commissioner or a tribe in Minnesota recognized by the Secretary of the Interior whose interests would be best served by adoptive placement, the commissioner may contract with a licensed child-placing agency or a Minnesota tribal social services agency to provide adoption services. A contract with a licensed child-placing agency must be designed to supplement existing county efforts and may not replace existing county programs or tribal social services, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative, tribal governing body, or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties. Funds encumbered and obligated under an agreement for a specific child shall remain available until the terms of the agreement are fulfilled or the agreement is terminated.

(i) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(j) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(k) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(l) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(1) the secretary of health and human services of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity; and

(2) a comprehensive plan, including estimated project costs, shall be approved by the Legislative Advisory Commission and filed with the commissioner of administration.

(m) According to federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(n) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, medical assistance, or food stamp program in the following manner:

(1) one-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and the AFDC program formerly codified in sections 256.72 to 256.87, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC program formerly codified in sections 256.72 to 256.87, and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due; and

(2) notwithstanding the provisions of clause (1), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in clause (1), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to clause (1).

(o) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(p) Have the authority to make direct payments to facilities providing shelter to women and their children according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(q) Have the authority to establish and enforce the following county reporting requirements:

(1) the commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced;

(2) the county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner;

(3) if the required reports are not received by the deadlines established in clause (2), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received;

(4) a county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the

county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance;

(5) the final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period;

(6) the commissioner may not delay payments, withhold funds, or require repayment under clause (3) or (5) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under clause (3) or (5), the county board may appeal the action according to sections 14.57 to 14.69; and

(7) counties subject to withholding of funds under clause (3) or forfeiture or repayment of funds under clause (5) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under clause (3) or (5).

(r) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample ~~for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.~~

(s) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

(t) Require county agencies to identify overpayments, establish claims, and utilize all available and cost-beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

(u) Have the authority to administer a drug rebate program for drugs purchased pursuant to the prescription drug program established under section 256.955 after the beneficiary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. Rebate agreements for prescription drugs delivered on or after July 1, 2002, must include rebates for individuals covered under the prescription drug program who are under 65 years of age. For each drug, the amount of the rebate shall be equal to the rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8. The manufacturers must provide full payment within 30 days of receipt of the state invoice for the rebate within the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act. The manufacturers must provide the commissioner with any information necessary to verify the rebate determined per drug. The rebate program shall utilize the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.

(v) Have the authority to administer the federal drug rebate program for drugs purchased under the medical assistance program as allowed by section 1927 of title XIX

of the Social Security Act and according to the terms and conditions of section 1927. Rebates shall be collected for all drugs that have been dispensed or administered in an outpatient setting and that are from manufacturers who have signed a rebate agreement with the United States Department of Health and Human Services.

(w) Have the authority to administer a supplemental drug rebate program for drugs purchased under the medical assistance program. The commissioner may enter into supplemental rebate contracts with pharmaceutical manufacturers and may require prior authorization for drugs that are from manufacturers that have not signed a supplemental rebate contract. Prior authorization of drugs shall be subject to the provisions of section 256B.0625, subdivision 13.

(x) Operate the department's communication systems account established in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared communication costs necessary for the operation of the programs the commissioner supervises. A communications account may also be established for each regional treatment center which operates communications systems. Each account must be used to manage shared communication costs necessary for the operations of the programs the commissioner supervises. The commissioner may distribute the costs of operating and maintaining communication systems to participants in a manner that reflects actual usage. Costs may include acquisition, licensing, insurance, maintenance, repair, staff time and other costs as determined by the commissioner. Nonprofit organizations and state, county, and local government agencies involved in the operation of programs the commissioner supervises may participate in the use of the department's communications technology and share in the cost of operation. The commissioner may accept on behalf of the state any gift, bequest, devise or personal property of any kind, or money tendered to the state for any lawful purpose pertaining to the communication activities of the department. Any money received for this purpose must be deposited in the department's communication systems accounts. Money collected by the commissioner for the use of communication systems must be deposited in the state communication systems account and is appropriated to the commissioner for purposes of this section.

(y) Receive any federal matching money that is made available through the medical assistance program for the consumer satisfaction survey. Any federal money received for the survey is appropriated to the commissioner for this purpose. The commissioner may expend the federal money received for the consumer satisfaction survey in either year of the biennium.

(z) Designate community information and referral call centers and incorporate cost reimbursement claims from the designated community information and referral call centers into the federal cost reimbursement claiming processes of the department according to federal law, rule, and regulations. Existing information and referral centers provided by Greater Twin Cities United Way or existing call centers for which Greater Twin Cities United Way has legal authority to represent, shall be included in these designations upon review by the commissioner and assurance that these services are accredited and in compliance with national standards. Any reimbursement is appropriated to the commissioner and all designated information and referral centers shall receive payments according to normal department schedules established by the commissioner upon final approval of allocation methodologies from the United States Department of Health and Human Services Division of Cost Allocation or other appropriate authorities.

(aa) Develop recommended standards for foster care homes that address the components of specialized therapeutic services to be provided by foster care homes with those services.

(bb) Authorize the method of payment to or from the department as part of the human services programs administered by the department. This authorization includes the receipt or disbursement of funds held by the department in a fiduciary capacity as part of the human services programs administered by the department.

(cc) Have the authority to administer a drug rebate program for drugs purchased for persons eligible for general assistance medical care under section 256D.03, subdivision 3. For manufacturers that agree to participate in the general assistance medical care rebate program, the commissioner shall enter into a rebate agreement for covered drugs as defined in section 256B.0625, subdivisions 13 and 13d. For each drug, the amount of the rebate shall be equal to the rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8. The manufacturers must provide payment within the terms and conditions used for the federal rebate program established under section 1927 of title XIX of the Social Security Act. The rebate program shall utilize the terms and conditions used for the federal rebate program established under section 1927 of title XIX of the Social Security Act.

Effective January 1, 2006, drug coverage under general assistance medical care shall be limited to those prescription drugs that:

(1) are covered under the medical assistance program as described in section 256B.0625, subdivisions 13 and 13d; and

(2) are provided by manufacturers that have fully executed general assistance medical care rebate agreements with the commissioner and comply with such agreements. Prescription drug coverage under general assistance medical care shall conform to coverage under the medical assistance program according to section 256B.0625, subdivisions 13 to 13g.

The rebate revenues collected under the drug rebate program are deposited in the general fund.

Sec. 3. Minnesota Statutes 2006, section 256J.425, subdivision 1, is amended to read:

Subdivision 1. **Eligibility.** (a) To be eligible for a hardship extension, a participant in an assistance unit subject to the time limit under section 256J.42, subdivision 1, must be in compliance in the participant's 60th counted month. For purposes of determining eligibility for a hardship extension, a participant is in compliance in any month that the participant has not been sanctioned. In order to maintain eligibility for any of the hardship extension categories a participant shall develop and comply with either an employment plan or a family stabilization services plan, whichever is appropriate.

(b) If one participant in a two-parent assistance unit is determined to be ineligible for a hardship extension, the county shall give the assistance unit the option of disqualifying the ineligible participant from MFIP. In that case, the assistance unit shall be treated as a one-parent assistance unit and the assistance unit's MFIP grant shall be calculated using the shared household standard under section 256J.08, subdivision 82a.

(c) Prior to denying an extension, the county must review the sanction status and determine whether the sanction is appropriate or if good cause exists under section 256J.57.

If the sanction was inappropriately applied or the participant is granted a good cause exception before the end of month 60, the participant shall be considered for an extension.

Sec. 4. Minnesota Statutes 2007 Supplement, section 256J.626, subdivision 3, is amended to read:

Subd. 3. **Eligibility for services.** Families with a minor child, a pregnant woman, or a noncustodial parent of a minor child receiving assistance, with incomes below 200 percent of the federal poverty guideline for a family of the applicable size, are eligible for services funded under the consolidated fund. Counties and tribes must give priority to families currently receiving MFIP, the diversionary work program, or family stabilization services, and families at risk of receiving MFIP or diversionary work program. A county or tribe shall not impose a residency requirement on families, except for the residency requirement under section 256J.12.

Sec. 5. Minnesota Statutes 2007 Supplement, section 256J.626, subdivision 7, is amended to read:

Subd. 7. **Performance base funds.** (a) ~~Beginning For~~ calendar year 2008 2009 and yearly thereafter, each county and tribe will be allocated 95 percent of their initial calendar year allocation. Counties and tribes will be allocated additional funds based on performance as follows:

(1) ~~for calendar year 2008 and yearly thereafter,~~ a county or tribe that achieves a 50 percent ~~MFIP~~ TANF participation rate or a five percentage point improvement over the previous year's ~~MFIP~~ TANF participation rate under section 256J.751, subdivision 2, clause (7), as averaged across ~~the four quarterly measurements~~ 12 consecutive months for the most recent year for which the measurements are available, will receive an additional allocation equal to 2.5 percent of its initial allocation; and

(2) ~~for calendar years 2005 and thereafter, a county or tribe that performs above the top of its annualized range of expected performance on the three-year self-support index under section 256J.751, subdivision 2, clause (6), will receive an additional allocation equal to five percent of its initial allocation; and~~

(3) ~~for calendar years 2005 and thereafter, a county or tribe that performs within or above its range of expected performance on the annualized three-year self-support index under section 256J.751, subdivision 2, clause (6), will receive an additional allocation equal to 2.5 percent of its initial allocation; and~~

(4) ~~for calendar years 2008 and thereafter, (3) a county or tribe that does not achieve a 50 percent MFIP TANF participation rate or a five percentage point improvement over the previous year's MFIP TANF participation rate under section 256J.751, subdivision 2, clause (7), as averaged across the four quarterly measurements 12 consecutive months for the most recent year for which the measurements are available, will not receive an additional 2.5 percent of its initial allocation until after negotiating a multiyear improvement plan with the commissioner; or~~

(5) ~~for calendar years 2008 and thereafter, (4) a county or tribe that does not perform within or above its range of expected performance on the annualized three-year self-support index under section 256J.751, subdivision 2, clause (6), will not receive an additional allocation equal to 2.5 percent of its initial allocation until after negotiating a multiyear improvement plan with the commissioner.~~

(b) ~~For calendar year 2009 and yearly thereafter,~~ performance-based funds for a federally approved tribal TANF program in which the state and tribe have in place a contract under section 256.01, addressing consolidated funding, will be allocated as follows:

~~(1) for calendar year 2006 and yearly thereafter,~~ a tribe that achieves the participation rate approved in its federal TANF plan using the average of ~~four quarterly measurements~~ 12 consecutive months for the most recent year for which the measurements are available, will receive an additional allocation equal to 2.5 percent of its initial allocation; and

~~(2) for calendar years 2006 and thereafter,~~ a tribe that performs above the top of its annualized range of expected performance on the three-year self-support index under section 256J.751, subdivision 2, clause (6), will receive an additional allocation equal to five percent of its initial allocation; or

~~(3) for calendar years 2006 and thereafter,~~ a tribe that performs within or above its range of expected performance on the annualized three-year self-support index under section 256J.751, subdivision 2, clause (6), will receive an additional allocation equal to 2.5 percent of its initial allocation; or

~~(4) for calendar year 2008 and yearly thereafter,~~ (3) a tribe that does not achieve the participation rate approved in its federal TANF plan using the average of ~~four quarterly measurements~~ 12 consecutive months for the most recent year for which the measurements are available, will not receive an additional allocation equal to 2.5 percent of its initial allocation until after negotiating a multiyear improvement plan with the commissioner; or

~~(5) for calendar year 2008 and yearly thereafter,~~ (4) a tribe that does not perform within or above its range of expected performance on the annualized three-year self-support index under section 256J.751, subdivision 2, clause (6), will not receive an additional allocation equal to 2.5 percent until after negotiating a multiyear improvement plan with the commissioner.

(c) Funds remaining unallocated after the performance-based allocations in paragraph (a) are available to the commissioner for innovation projects under subdivision 5.

(d) (1) If available funds are insufficient to meet county and tribal allocations under paragraph (a), the commissioner may make available for allocation funds that are unobligated and available from the innovation projects through the end of the current biennium.

(2) If after the application of clause (1) funds remain insufficient to meet county and tribal allocations under paragraph (a), the commissioner must proportionally reduce the allocation of each county and tribe with respect to their maximum allocation available under paragraph (a).

ARTICLE 2

CHILD CARE

Section 1. Minnesota Statutes 2006, section 119B.03, subdivision 6, is amended to read:

Subd. 6. **Allocation formula.** The basic sliding fee state and federal funds shall be allocated on a calendar year basis. Funds shall be allocated first in amounts equal to each

county's guaranteed floor according to subdivision 8, with any remaining available funds allocated according to the following formula:

(a) One-fourth of the funds shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the most recent fiscal year completed at the time of the notice of allocation.

(b) Up to one-fourth of the funds shall be allocated ~~based on~~ in proportion to the number of families participating in the transition year child care program as reported during and averaged over the most recent ~~quarter~~ six months completed at the time of the notice of allocation. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (f).

(c) Up to one-fourth of the funds shall be allocated in proportion to the average of each county's most ~~recently~~ recent six months of reported first, second, and third priority waiting list as defined in subdivision 2 and the reinstatement list of those families whose assistance was terminated with the approval of the commissioner under Minnesota Rules, part 3400.0183, subpart 1. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (f).

(d) Up to one-fourth of the funds ~~must~~ shall be allocated in proportion to the average of each county's most ~~recently~~ recent six months of reported waiting list as defined in subdivision 2 and the reinstatement list of those families whose assistance was terminated with the approval of the commissioner under Minnesota Rules, part 3400.0183, subpart 1. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (f).

(e) The amount necessary to serve all families in paragraphs (b), (c), and (d) shall be calculated based on the basic sliding fee average cost of care per family in the county with the highest cost in the most recently completed calendar year.

(f) Funds in excess of the amount necessary to serve all families in paragraphs (b), (c), and (d) shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the most recent fiscal year completed at the time of the notice of allocation.

Sec. 2. Minnesota Statutes 2006, section 119B.09, subdivision 9, is amended to read:

Subd. 9. **Licensed and legal nonlicensed family child care providers; assistance.** Licensed and legal nonlicensed family child care providers and their employees are not eligible to receive child care assistance subsidies under this chapter for their own children or children in their family during the hours they are providing child care or being paid to provide child care. Child care providers and their employees are eligible to receive child care assistance subsidies for their children when they are engaged in other activities that meet the requirements of this chapter and for which child care assistance can be paid. The hours for which the provider or their employee receives a child care subsidy for their own children must not overlap with the hours the provider provides child care services.

Sec. 3. Minnesota Statutes 2007 Supplement, section 119B.231, subdivision 5, is amended to read:

Subd. 5. **Relationship to current law.** (a) The following provisions in chapter 119B must be waived or modified for families receiving services under this section.

(b) Notwithstanding section 119B.13, subdivisions 1 and 1a, maximum weekly rates under this section are 125 percent of the existing maximum weekly rate for like-care. Providers eligible for a differential rate under section 119B.13, subdivision 3a, remain eligible for the differential above the rate identified in this section. Only care for children who have not yet entered kindergarten may be paid at the maximum rate under this section. The provider's charge for service provided through an SRSA may not exceed the rate that the provider charges a private-pay family for like-care arrangements.

(c) A family or child care provider may not be assessed an overpayment for care provided through an SRSA unless:

- (1) there was an error in the amount of care authorized for the family; or
 - (2) the family or provider did not timely report a change as required under the law.
- (d) Care provided through an SRSA is authorized on a weekly basis.

(e) Funds appropriated under this section to serve families eligible under section 119B.03 are not allocated through the basic sliding fee formula under section 119B.03. Funds appropriated under this section are used to offset increased costs when payments are made under SRSA's.

(f) Notwithstanding section 119B.09, subdivision 6, the maximum amount of child care assistance that may be authorized for a child receiving care through an SRSA in a two-week period is 160 hours per child.

(g) Effective upon date of enactment, absent day payment limits under section 119B.13, subdivision 7, do not apply to children for care paid through SRSA's provided the family remains eligible under subdivision 3.

Sec. 4. **CHILD CARE ADVISORY TASK FORCE.**

Subdivision 1. **Establishment.** The commissioner of human services shall establish a Child Care Advisory Task Force of stakeholders to review and make recommendations to the legislature to remove barriers facing families applying for and receiving child care assistance under Minnesota Statutes, chapter 119B.

Subd. 2. **Membership.** The commissioner of human services shall appoint Child Care Advisory Task Force members. The Child Care Advisory Task Force shall include, but is not limited to, representatives from:

- (1) the Department of Human Services;
- (2) counties and nonprofit organizations administering the child care assistance programs;
- (3) a parent receiving child care assistance;
- (4) the child care advocacy community; and
- (5) the antipoverty advocacy community.

Subd. 3. **Duties.** The Child Care Advisory Task Force shall review child care assistance laws, rules, and policies and make recommendations to remove barriers facing families applying for child care assistance or completing reauthorization for child care assistance to the legislative committees with jurisdiction over the child care assistance programs under Minnesota Statutes, chapter 119B. Barriers to review include, but are not limited to:

- (1) length of application forms;
- (2) consistency of application and reauthorization forms statewide;
- (3) documentation requirements, including frequency of producing documentation;
- (4) barriers facing parents with limited English; and
- (5) length of reauthorization periods.

Subd. 4. **Report.** By January 15, 2010, the Department of Human Services shall report to the legislative committees with jurisdiction over the child care assistance programs with the Child Care Advisory Task Force recommendations to remove the barriers facing families in applying for and receiving child care assistance.

Subd. 5. **Task force expenses.** Notwithstanding Minnesota Statutes, section 15.059, task force members must not be paid a per diem or reimbursed for any expenses associated with their membership on the task force.

Subd. 6. **Expiration.** The Child Care Advisory Task Force expires June 30, 2010.

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

ARTICLE 3

CHILD CARE TECHNICAL

Section 1. Minnesota Statutes 2006, section 119B.011, subdivision 17, is amended to read:

Subd. 17. **MFIP.** "MFIP" means the Minnesota family investment program, the state's TANF program under Public Law 104-193, Title I, and includes the MFIP program under chapter 256J, ~~the work first program under chapter 256K,~~ and tribal contracts under section 119B.02, subdivision 2, or 256.01, subdivision 2.

Sec. 2. Minnesota Statutes 2006, section 119B.03, subdivision 1, is amended to read:

Subdivision 1. ~~**Allocation period;**~~ **Notice of allocation.** ~~When the commissioner notifies county and human service boards of the forms and instructions they are to follow in the development of their child care fund plans required under section 119B.08, subdivision 3, the commissioner shall also notify county and human services boards of their estimated child care fund program allocation for the two years covered by the plan. By October 1 of each year, the commissioner shall notify all counties of their final child care fund program allocation.~~

Sec. 3. Minnesota Statutes 2006, section 119B.09, subdivision 1, is amended to read:

Subdivision 1. **General eligibility requirements for all applicants for child care assistance.** (a) Child care services must be available to families who need child care to find or keep employment or to obtain the training or education necessary to find employment and who:

- (1) have household income less than or equal to ~~250~~ 67 percent of the ~~federal poverty guidelines~~ state median income, adjusted for family size, and meet the requirements of section 119B.05; receive MFIP assistance; and are participating in employment and training services under chapter 256J ~~or 256K~~; or

(2) have household income less than or equal to ~~175~~ 47 percent of the ~~federal poverty guidelines~~ state median income, adjusted for family size, at program entry and less than ~~250~~ 67 percent of the ~~federal poverty guidelines~~ state median income, adjusted for family size, at program exit.

(b) Child care services must be made available as in-kind services.

(c) All applicants for child care assistance and families currently receiving child care assistance must be assisted and required to cooperate in establishment of paternity and enforcement of child support obligations for all children in the family as a condition of program eligibility. For purposes of this section, a family is considered to meet the requirement for cooperation when the family complies with the requirements of section 256.741.

Sec. 4. Minnesota Statutes 2007 Supplement, section 119B.12, is amended to read:

119B.12 SLIDING FEE SCALE.

Subdivision 1. **Fee schedule.** In setting the sliding fee schedule, the commissioner shall exclude from the amount of income used to determine eligibility an amount for federal and state income and Social Security taxes attributable to that income level according to federal and state standardized tax tables. The commissioner shall base the parent fee on the ability of the family to pay for child care. The fee schedule must be designed to use any available tax credits.

PARENT FEE SCHEDULE. The parent fee schedule is as follows, except as noted in subdivision 2:

Income Range (as a percent of the federal poverty guidelines <u>state median income</u> , except at the start of the first tier)	Co-payment (as a percentage of adjusted gross income)
0-74.99% <u>of federal poverty guidelines</u>	\$0/month
75.00-99.99% <u>of federal poverty guidelines</u>	\$5/month
100.00-104.99% <u>100.00% of federal poverty guidelines-27.72%</u>	2.61%
105.00-109.99% <u>27.73-29.04%</u>	2.61%
110.00-114.99% <u>29.05-30.36%</u>	2.61%
115.00-119.99% <u>30.37-31.68%</u>	2.61%
120.00-124.99% <u>31.69-33.00%</u>	2.91%
125.00-129.99% <u>33.01-34.32%</u>	2.91%
130.00-134.99% <u>34.33-35.65%</u>	2.91%
135.00-139.99% <u>35.66-36.96%</u>	2.91%
140.00-144.99% <u>36.97-38.29%</u>	3.21%
145.00-149.99% <u>38.30-39.61%</u>	3.21%
150.00-154.99% <u>39.62-40.93%</u>	3.21%
155.00-159.99% <u>40.94-42.25%</u>	3.84%

160.00-164.99% <u>42.26-43.57%</u>	3.84%
165.00-169.99% <u>43.58-44.89%</u>	4.46%
170.00-174.99% <u>44.90-46.21%</u>	4.76%
175.00-179.99% <u>46.22-47.53%</u>	5.05%
180.00-184.99% <u>47.54-48.85%</u>	5.65%
185.00-189.99% <u>48.86-50.17%</u>	5.95%
190.00-194.99% <u>50.18-51.49%</u>	6.24%
195.00-199.99% <u>51.50-52.81%</u>	6.84%
200.00-204.99% <u>52.82-54.13%</u>	7.58%
205.00-209.99% <u>54.14-55.45%</u>	8.33%
210.00-214.99% <u>55.46-56.77%</u>	9.20%
215.00-219.99% <u>56.78-58.09%</u>	10.07%
220.00-224.99% <u>58.10-59.41%</u>	10.94%
225.00-229.99% <u>59.42-60.73%</u>	11.55%
230.00-234.99% <u>60.74-62.06%</u>	12.16%
235.00-239.99% <u>62.07-63.38%</u>	12.77%
240.00-244.99% <u>63.39-64.70%</u>	13.38%
245.00-249.99% <u>64.71-66.99%</u>	14.00%
250% <u>67.00%</u>	ineligible

A family's monthly co-payment fee is the fixed percentage established for the income range multiplied by the highest possible income within that income range.

Subd. 2. **Parent fee.** A family must be assessed a parent fee for each service period. A family's parent fee must be a fixed percentage of its annual gross income. Parent fees must apply to families eligible for child care assistance under sections 119B.03 and 119B.05. Income must be as defined in section 119B.011, subdivision 15. The fixed percent is based on the relationship of the family's annual gross income to 100 percent of the annual ~~federal poverty guidelines~~ state median income. Parent fees must begin at 75 percent of the poverty level. The minimum parent fees for families between 75 percent and 100 percent of poverty level must be \$5 per month. Parent fees must provide for graduated movement to full payment. Payment of part or all of a family's parent fee directly to the family's child care provider on behalf of the family by a source other than the family shall not affect the family's eligibility for child care assistance, and the amount paid shall be excluded from the family's income. Child care providers who accept third-party payments must maintain family specific documentation of payment source, amount, and time period covered by the payment.

EFFECTIVE DATE. This section is effective July 1, 2008.

Sec. 5. Minnesota Statutes 2006, section 119B.125, is amended by adding a subdivision to read:

Subd. 1a. **Background study required.** This subdivision only applies to legal, nonlicensed family child care providers. Prior to authorization, and as part of each reauthorization required in subdivision 1, the county shall perform a background study on every member of the provider's household who is age 13 and older. The background study shall be conducted according to the procedures under subdivision 2.

Sec. 6. Minnesota Statutes 2007 Supplement, section 119B.125, subdivision 2, is amended to read:

Subd. 2. **Persons who cannot be authorized.** (a) ~~A person who~~ When any member of the legal, nonlicensed family child care provider's household meets any of the conditions under paragraphs (b) to (n), the provider must not be authorized as a legal nonlicensed family child care provider. To determine whether any of the listed conditions exist, the county must request information about the provider and other household members for whom a background study is required under subdivision 1a from the Bureau of Criminal Apprehension, the juvenile courts, and social service agencies. When one of the listed entities does not maintain information on a statewide basis, the county must contact the entity in the county where the provider resides and any other county in which the provider or any household member previously resided in the past year. For purposes of this subdivision, a finding that a delinquency petition is proven in juvenile court must be considered a conviction in state district court. If a county has determined that a provider is able to be authorized in that county, and a family in another county later selects that provider, the provider is able to be authorized in the second county without undergoing a new background investigation unless one of the following conditions exists:

- (1) two years have passed since the first authorization;
- (2) another person age 13 or older has joined the provider's household since the last authorization;
- (3) a current household member has turned 13 since the last authorization; or
- (4) there is reason to believe that a household member has a factor that prevents authorization.

(b) The person has been convicted of one of the following offenses or has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of one of the following offenses: sections 609.185 to 609.195, murder in the first, second, or third degree; 609.2661 to 609.2663, murder of an unborn child in the first, second, or third degree; 609.322, solicitation, inducement, promotion of prostitution, or receiving profit from prostitution; 609.342 to 609.345, criminal sexual conduct in the first, second, third, or fourth degree; 609.352, solicitation of children to engage in sexual conduct; 609.365, incest; 609.377, felony malicious punishment of a child; 617.246, use of minors in sexual performance; 617.247, possession of pictorial representation of a minor; 609.2242 to 609.2243, felony domestic assault; a felony offense of spousal abuse; a felony offense of child abuse or neglect; a felony offense of a crime against children; or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(c) Less than 15 years have passed since the discharge of the sentence imposed for the offense and the person has received a felony conviction for one of the following offenses, or the person has admitted to committing or a preponderance of the evidence

indicates that the person has committed an act that meets the definition of a felony conviction for one of the following offenses: sections 609.20 to 609.205, manslaughter in the first or second degree; 609.21, criminal vehicular homicide; 609.215, aiding suicide or aiding attempted suicide; 609.221 to 609.2231, assault in the first, second, third, or fourth degree; 609.224, repeat offenses of fifth degree assault; 609.228, great bodily harm caused by distribution of drugs; 609.2325, criminal abuse of a vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.235, use of drugs to injure or facilitate a crime; 609.24, simple robbery; 617.241, repeat offenses of obscene materials and performances; 609.245, aggravated robbery; 609.25, kidnapping; 609.255, false imprisonment; 609.2664 to 609.2665, manslaughter of an unborn child in the first or second degree; 609.267 to 609.2672, assault of an unborn child in the first, second, or third degree; 609.268, injury or death of an unborn child in the commission of a crime; 609.27, coercion; 609.275, attempt to coerce; 609.324, subdivision 1, other prohibited acts, minor engaged in prostitution; 609.3451, repeat offenses of criminal sexual conduct in the fifth degree; 609.378, neglect or endangerment of a child; 609.52, theft; 609.521, possession of shoplifting gear; 609.561 to 609.563, arson in the first, second, or third degree; 609.582, burglary in the first, second, third, or fourth degree; 609.625, aggravated forgery; 609.63, forgery; 609.631, check forgery, offering a forged check; 609.635, obtaining signature by false pretenses; 609.66, dangerous weapon; 609.665, setting a spring gun; 609.67, unlawfully owning, possessing, or operating a machine gun; 609.687, adulteration; 609.71, riot; 609.713, terrorist threats; 609.749, harassment, stalking; 260C.301, termination of parental rights; 152.021 to 152.022 and 152.0262, controlled substance crime in the first or second degree; 152.023, subdivision 1, clause (3) or (4), or 152.023, subdivision 2, clause (4), controlled substance crime in third degree; 152.024, subdivision 1, clause (2), (3), or (4), controlled substance crime in fourth degree; 617.23, repeat offenses of indecent exposure; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(d) Less than ten years have passed since the discharge of the sentence imposed for the offense and the person has received a gross misdemeanor conviction for one of the following offenses or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a gross misdemeanor conviction for one of the following offenses: sections 609.224, fifth degree assault; 609.2242 to 609.2243, domestic assault; 518B.01, subdivision 14, violation of an order for protection; 609.3451, fifth degree criminal sexual conduct; 609.746, repeat offenses of interference with privacy; 617.23, repeat offenses of indecent exposure; 617.241, obscene materials and performances; 617.243, indecent literature, distribution; 617.293, disseminating or displaying harmful material to minors; 609.71, riot; 609.66, dangerous weapons; 609.749, harassment, stalking; 609.224, subdivision 2, paragraph (c), fifth degree assault against a vulnerable adult by a caregiver; 609.23, mistreatment of persons confined; 609.231, mistreatment of residents or patients; 609.2325, criminal abuse of a vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.233, criminal neglect of a vulnerable adult; 609.234, failure to report maltreatment of a vulnerable adult; 609.72, subdivision 3, disorderly conduct against a vulnerable adult; 609.265, abduction; 609.378, neglect or endangerment of a child; 609.377, malicious punishment of a child; 609.324, subdivision 1a, other prohibited acts, minor engaged in prostitution; 609.33, disorderly house; 609.52, theft; 609.582, burglary in the first, second, third, or fourth degree; 609.631, check forgery, offering a forged check; 609.275, attempt to coerce; an attempt or conspiracy to commit any of these offenses as defined in

Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(e) Less than seven years have passed since the discharge of the sentence imposed for the offense and the person has received a misdemeanor conviction for one of the following offenses or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a misdemeanor conviction for one of the following offenses: sections 609.224, fifth degree assault; 609.2242, domestic assault; 518B.01, violation of an order for protection; 609.3232, violation of an order for protection; 609.746, interference with privacy; 609.79, obscene or harassing telephone calls; 609.795, letter, telegram, or package opening, harassment; 617.23, indecent exposure; 609.2672, assault of an unborn child, third degree; 617.293, dissemination and display of harmful materials to minors; 609.66, dangerous weapons; 609.665, spring guns; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(f) The person has been identified by the child protection agency in the county where the provider resides or a county where the provider has resided or by the statewide child protection database as a person found by a preponderance of evidence under section 626.556 to be responsible for physical or sexual abuse of a child within the last seven years.

(g) The person has been identified by the adult protection agency in the county where the provider resides or a county where the provider has resided or by the statewide adult protection database as the person responsible for abuse or neglect of a vulnerable adult within the last seven years.

(h) The person has refused to give written consent for disclosure of criminal history records.

(i) The person has been denied a family child care license or has received a fine or a sanction as a licensed child care provider that has not been reversed on appeal.

(j) The person has a family child care licensing disqualification that has not been set aside.

(k) The person has admitted or a county has found that there is a preponderance of evidence that fraudulent information was given to the county for child care assistance application purposes or was used in submitting child care assistance bills for payment.

(l) The person has been convicted of the crime of theft by wrongfully obtaining public assistance or has been found guilty of wrongfully obtaining public assistance by a federal court, state court, or an administrative hearing determination or waiver, through a disqualification consent agreement, as part of an approved diversion plan under section 401.065, or a court-ordered stay with probationary or other conditions.

(m) The person has a household member age 13 or older who has access to children during the hours that care is provided and who meets one of the conditions listed in paragraphs (b) to (l).

(n) The person has a household member ages ten to 12 who has access to children during the hours that care is provided; information or circumstances exist which provide the county with articulable suspicion that further pertinent information may exist showing the household member meets one of the conditions listed in paragraphs (b) to (l); and the household member actually meets one of the conditions listed in paragraphs (b) to (l).

Sec. 7. Minnesota Statutes 2007 Supplement, section 119B.13, subdivision 1, is amended to read:

Subdivision 1. **Subsidy restrictions.** (a) Beginning July 1, 2006, the maximum rate paid for child care assistance in any county or multicounty region under the child care fund shall be the rate for like-care arrangements in the county effective January 1, 2006, increased by six percent.

(b) Rate changes shall be implemented for services provided in September 2006 unless a participant eligibility redetermination or a new provider agreement is completed between July 1, 2006, and August 31, 2006.

As necessary, appropriate notice of adverse action must be made according to Minnesota Rules, part 3400.0185, subparts 3 and 4.

New cases approved on or after July 1, 2006, shall have the maximum rates under paragraph (a), implemented immediately.

(c) Every year, the commissioner shall survey rates charged by child care providers in Minnesota to determine the 75th percentile for like-care arrangements in counties. When the commissioner determines that, using the commissioner's established protocol, the number of providers responding to the survey is too small to determine the 75th percentile rate for like-care arrangements in a county or multicounty region, the commissioner may establish the 75th percentile maximum rate based on like-care arrangements in a county, region, or category that the commissioner deems to be similar.

(d) A rate which includes a special needs rate paid under subdivision 3 or under a school readiness service agreement paid under section 119B.231, may be in excess of the maximum rate allowed under this subdivision.

(e) The department shall monitor the effect of this paragraph on provider rates. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care on an hourly, full-day, and weekly basis, including special needs and disability care.

(f) When the provider charge is greater than the maximum provider rate allowed, the parent is responsible for payment of the difference in the rates in addition to any family co-payment fee.

(g) All maximum provider rates changes shall be implemented on the Monday following the effective date of the maximum provider rate.

Sec. 8. Minnesota Statutes 2007 Supplement, section 119B.13, subdivision 7, is amended to read:

Subd. 7. **Absent days.** (a) Child care providers may not be reimbursed for more than 25 full-day absent days per child, excluding holidays, in a fiscal year, or for more than ten consecutive full-day absent days, unless the child has a documented medical condition that causes more frequent absences. Absences due to a documented medical condition of a parent or sibling who lives in the same residence as the child receiving child care assistance do not count against the 25-day absent day limit in a fiscal year. Documentation of medical conditions must be on the forms and submitted according to the timelines established by the commissioner. A public health nurse or school nurse may verify the illness in lieu of a medical practitioner. If a provider sends a child home early due to a medical reason, including, but not limited to, fever or contagious illness,

the child care center director or lead teacher may verify the illness in lieu of a medical practitioner. If a child attends for part of the time authorized to be in care in a day, but is absent for part of the time authorized to be in care in that same day, the absent time will be reimbursed but the time will not count toward the ten consecutive or 25 cumulative absent day limits. Children in families where at least one parent is under the age of 21, does not have a high school or general equivalency diploma, and is a student in a school district or another similar program that provides or arranges for child care, as well as parenting, social services, career and employment supports, and academic support to achieve high school graduation, may be exempt from the absent day limits upon request of the program and approval of the county. If a child attends part of an authorized day, payment to the provider must be for the full amount of care authorized for that day. Child care providers may only be reimbursed for absent days if the provider has a written policy for child absences and charges all other families in care for similar absences.

(b) Child care providers must be reimbursed for up to ten federal or state holidays or designated holidays per year when the provider charges all families for these days and the holiday or designated holiday falls on a day when the child is authorized to be in attendance. Parents may substitute other cultural or religious holidays for the ten recognized state and federal holidays. Holidays do not count toward the ten consecutive or 25 cumulative absent day limits.

(c) A family or child care provider may not be assessed an overpayment for an absent day payment unless (1) there was an error in the amount of care authorized for the family, (2) all of the allowed full-day absent payments for the child have been paid, or (3) the family or provider did not timely report a change as required under law.

(d) The provider and family must receive notification of the number of absent days used upon initial provider authorization for a family and when the family has used 15 cumulative absent days. Upon statewide implementation of the Minnesota Electronic Child Care System, the provider and family shall receive notification of the number of absent days used upon initial provider authorization for a family and ongoing notification of the number of absent days used as of the date of the notification.

(e) A county may pay for more absent days than the statewide absent day policy established under this subdivision if current market practice in the county justifies payment for those additional days. County policies for payment of absent days in excess of the statewide absent day policy and justification for these county policies must be included in the county's child care fund plan under section 119B.08, subdivision 3.

Sec. 9. Minnesota Statutes 2007 Supplement, section 119B.21, subdivision 5, is amended to read:

Subd. 5. **Child care services grants.** (a) A child care resource and referral program designated under section 119B.19, subdivision 1a, may award child care services grants for:

(1) creating new licensed child care facilities and expanding existing facilities, including, but not limited to, supplies, equipment, facility renovation, and remodeling;

(2) improving licensed child care facility programs;

(3) staff training and development services including, but not limited to, in-service training, curriculum development, accreditation, certification, consulting, resource

centers, program and resource materials, supporting effective teacher-child interactions, child-focused teaching, and content-driven classroom instruction;

(4) interim financing;

(5) capacity building through the purchase of appropriate technology to create, enhance, and maintain business management systems;

(6) emergency assistance for child care programs;

(7) new programs or projects for the creation, expansion, or improvement of programs that serve ethnic immigrant and refugee communities; and

(8) targeted recruitment initiatives to expand and build the capacity of the child care system and to improve the quality of care provided by legal nonlicensed child care providers.

(b) A child care resource and referral program designated under section 119B.19, subdivision 1a, may award child care services grants to:

(1) licensed providers;

(2) providers in the process of being licensed;

(3) corporations or public agencies that develop or provide child care services;

(4) school-age care programs;

(5) legal nonlicensed or family, friend, and neighbor care providers; or

~~(5)~~ (6) any combination of clauses (1) to ~~(4)~~ (5).

~~Unlicensed providers are only eligible for grants under paragraph (a), clause (7).~~

(c) A recipient of a child care services grant for facility improvements, interim financing, or staff training and development must provide a 25 percent local match.

Sec. 10. Minnesota Statutes 2006, section 119B.21, subdivision 10, is amended to read:

Subd. 10. **Family child care technical assistance grants.** (a) A child care resource and referral organization designated under section 119B.19, subdivision 1a, may award technical assistance grants of up to \$1,000. These grants may be used for:

(1) facility improvements, including, but not limited to, improvements to meet licensing requirements;

(2) improvements to expand a child care facility or program;

(3) toys and equipment;

(4) technology and software to create, enhance, and maintain business management systems;

(5) start-up costs;

(6) staff training and development; and

(7) other uses approved by the commissioner.

(b) A child care resource and referral program may award family child care technical assistance grants to:

- (1) licensed family child care providers; ~~or~~
 - (2) child care providers in the process of becoming licensed; ~~or~~
 - (3) legal nonlicensed or family, friend, and neighbor care providers.
- (c) A local match is not required for a family child care technical assistance grant.

Sec. 11. Minnesota Statutes 2006, section 256E.30, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** The commissioner of ~~education~~ human services may provide financial assistance for community action agencies, Indian reservations, and migrant and seasonal farmworker organizations to carry out community action programs as described in section 256E.32 in accordance with the Omnibus Reconciliation Act of 1981, Public Law 97-35, as amended in 1984, Public Law 98-558, state law, and federal law and regulation.

Sec. 12. Minnesota Statutes 2006, section 256E.35, subdivision 7, is amended to read:

Subd. 7. **Program reporting.** The fiscal agent on behalf of each fiduciary organization participating in a family assets for independence initiative must report quarterly to the commissioner of human services ~~and to the commissioner of education~~ identifying the participants with accounts, the number of accounts, the amount of savings and matches for each participant's account, the uses of the account, and the number of businesses, homes, and educational services paid for with money from the account, as well as other information that may be required for the commissioner to administer the program and meet federal TANF reporting requirements.

Sec. 13. **REVISOR'S INSTRUCTION.**

(a) The revisor of statutes shall renumber Minnesota Statutes, section 119A.45, as Minnesota Statutes, section 256E.37.

(b) The revisor of statutes shall make such cross-reference changes as are necessary from the renumbering in this section wherever the reference appears in statute.

ARTICLE 4

MFIP TECHNICAL CHANGES

Section 1. Minnesota Statutes 2007 Supplement, section 256J.20, subdivision 3, is amended to read:

Subd. 3. **Other property limitations.** To be eligible for MFIP, the equity value of all nonexcluded real and personal property of the assistance unit must not exceed \$2,000 for applicants and \$5,000 for ongoing participants. The value of assets in clauses (1) to (19) must be excluded when determining the equity value of real and personal property:

(1) a licensed vehicle up to a loan value of less than or equal to \$15,000. If the assistance unit owns more than one licensed vehicle, the county agency shall determine the loan value of all additional vehicles and exclude the combined loan value of less than or equal to \$7,500. The county agency shall apply any excess loan value as if it were equity value to the asset limit described in this section, excluding: (i) the value of one vehicle per physically disabled person when the vehicle is needed to transport the disabled unit member; this exclusion does not apply to mentally disabled people; (ii) the value of special

equipment for a disabled member of the assistance unit; and (iii) any vehicle used for long-distance travel, other than daily commuting, for the employment of a unit member.

To establish the loan value of vehicles, a county agency must use the N.A.D.A. Official Used Car Guide, Midwest Edition, for newer model cars. When a vehicle is not listed in the guidebook, or when the applicant or participant disputes the loan value listed in the guidebook as unreasonable given the condition of the particular vehicle, the county agency may require the applicant or participant document the loan value by securing a written statement from a motor vehicle dealer licensed under section 168.27, stating the amount that the dealer would pay to purchase the vehicle. The county agency shall reimburse the applicant or participant for the cost of a written statement that documents a lower loan value;

(2) the value of life insurance policies for members of the assistance unit;

(3) one burial plot per member of an assistance unit;

(4) the value of personal property needed to produce earned income, including tools, implements, farm animals, inventory, business loans, business checking and savings accounts used at least annually and used exclusively for the operation of a self-employment business, and any motor vehicles if at least 50 percent of the vehicle's use is to produce income and if the vehicles are essential for the self-employment business;

(5) the value of personal property not otherwise specified which is commonly used by household members in day-to-day living such as clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living;

(6) the value of real and personal property owned by a recipient of Supplemental Security Income or Minnesota supplemental aid;

(7) the value of corrective payments, but only for the month in which the payment is received and for the following month;

(8) a mobile home or other vehicle used by an applicant or participant as the applicant's or participant's home;

(9) money in a separate escrow account that is needed to pay real estate taxes or insurance and that is used for this purpose;

(10) money held in escrow to cover employee FICA, employee tax withholding, sales tax withholding, employee worker compensation, business insurance, property rental, property taxes, and other costs that are paid at least annually, but less often than monthly;

(11) monthly assistance payments for the current month's or short-term emergency needs under section 256J.626, subdivision 2;

(12) the value of school loans, grants, or scholarships for the period they are intended to cover;

(13) payments listed in section 256J.21, subdivision 2, clause (9), which are held in escrow for a period not to exceed three months to replace or repair personal or real property;

(14) income received in a budget month through the end of the payment month;

(15) savings from earned income of a minor child or a minor parent that are set aside in a separate account designated specifically for future education or employment costs;

(16) the federal earned income credit, Minnesota working family credit, state and federal income tax refunds, state homeowners and renters credits under chapter 290A, property tax rebates and other federal or state tax rebates in the month received and the following month;

(17) payments excluded under federal law as long as those payments are held in a separate account from any nonexcluded funds;

(18) the assets of children ineligible to receive MFIP benefits because foster care or adoption assistance payments are made on their behalf; and

(19) the assets of persons whose income is excluded under section 256J.21, subdivision 2, clause (43).

Sec. 2. Minnesota Statutes 2006, section 256J.24, subdivision 5, is amended to read:

Subd. 5. **MFIP transitional standard.** The MFIP transitional standard is based on the number of persons in the assistance unit eligible for both food and cash assistance unless the restrictions in subdivision 6 on the birth of a child apply. The following table represents the transitional standards effective October 1, ~~2004~~ 2007.

Number of Eligible People	Transitional Standard	Cash Portion	Food Portion
1	\$379 <u>\$391</u> :	\$250	\$129 <u>\$141</u>
2	\$675 <u>\$698</u> :	\$437	\$238 <u>\$261</u>
3	\$876 <u>\$910</u> :	\$532	\$344 <u>\$378</u>
4	\$1,036 <u>\$1,091</u> :	\$621	\$415 <u>\$470</u>
5	\$1,180 <u>\$1,245</u> :	\$697	\$483 <u>\$548</u>
6	\$1,350 <u>\$1,425</u> :	\$773	\$577 <u>\$652</u>
7	\$1,472 <u>\$1,553</u> :	\$850	\$622 <u>\$703</u>
8	\$1,623 <u>\$1,713</u> :	\$916	\$707 <u>\$797</u>
9	\$1,772 <u>\$1,871</u> :	\$980	\$792 <u>\$891</u>
10	\$1,915 <u>\$2,024</u> :	\$1,035	\$880 <u>\$989</u>
over 10	add \$142 <u>\$151</u> :	\$53	\$89 <u>\$98</u>

per additional member.

The commissioner shall annually publish in the State Register the transitional standard for an assistance unit sizes 1 to 10 including a breakdown of the cash and food portions.

Sec. 3. Minnesota Statutes 2006, section 256J.521, subdivision 4, is amended to read:

Subd. 4. **Self-employment.** (a) Self-employment activities may be included in an employment plan contingent on the development of a business plan which establishes a timetable and earning goals that will result in the participant exiting MFIP assistance. Business plans must be developed with assistance from an individual or organization with expertise in small business as approved by the job counselor.

(b) Participants with an approved plan that includes self-employment must meet the participation requirements in section 256J.55, subdivision 1. Only hours where the participant earns at least minimum wage shall be counted toward the requirement. Additional activities and hours necessary to meet the participation requirements in section 256J.55, subdivision 1, must be included in the employment plan.

(c) Employment plans which include self-employment activities must be reviewed every three months. Participants who fail, without good cause, to make satisfactory progress as established in the business plan must revise the employment plan to replace the self-employment with other approved work activities.

~~(d) The requirements of this subdivision may be waived for participants who are enrolled in the self-employment investment demonstration program (SEID) under section 256J.65, and who make satisfactory progress as determined by the job counselor and the SEID provider.~~

Sec. 4. Minnesota Statutes 2006, section 256J.54, subdivision 2, is amended to read:

Subd. 2. **Responsibility for assessment and employment plan.** For caregivers who are under age 18 without a high school diploma or its equivalent, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the social services agency under section 257.33. For caregivers who are age 18 or 19 without a high school diploma or its equivalent who choose to have an employment plan with an education option under subdivision 3, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the job counselor or, at county option, by the social services agency under section 257.33. Upon reaching age 18 or 19 a caregiver who received social services under section 257.33 and is without a high school diploma or its equivalent has the option to choose whether to continue receiving services under the caregiver's plan from the social services agency or to utilize an MFIP employment and training service provider. The social services agency or the job counselor shall consult with ~~representatives of educational agencies that are required to assist in developing educational plans under section 124D.331~~ the participant's school in developing the educational plan.

Sec. 5. Minnesota Statutes 2006, section 256J.54, subdivision 5, is amended to read:

Subd. 5. **School attendance required.** (a) ~~Notwithstanding the provisions of section 256J.56,~~ Minor parents, or 18- or 19-year-old parents without a high school diploma or its equivalent who chooses an employment plan with an education option must attend school unless:

(1) transportation services needed to enable the caregiver to attend school are not available;

(2) appropriate child care services needed to enable the caregiver to attend school are not available;

(3) the caregiver is ill or incapacitated seriously enough to prevent attendance at school; or

(4) the caregiver is needed in the home because of the illness or incapacity of another member of the household. This includes a caregiver of a child who is younger than six weeks of age.

(b) The caregiver must be enrolled in a secondary school and meeting the school's attendance requirements. The county, social service agency, or job counselor must verify at least once per quarter that the caregiver is meeting the school's attendance requirements. An enrolled caregiver is considered to be meeting the attendance requirements when the school is not in regular session, including during holiday and summer breaks.

Sec. 6. Minnesota Statutes 2006, section 256J.545, is amended to read:

256J.545 FAMILY VIOLENCE WAIVER CRITERIA.

(a) In order to qualify for a family violence waiver, an individual must provide documentation of past or current family violence which may prevent the individual from participating in certain employment activities. ~~A claim of family violence must be documented by the applicant or participant providing a sworn statement which is supported by collateral documentation.~~

(b) ~~Collateral documentation may consist of~~ The following items may be considered acceptable documentation or verification of family violence:

(1) police, government agency, or court records;

(2) a statement from a battered women's shelter staff with knowledge of the circumstances or credible evidence that supports the sworn statement;

(3) a statement from a sexual assault or domestic violence advocate with knowledge of the circumstances or credible evidence that supports the sworn statement; or

(4) a statement from professionals from whom the applicant or recipient has sought assistance for the abuse; or

~~(5) a sworn statement from any other individual with knowledge of circumstances or credible evidence that supports the sworn statement.~~

(c) A claim of family violence may also be documented by a sworn statement from the applicant or participant and a sworn statement from any other person with knowledge of the circumstances or credible evidence that supports the client's statement.

Sec. 7. Minnesota Statutes 2007 Supplement, section 256J.95, subdivision 3, is amended to read:

Subd. 3. **Eligibility for diversionary work program.** (a) Except for the categories of family units listed below, all family units who apply for cash benefits and who meet MFIP eligibility as required in sections 256J.11 to 256J.15 are eligible and must participate in the diversionary work program. Family units that are not eligible for the diversionary work program include:

(1) child only cases;

(2) a single-parent family unit that includes a child under 12 weeks of age. A parent is eligible for this exception once in a parent's lifetime and is not eligible if the parent has already used the previously allowed child under age one exemption from MFIP employment services;

(3) a minor parent without a high school diploma or its equivalent;

(4) an 18- or 19-year-old caregiver without a high school diploma or its equivalent who chooses to have an employment plan with an education option;

- (5) a caregiver age 60 or over;
 - (6) family units with a caregiver who received DWP benefits in the 12 months prior to the month the family applied for DWP, except as provided in paragraph (c);
 - (7) family units with a caregiver who received MFIP within the 12 months prior to the month the family unit applied for DWP;
 - (8) a family unit with a caregiver who received 60 or more months of TANF assistance;
 - (9) a family unit with a caregiver who is disqualified from DWP or MFIP due to fraud; and
 - (10) refugees and asylees as defined in Code of Federal Regulations, title 45, ~~chapter IV~~ part 400, subpart d, section ~~444.43~~ 400.43, who arrived in the United States in the 12 months prior to the date of application for family cash assistance.
- (b) A two-parent family must participate in DWP unless both caregivers meet the criteria for an exception under paragraph (a), clauses (1) through (5), or the family unit includes a parent who meets the criteria in paragraph (a), clause (6), (7), (8), ~~or~~ (9), or (10).
- (c) Once DWP eligibility is determined, the four months run consecutively. If a participant leaves the program for any reason and reapplies during the four-month period, the county must redetermine eligibility for DWP.

ARTICLE 5

MISCELLANEOUS TECHNICAL

Section 1. Minnesota Statutes 2007 Supplement, section 245C.08, subdivision 2, is amended to read:

Subd. 2. **Background studies conducted by a county agency.** (a) For a background study conducted by a county agency for adult foster care, family adult day services, and family child care services, the commissioner shall review:

- (1) information from the county agency's record of substantiated maltreatment of adults and the maltreatment of minors;
- (2) information from juvenile courts as required in subdivision 4 for individuals listed in section 245C.03, subdivision 1, clauses (2), (5), and (6); and
- (3) information from the Bureau of Criminal Apprehension.

(b) If the individual has resided in the county for less than five years, the study shall include the records specified under paragraph (a) for the previous county or counties of residence for the past five years.

(c) Notwithstanding expungement by a court, the county agency may consider information obtained under paragraph (a), ~~clauses~~ clause (3) ~~and~~ ~~(4)~~, unless the commissioner received notice of the petition for expungement and the court order for expungement is directed specifically to the commissioner.

Sec. 2. Minnesota Statutes 2007 Supplement, section 256E.35, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Family asset account" means a savings account opened by a household participating in the Minnesota family assets for independence initiative.

(c) "Fiduciary organization" means:

(1) a community action agency that has obtained recognition under section 256E.31;

(2) a federal community development credit union serving the seven-county metropolitan area; or

(3) a women-oriented economic development agency serving the seven-county metropolitan area.

(d) "Financial institution" means a bank, bank and trust, savings bank, savings association, or credit union, the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(e) "Permissible use" means:

(1) postsecondary educational expenses at an ~~accredited public postsecondary~~ eligible educational institution as defined in paragraph (g), including books, supplies, and equipment required for courses of instruction;

(2) acquisition costs of acquiring, constructing, or reconstructing a residence, including any usual or reasonable settlement, financing, or other closing costs;

(3) business capitalization expenses for expenditures on capital, plant, equipment, working capital, and inventory expenses of a legitimate business pursuant to a business plan approved by the fiduciary organization; and

(4) acquisition costs of a principal residence within the meaning of section 1034 of the Internal Revenue Code of 1986 which do not exceed 100 percent of the average area purchase price applicable to the residence determined according to section 143(e)(2) and (3) of the Internal Revenue Code of 1986.

(f) "Household" means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

(g) "Eligible educational institution" means the following:

(1) an institution of higher education described in section 101 or 102 of the Higher Education Act of 1965; or

(2) an area vocational education school, as defined in subparagraph (C) or (D) of United States Code, title 20, chapter 44, section 2302 (3) (the Carl D. Perkins Vocational and Applied Technology Education Act), which is located within any state, as defined in United States Code, title 20, chapter 44, section 2302 (30). This clause is applicable only to the extent section 2302 is in effect on the effective date of this section.

Sec. 3. Laws 2007, chapter 147, article 2, section 21, the effective date, is amended to read:

EFFECTIVE DATE. Subdivision 1 is effective February 1, 2008, and subdivision 2 is effective ~~May 1, 2008~~ March 1, 2009.

Sec. 4. **REPEALER.**

Minnesota Statutes 2006, section 256K.25, is repealed.

ARTICLE 6
CHILD WELFARE

Section 1. Minnesota Statutes 2006, section 259.20, subdivision 1, is amended to read:

Subdivision 1. **Policy and purpose.** The policy of the state of Minnesota and the purpose of sections 259.20 to 259.69 is to ensure:

(1) that the best interests of ~~children~~ adopted persons are met in the planning and granting of adoptions; and

(2) that laws and practices governing adoption recognize the diversity of Minnesota's population and the diverse needs of persons affected by adoption.

Sec. 2. Minnesota Statutes 2006, section 259.21, is amended by adding a subdivision to read:

Subd. 2a. **Adult adoption.** "Adult adoption" means the adoption of a person at least 18 years of age.

Sec. 3. Minnesota Statutes 2006, section 259.22, subdivision 2, is amended to read:

Subd. 2. **Children Persons who may be adopted.** No petition for adoption shall be filed unless the ~~child~~ person sought to be adopted has been placed by the commissioner of human services, the commissioner's agent, or a licensed child-placing agency. The provisions of this subdivision shall not apply if

(a) the ~~child~~ person to be adopted is over 14 years of age;

(b) the child is sought to be adopted by an individual who is related to the child, as defined by section 245A.02, subdivision 13;

(c) the child has been lawfully placed under the laws of another state while the child and petitioner resided in that other state;

(d) the court waives the requirement of this subdivision in the best interests of the child or petitioners, provided that the adoption does not involve a placement as defined in section 259.21, subdivision 8; or

(e) the child has been lawfully placed under section 259.47.

Sec. 4. Minnesota Statutes 2006, section 259.23, subdivision 2, is amended to read:

Subd. 2. **Contents of petition.** The petition shall be signed by the petitioner and, if married, by the spouse. It shall be verified, and filed in duplicate. The petition shall allege:

(a) The full name, age and place of residence of petitioner, and if married, the date and place of marriage;

(b) The date petitioner acquired physical custody of the child and from what person or agency;

(c) The date of birth of the ~~child~~ person to be adopted, if known, and the state and county where born;

- (d) The name of the child's parents, if known, and the guardian if there be one;
- (e) The actual name of the ~~child~~ person to be adopted, if known, and any known aliases;
- (f) The name to be given the ~~child~~ person to be adopted if a change of name is desired;
- (g) The description and value of any real or personal property owned by the ~~child~~ person to be adopted;
- (h) That the petitioner desires that the relationship of parent and child be established between petitioner and ~~the child, and that it is to the~~ the person to be adopted and that adoption is in the best interests of the ~~child for the child~~ person to be adopted by the petitioner.

In agency placements, the information required in clauses (d) and (e) shall not be required to be alleged in the petition but shall be transmitted to the court by the commissioner of human services or the agency.

Sec. 5. [259.241] ADULT ADOPTION.

(a) Any adult person may be adopted, regardless of his or her residence. A resident of Minnesota may petition the court of record having jurisdiction of adoption proceedings to adopt an individual who has reached the age of 18 years or older.

(b) The consent of the person to be adopted shall be the only consent necessary, according to section 259.24. The consent of an adult in his or her own adoption is invalid if the adult is considered to be a vulnerable adult under section 626.5572, subdivision 21, or if the person consenting to the adoption is determined not competent to give consent.

(c) The decree of adoption establishes a parent-child relationship between the adopting parent or parents and the person adopted, including the right to inherit, and also terminates the parental rights and sibling relationship between the adopted person and the adopted person's birth parents and siblings according to section 259.59.

(d) If the adopted person requests a change of name, the adoption decree shall order the name change.

Sec. 6. Minnesota Statutes 2007 Supplement, section 259.41, subdivision 1, is amended to read:

Subdivision 1. **Study required before placement; certain relatives excepted.** (a) An approved adoption study; completed background study, as required under section 245C.33; and written report must be completed before the child is placed in a prospective adoptive home under this chapter, except as allowed by section 259.47, subdivision 6. In an agency placement, the report must be filed with the court at the time the adoption petition is filed. In a direct adoptive placement, the report must be filed with the court in support of a motion for temporary preadoptive custody under section 259.47, subdivision 3, or, if the study and report are complete, in support of an emergency order under section 259.47, subdivision 6. The study and report shall be completed by a licensed child-placing agency and must be thorough and comprehensive. The study and report shall be paid for by the prospective adoptive parent, except as otherwise required under section 256.01, subdivision 2, paragraph (h), 259.67, or 259.73.

(b) A placement for adoption with an individual who is related to the child, as defined by section 245A.02, subdivision 13, is ~~not subject to this section except as a background study required by sections 245C.33 and 259.53, subdivision 2, paragraph (c) by subdivision 2, paragraph (a), clause (1), items (i) and (ii), and subdivision 3.~~ In the case of a stepparent adoption, a background study must be completed on the stepparent and any children as required under subdivision 3, paragraph (b), except that a child of the stepparent does not need to have a background study complete if they are a sibling through birth or adoption of the person being adopted. The local social services agency of the county in which the prospective adoptive parent lives must initiate a background study unless a child-placing agency has been involved with the adoption. The local social service agency may charge a reasonable fee for the background study. If a placement is being made the background study must be completed prior to placement pursuant to section 259.29, subdivision 1, paragraph (c). Background study results must be filed with the adoption petition according to section 259.22, except in an adult adoption where an adoption study and background study are not needed.

(c) In the case of a licensed foster parent seeking to adopt a child who is in the foster parent's care, any portions of the foster care licensing process that duplicate requirements of the home study may be submitted in satisfaction of the relevant requirements of this section.

Sec. 7. Minnesota Statutes 2006, section 259.43, is amended to read:

259.43 BIRTH PARENT HISTORY; COMMISSIONER'S FORM.

In any adoption under this chapter, except a stepparent or an adult adoption under section 259.241, a birth parent or an agency, if an agency placement, shall provide a prospective adoptive parent with a complete, thorough, detailed, and current social and medical history of the ~~birth families~~ child being adopted, if information is known after reasonable inquiry. Each ~~birth family~~ child's social and medical history must be provided on a form or forms prepared by the commissioner and must include background and health history specific to the child, the child's birth parents, and the child's other birth relatives. Applicable background and health information about the child includes: the child's current health condition, behavior, and demeanor; placement history; education history; sibling information; and birth, medical, dental, and immunization information. Redacted copies of pertinent records, assessments, and evaluations shall be attached to the child's social and medical history. Applicable background information about the child's birth parents and other birth relatives includes: general background information; education and employment history; physical health and mental health history; and reasons for the child's placement. The child's social and medical history shall be completed in a manner so that the completed form protects the identities of all individuals described in it. The commissioner shall make the form available to agencies and court administrators for public distribution. The birth family child's social and medical history must be provided to the prospective adoptive family prior to adoptive placement, provided to the Department of Human Services with application for adoption assistance, if applicable, and filed with the court when the adoption petition is filed, ~~or,~~ In a direct adoptive placement, the child's social and medical history must be filed with the court with the motion for temporary preadoptive custody.

Sec. 8. Minnesota Statutes 2006, section 259.52, subdivision 2, is amended to read:

Subd. 2. **Requirement to search registry before adoption petition can be granted; proof of search.** No petition for adoption may be granted unless the agency

supervising the adoptive placement, the birth mother of the child, or, in the case of a stepparent or relative adoption, the county agency responsible for the report required under section 259.53, subdivision 1, requests that the commissioner of health search the registry to determine whether a putative father is registered in relation to a child who is or may be the subject of an adoption petition. The search required by this subdivision must be conducted no sooner than 31 days following the birth of the child. A search of the registry may be proven by the production of a certified copy of the registration form or by a certified statement of the commissioner of health that after a search no registration of a putative father in relation to a child who is or may be the subject of an adoption petition could be located. The filing of a certified copy of an order from a juvenile protection matter under chapter 260C containing a finding that certification of the requisite search of the Minnesota fathers' adoption registry was filed with the court in that matter shall also constitute proof of search. Certification that the fathers' adoption registry has been searched must be filed with the court prior to entry of any final order of adoption. In addition to the search required by this subdivision, the agency supervising the adoptive placement, the birth mother of the child, or, in the case of a stepparent or relative adoption, the ~~county~~ social services agency responsible for the report under section 259.53, subdivision 1, or the responsible social services agency that is a petitioner in a juvenile protection matter under chapter 260C may request that the commissioner of health search the registry at any time.

Sec. 9. Minnesota Statutes 2006, section 259.53, subdivision 3, is amended to read:

Subd. 3. **Reports and records.** (a) The contents of all reports and records of the commissioner of human services, local social services agency, or child-placing agency bearing on the suitability of the proposed adoptive home and the child to each other shall not be disclosed either directly or indirectly to any person other than the commissioner of human services, the child's guardian ad litem appointed under: (1) section 260C.163 when the guardian's appointment continues under section 260C.317, subdivision 3, paragraph (b); or (2) section 259.65, or a judge of the court having jurisdiction of the matter, except as provided in paragraph (b).

(b) A judge of the court having jurisdiction of the matter shall upon request disclose to a party to the proceedings or the party's counsel any portion of a report or record that relates only to the suitability of the proposed adoptive parents. In this disclosure, the judge may withhold the identity of individuals providing information in the report or record. When the judge is considering whether to disclose the identity of individuals providing information, the agency with custody of the report or record shall be permitted to present reasons for or against disclosure.

Sec. 10. Minnesota Statutes 2007 Supplement, section 259.57, subdivision 1, is amended to read:

Subdivision 1. **Findings; orders.** Upon the hearing,

(a) if the court finds that it is in the best interests of the ~~child~~ person to be adopted that the petition be granted, a decree of adoption shall be made and recorded in the office of the court administrator, ordering that henceforth the ~~child~~ person to be adopted shall be the child of the petitioner. In the decree the court may change the name of the ~~child~~ adopted person if desired. After the decree is granted for ~~a child~~ an adopted person who is:

(1) under the guardianship of the commissioner or a licensed child-placing agency according to section 260C.201, subdivision 11, or 260C.317;

(2) placed by the commissioner, commissioner's agent, or licensed child-placing agency after a consent to adopt according to section 259.24 or under an agreement conferring authority to place for adoption according to section 259.25; or

(3) adopted after a direct adoptive placement ordered by the district court under section 259.47,

the court administrator shall immediately mail a copy of the recorded decree to the commissioner of human services;

(b) if the court is not satisfied that the proposed adoption is in the best interests of the child person to be adopted, the court shall deny the petition, and in the case of a child shall order the child returned to the custody of the person or agency legally vested with permanent custody or certify the case for appropriate action and disposition to the court having jurisdiction to determine the custody and guardianship of the child.

Sec. 11. Minnesota Statutes 2006, section 259.59, subdivision 1, is amended to read:

Subdivision 1. **Legal effect.** Upon adoption, the child adopted person shall become the legal child of the adopting persons and they shall become the legal parents of the child with all the rights and duties between them of birth parents and legitimate child. By virtue of the adoption the child adopted person shall inherit from the adoptive parents or their relatives the same as though the child adopted person were the natural child of the parents, and in case of the child's adopted person's death intestate the adoptive parents and their relatives shall inherit the child's adopted person's estate as if they the adopted person had been the child's birth parents and relatives. After a decree of adoption is entered the birth parents of an adopted child person shall be relieved of all parental responsibilities for the child adopted person, and they shall not exercise or have any rights over the adopted child person or the child's adopted person's property. The child adopted person shall not owe the birth parents or their relatives any legal duty nor shall the child adopted person inherit from the birth parents or kindred, except as provided in subdivision 1a and section 257C.08, subdivision 6.

Sec. 12. Minnesota Statutes 2006, section 259.59, subdivision 2, is amended to read:

Subd. 2. **Enrollment in American Indian tribe.** Notwithstanding the provisions of subdivision 1, the adoption of a child person whose birth parent or parents are enrolled in an American Indian tribe shall not change the child's person's enrollment in that tribe.

Sec. 13. Minnesota Statutes 2006, section 259.67, subdivision 2, is amended to read:

Subd. 2. **Adoption assistance agreement.** The placing agency shall certify a child as eligible for adoption assistance according to rules promulgated by the commissioner. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. Not later than 30 days after a parent or parents are found and approved for adoptive placement of a child certified as eligible for adoption assistance, and before the final decree of adoption is issued, a written agreement must be entered into by the commissioner, the adoptive parent or parents, and the placing agency. The written agreement must be fully completed by the placing agency and in the form prescribed by the commissioner and must set forth the responsibilities of all parties, the

anticipated duration of the adoption assistance payments, and the payment terms. The adoption assistance agreement shall be subject to the commissioner's approval, which must be granted or denied not later than 15 days after the agreement is entered.

The amount of adoption assistance is subject to the availability of state and federal funds and shall be determined through agreement with the adoptive parents. The agreement shall take into consideration the circumstances of the adopting parent or parents, the needs of the child being adopted and may provide ongoing monthly assistance, supplemental maintenance expenses related to the ~~adopted person's~~ child's special needs, nonmedical expenses periodically necessary for purchase of services, items, or equipment related to the special needs, and medical expenses. The placing agency or the adoptive parent or parents shall provide written documentation to support the need for adoption assistance payments. The commissioner may require periodic reevaluation of adoption assistance payments. The amount of ongoing monthly adoption assistance granted may in no case exceed that which would be allowable for the child under foster family care and is subject to the availability of state and federal funds.

Sec. 14. Minnesota Statutes 2006, section 259.67, subdivision 3, is amended to read:

Subd. 3. ~~**Annual affidavit Modification or termination of the adoption assistance agreement.** When adoption assistance agreements are for more than one year, the adoptive parents or guardian or conservator shall annually present an affidavit stating whether the adopted person remains under their care and whether the need for adoption assistance continues to exist. The commissioner may verify the affidavit. The adoption assistance agreement shall continue in accordance with its terms as long as the need for adoption assistance continues and the adopted ~~person~~ child is the legal or financial dependent of the adoptive parent or parents or guardian or conservator and is under 18 years of age. The adoption assistance agreement may be extended to age 22 as allowed by rules adopted by the commissioner. Termination or modification of the adoption assistance agreement may be requested by the adoptive parents or subsequent guardian or conservator at any time. When the commissioner determines that a child is eligible for adoption assistance under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 679a, the commissioner shall modify the adoption assistance agreement in order to obtain the funds under that act.~~

Sec. 15. Minnesota Statutes 2006, section 259.67, is amended by adding a subdivision to read:

Subd. 3a. **Recovery of overpayments.** An amount of adoption assistance paid to an adoptive parent in excess of the payment due is recoverable by the commissioner, even when the overpayment was caused by agency error or circumstances outside the responsibility and control of the family or provider. Adoption assistance amounts covered by this subdivision include basic maintenance needs payments, monthly supplemental maintenance needs payments, reimbursement of nonrecurring adoption expenses, reimbursement of special nonmedical costs, and reimbursement of medical costs.

Sec. 16. Minnesota Statutes 2007 Supplement, section 259.67, subdivision 4, is amended to read:

Subd. 4. **Eligibility conditions.** (a) The placing agency shall use the AFDC requirements as specified in federal law as of July 16, 1996, when determining the child's eligibility for adoption assistance under title IV-E of the Social Security Act. If the child

does not qualify, the placing agency shall certify a child as eligible for state funded adoption assistance only if the following criteria are met:

(1) Due to the child's characteristics or circumstances it would be difficult to provide the child an adoptive home without adoption assistance.

(2)(i) A placement agency has made reasonable efforts to place the child for adoption without adoption assistance, but has been unsuccessful; ~~or~~

(ii) the child's licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child; or

(iii) the child's relative, as defined in section 260C.007, subdivision 27, desires to adopt the child, and it is determined by the placing agency that the adoption is in the best interest of the child.

(3)(i) The child ~~has been~~ is a ward of the commissioner, ~~a Minnesota-licensed child-placing agency,~~ or a tribal social service agency of Minnesota recognized by the Secretary of the Interior; or (ii) the child will be adopted according to tribal law without a termination of parental rights or relinquishment, provided that the tribe has documented the valid reason why the child cannot or should not be returned to the home of the child's parent. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. A child who is adopted by the child's legal custodian or guardian shall not be eligible for state-funded adoption assistance.

(b) ~~For purposes of this subdivision, The characteristics or circumstances that may be considered in determining whether a child is a child with special needs under United States Code, title 42, chapter 7, subchapter IV, part E, or meets the requirements of paragraph (a), clause (1), or section 473(c)(2)(A) of the Social Security Act, are the following:~~

(1) The child is a member of a sibling group to be placed as one unit in which at least one sibling is older than 15 months of age or is described in clause (2) or (3).

(2) The child has documented physical, mental, emotional, or behavioral disabilities.

(3) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

(4) The child is five years of age or older.

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability manifests itself as documented by an appropriate health care professional.

Sec. 17. Minnesota Statutes 2006, section 259.75, subdivision 5, is amended to read:

Subd. 5. **Withdrawal of registration.** A child's registration shall be withdrawn when the exchange service has been notified in writing by the local social service agency ~~and or~~ the licensed child-placing agency that the child has been ~~adopted, has become 14 years old and will not consent to an adoption plan, placed in an adoptive home or has died.~~

Sec. 18. Minnesota Statutes 2006, section 259.89, subdivision 1, is amended to read:

Subdivision 1. **Request.** An adopted person who is 19 years of age or over may request the commissioner of health to disclose the information on the adopted person's

original birth record. The commissioner of health shall, within five days of receipt of the request, notify the commissioner of human ~~services~~ services' agent or licensed child-placing agency when known, or the commissioner of human services when the agency is not known in writing of the request by the adopted person.

Sec. 19. Minnesota Statutes 2006, section 259.89, subdivision 2, is amended to read:

Subd. 2. **Search.** Within six months after receiving notice of the request of the adopted person, the commissioner of human ~~services~~ services' agent or a licensed child-placing agency shall make complete and reasonable efforts to notify each parent identified on the original birth record of the adopted person. The commissioner, the commissioner's agents, and licensed child-placing agencies may charge a reasonable fee to the adopted person for the cost of making a search pursuant to this subdivision. Every licensed child-placing agency in the state shall cooperate with the commissioner of human services in efforts to notify an identified parent. All communications under this subdivision are confidential pursuant to section 13.02, subdivision 3.

For purposes of this subdivision, "notify" means a personal and confidential contact with the birth parents named on the original birth record of the adopted person. The contact ~~shall not be by mail and~~ shall be by an employee or agent of the licensed child-placing agency which processed the pertinent adoption or some other licensed child-placing agency designated by the commissioner of human services when it is determined to be reasonable by the commissioner; otherwise contact shall be by mail or telephone. The contact shall be evidenced by filing with the commissioner of health an affidavit of notification executed by the person who notified each parent certifying that each parent was given the following information:

- (a) (1) the nature of the information requested by the adopted person;
- (b) (2) the date of the request of the adopted person;
- (c) (3) the right of the parent to file, within 30 days of receipt of the notice, an affidavit with the commissioner of health stating that the information on the original birth record should not be disclosed;
- (d) (4) the right of the parent to file a consent to disclosure with the commissioner of health at any time; and
- (e) (5) the effect of a failure of the parent to file either a consent to disclosure or an affidavit stating that the information on the original birth record should not be disclosed.

Sec. 20. Minnesota Statutes 2006, section 259.89, subdivision 4, is amended to read:

Subd. 4. **Release of information after notice.** If, within six months, the commissioner of human ~~services certifies~~ services' agent or licensed child-placing agency document to the commissioner of health notification of each parent identified on the original birth record pursuant to subdivision 2, the commissioner of health shall disclose the information requested by the adopted person 31 days after the date of the latest notice to either parent. This disclosure will occur if, at any time during the 31 days both of the parents identified on the original birth record have filed a consent to disclosure with the commissioner of health and neither consent to disclosure has been revoked by the subsequent filing by a parent of an affidavit stating that the information should not be disclosed. If only one parent has filed a consent to disclosure and the consent has not been

revoked, the commissioner of health shall disclose, to the adopted person, original birth record information on the consenting parent only.

Sec. 21. Minnesota Statutes 2006, section 259.89, is amended by adding a subdivision to read:

Subd. 7. **Adult adoptions.** Notwithstanding section 144.218, a person adopted as an adult shall be permitted to access the person's birth records that existed prior to the adult adoption. Access to the existing birth records shall be the same access that was permitted prior to the adult adoption.

Sec. 22. Minnesota Statutes 2006, section 260.835, subdivision 2, is amended to read:

Subd. 2. **Expiration.** Notwithstanding section 15.059, subdivision 5, the American Indian Child Welfare Advisory Council expires June 30, ~~2008~~ 2012.

Sec. 23. **[260.853] INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN.**

ARTICLE I. PURPOSE

The purpose of this Interstate Compact for the Placement of Children is to:

A. Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

B. Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

C. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

D. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

E. Provide for uniform data collection and information sharing between member states under this compact.

F. Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.

G. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

H. Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II. DEFINITIONS

As used in this compact,

A. "Approved placement" means the public child-placing agency in the receiving state has determined that the placement is both safe and suitable for the child.

B. "Assessment" means an evaluation of a prospective placement by a public child-placing agency to determine whether the placement meets the individualized needs

of the child, including but not limited to the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is only applicable to a placement by a public child-placing agency.

C. "Child" means an individual who has not attained the age of eighteen (18).

D. "Certification" means to attest, declare, or be sworn to before a judge or notary public.

E. "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate Commission.

F. "Home study" means an evaluation of a home environment conducted according to the applicable requirements of the state in which the home is located, and documents the preparation and the suitability of the placement resource for placement of a child according to the laws and requirements of the state in which the home is located.

G. "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3 (c) of the Alaska Native Claims Settlement Act at 43 USC §1602(c).

H. "Interstate Commission for the Placement of Children" means the commission that is created under Article VIII of this compact and which is generally referred to as the Interstate Commission.

I. "Jurisdiction" means the power and authority of a court to hear and decide matters.

J. "Legal risk placement" ("Legal risk adoption") means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with according to applicable law.

K. "Member state" means a state that has enacted this compact.

L. "Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

M. "Nonmember state" means a state which has not enacted this compact.

N. "Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state including, but not limited to the name, date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.

O. "Placement" means the act by a public or private child-placing agency intended to arrange for the care or custody of a child in another state.

P. "Private child-placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

Q. "Provisional placement" means a determination made by the public child-placing agency in the receiving state that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of an assessment and the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

R. "Public child-placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality, or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.

S. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

T. "Relative" means someone who is related to the child as a parent, step-parent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a non-relative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

U. "Residential facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals, or other medical facilities.

V. "Rule" means a written directive, mandate, standard, or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets, or prescribes a policy or provision of the compact. Rule has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

W. "Sending state" means the state from which the placement of a child is initiated.

X. "Service member's permanent duty station" means the military installation where an active duty Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

Y. "Service member's state of legal residence" means the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.

Z. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other territory of the United States.

AA. "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals who have not attained the age of eighteen (18).

BB. "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

ARTICLE III. APPLICABILITY

A. Except as otherwise provided in Article III, Section B, this compact shall apply to:

1. The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

2. The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

a. the child is being placed in a residential facility in another member state and is not covered under another compact; or

b. the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

3. The interstate placement of any child by a public child-placing agency or private child-placing agency as defined in this compact as a preliminary step to a possible adoption.

B. The provisions of this compact shall not apply to:

1. The interstate placement of a child in a custody proceeding in which a public child placing agency is not a party, provided the placement is not intended to effectuate an adoption.

2. The interstate placement of a child with a non-relative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption.

3. The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

4. The placement of a child, not subject to Article III, Section A, into a residential facility by his parent.

5. The placement of a child with a noncustodial parent provided that:

a. The noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; and

b. The court in the sending state makes a written finding that placement with the non-custodial parent is in the best interests of the child; and

c. The court in the sending state dismisses its jurisdiction over the child's case.

6. A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

7. Cases in which a U.S. citizen child living overseas with his family, at least one of whom is in the U.S. armed services, and who is stationed overseas, is removed and placed in a state.

8. The sending of a child by a public child-placing agency or a private child-placing agency for a visit as defined by the rules of the Interstate Commission.

C. For purposes of determining the applicability of this compact to the placement of a child with a family in the armed services, the public child-placing agency or private child-placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

D. Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement, or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV. JURISDICTION

A. Except as provided in Article IV, section G, concerning private and independent adoptions and in interstate placements in which the public child placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

B. When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

C. In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

1. The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child-placing agency in the receiving state; or

2. The child is adopted;

3. The child reaches the age of majority under the laws of the sending state; or

4. The child achieves legal independence pursuant to the laws of the sending state; or

5. A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state; or

6. An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

7. The public child-placing agency of the sending state requests termination and has obtained the concurrence of the public child-placing agency in the receiving the state.

D. When a sending state court terminates its jurisdiction, the receiving state child-placing agency shall be notified.

E. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

F. Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

G. The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

1. when the child is a ward of another court that established jurisdiction over the child prior to the placement;

2. when the child is in the legal custody of a public agency in the sending state; or

3. when the court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

ARTICLE V. PLACEMENT EVALUATION

A. Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child-placing agency shall provide a written request for assessment to the receiving state.

B. For placements by a private child-placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state, upon receipt and immediate review of the required content in a request for approval of a placement in both the sending and receiving state public child-placing agency. The required content to accompany a request for provisional approval shall include all of the following:

1. A request for approval identifying the child, birth parents, the prospective adoptive parents, and the supervising agency, signed by the person requesting approval; and

2. The appropriate consents or relinquishments signed by the birthparents in accordance with the laws of the sending state or, where permitted, the laws of the state where the adoption will be finalized; and

3. Certification by a licensed attorney or other authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur; and

4. A home study; and

5. An acknowledgment of legal risk signed by the prospective adoptive parents.

C. The sending state and the receiving state may request additional information or documents prior to finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted, received, and reviewed by the public child-placing agency in both the sending state and the receiving state.

D. Approval from the public child-placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the Interstate Commission.

E. The procedures for making, and the request for an assessment, shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

F. Upon receipt of a request from the public child-placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child-placing agency of the sending state may request a determination for a provisional placement.

G. The public child-placing agency in the receiving state may request from the public child-placing agency or the private child-placing agency in the sending state, and shall be entitled to receive supporting or additional information necessary to complete the assessment.

ARTICLE VI. PLACEMENT AUTHORITY

A. Except as otherwise provided in this compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

B. If the public child-placing agency in the receiving state does not approve the proposed placement then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

C. If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

1. The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable administrative procedures.

2. If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided however that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

A. For the interstate placement of a child made by a public child-placing agency or state court:

1. The public child-placing agency in the sending state shall have financial responsibility for:

a. the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

b. as determined by the public child-placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

2. The receiving state shall only have financial responsibility for:

a. any assessment conducted by the receiving state; and

b. supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child-placing agencies of the receiving and sending state.

3. Nothing in this provision shall prohibit public child-placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

B. For the placement of a child by a private child-placing agency preliminary to a possible adoption, the private child-placing agency shall be:

1. Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

2. Financially responsible for the child absent a contractual agreement to the contrary.

C. The public child-placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

D. The public child-placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

E. Nothing in this compact shall be construed as to limit the authority of the public child-placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

F. Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and Interstate Commission activities, through the creation of an advisory council or use of an existing body or board.

G. Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.

H. The public child-placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 USC 1901 et seq.) for placements subject to the provisions of this compact, prior to placement.

I. With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a joint commission of the member states and shall have the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

B. Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility

for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy related matters governed by this compact binding the state.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state.

4. A representative may delegate voting authority to another person from their state for a specified meeting.

C. In addition to the commissioners of each member state, the Interstate Commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

D. Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. It shall not have the power to engage in rulemaking.

ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact.

B. To provide for dispute resolution among member states.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules or actions.

D. To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII.

E. Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

F. To establish and maintain offices as may be necessary for the transacting of its business.

G. To purchase and maintain insurance and bonds.

H. To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies, and rates of compensation.

I. To establish and appoint committees and officers including, but not limited to, an executive committee as required by Article X.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such activity.

Q. To maintain books and records in accordance with the bylaws of the Interstate Commission.

R. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. Bylaws

1. Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

2. The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

B. Meetings

1. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states shall call additional meetings.

2. Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

a. relate solely to the Interstate Commission's internal personnel practices and procedures; or

b. disclose matters specifically exempted from disclosure by federal law; or

c. disclose financial or commercial information which is privileged, proprietary or confidential in nature; or

- d. involve accusing a person of a crime, or formally censuring a person; or
- e. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or
- f. disclose investigative records compiled for law enforcement purposes; or
- g. specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

3. For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

C. Officers and Staff

1. The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

2. The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

D. Qualified Immunity, Defense and Indemnification

1. The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

a. The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage,

loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

b. The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

c. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the U. S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and

2. Allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available; and

3. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

E. Not later than 60 days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

F. If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

G. The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than 12, but no more than 24 months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

H. Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

1. Transition rules
2. Forms and procedures
3. Time lines
4. Data collection and reporting
5. Rulemaking
6. Visitation
7. Progress reports/supervision
8. Sharing of information/confidentiality
9. Financing of the Interstate Commission
10. Mediation, arbitration, and dispute resolution
11. Education, training, and technical assistance
12. Enforcement
13. Coordination with other interstate compacts

I. Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

1. The Interstate Commission may promulgate an emergency rule only if it is required to:

a. Protect the children covered by this compact from an imminent threat to their health, safety, and well-being; or

b. Prevent loss of federal or state funds; or

c. Meet a deadline for the promulgation of an administrative rule required by federal law.

2. An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied

to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

3. An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

A. Oversight

1. The Interstate Commission shall oversee the administration and operation of the compact.

2. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.

3. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

4. The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order or other determination, however so captioned or classified, void as to the Interstate Commission, this compact, its bylaws, or rules of the Interstate Commission.

B. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

C. Enforcement

1. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws or rules, the Interstate Commission may:

a. Provide remedial training and specific technical assistance; or

b. Provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; or

c. By majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws,

or rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or

d. Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE

AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007 or upon enactment of the compact into law by the 35th state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.

3. The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII. BINDING EFFECT OF COMPACT

AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

EFFECTIVE DATE. This section is effective upon legislative enactment of the compact into law by no less than 35 states. The commissioner of human services shall inform the Revisor of Statutes when this occurs.

Sec. 24. Minnesota Statutes 2006, section 260C.001, subdivision 2, is amended to read:

Subd. 2. **Child in need of protection services.** (a) The paramount consideration in all proceedings concerning a child alleged or found to be in need of protection or services is the health, safety, and best interests of the child. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923.

(b) The purpose of the laws relating to juvenile courts is:

(1) to secure for each child alleged or adjudicated in need of protection or services and under the jurisdiction of the court, the care and guidance, preferably in the child's own home, as will best serve the spiritual, emotional, mental, and physical welfare of the child;

(2) to provide judicial procedures which protect the welfare of the child;

(3) to preserve and strengthen the child's family ties whenever possible and in the child's best interests, removing the child from the custody of parents only when the child's welfare or safety cannot be adequately safeguarded without removal;

(4) to ensure that when removal from the child's own family is necessary and in the child's best interests, the responsible social services agency has legal responsibility for the child removal either:

(i) pursuant to a voluntary placement agreement between the child's parent or guardian and the responsible social services agency; or

(ii) by court order pursuant to section 260C.151, subdivision 6; 206C.178; or 260C.201;

(5) to ensure that, when placement is pursuant to court order, the court order removing the child or continuing the child in foster care contains an individualized determination that placement is in the best interests of the child that coincides with the actual removal of the child; and, ~~when removal from the child's own family is necessary and in the child's best interests,~~

(6) to ~~secure for~~ ensure that when the child is removed, the ~~child custody,~~ child's care and discipline ~~is,~~ as nearly as possible, equivalent to that which should have been given by the parents; ~~and is either in:~~

(i) the home of a noncustodial parent pursuant to section 260C.178 or 260C.201, subdivision 1, paragraph (a), clause (1);

(ii) the home of a relative pursuant to emergency placement by the responsible social services agency under chapter 245A; or

(iii) a foster home licensed under chapter 245A.

Sec. 25. Minnesota Statutes 2006, section 260C.007, subdivision 5, is amended to read:

Subd. 5. **Child abuse.** "Child abuse" means an act that involves a minor victim ~~and~~ that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322, 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, 617.246, or that is physical or sexual abuse as defined in section 626.556, subdivision 2, or an act committed in another state that involves a minor victim and would constitute a violation of one of these sections if committed in this state.

Sec. 26. Minnesota Statutes 2006, section 260C.007, subdivision 6, is amended to read:

Subd. 6. **Child in need of protection or services.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse as defined in section 626.556, subdivision 2, (ii) resides with or has resided with a victim of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision 5 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child abuse as defined in subdivision 5, or (iv) is a victim of emotional maltreatment as defined in subdivision 8;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care, ~~including a child in voluntary placement due solely to the child's developmental disability or emotional disturbance;~~

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody, ~~including a child in placement according to who~~

entered foster care under a voluntary release by placement agreement between the parent and the responsible social services agency under section 260C.212, subdivision 8;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;

(11) has engaged in prostitution as defined in section 609.321, subdivision 9;

(12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;

(13) is a runaway;

(14) is a habitual truant; or

(15) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense.

Sec. 27. Minnesota Statutes 2006, section 260C.007, subdivision 13, is amended to read:

Subd. 13. **Domestic child abuse.** "Domestic child abuse" means:

(1) any physical injury to a minor family or household member inflicted by an adult family or household member other than by accidental means; ~~or~~

(2) subjection of a minor family or household member by an adult family or household member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342, 609.343, 609.344, 609.345, or 617.246; ~~or~~

(3) physical or sexual abuse as defined in section 626.556, subdivision 2.

Sec. 28. Minnesota Statutes 2006, section 260C.101, subdivision 2, is amended to read:

Subd. 2. **Jurisdiction over other matters relating to children.** Except as provided in clause (d), the juvenile court has original and exclusive jurisdiction in proceedings concerning:

(a) The termination of parental rights to a child in accordance with the provisions of sections 260C.301 to 260C.328.

(b) The appointment and removal of a juvenile court guardian for a child, where parental rights have been terminated under the provisions of sections 260C.301 to 260C.328.

(c) Judicial consent to the marriage of a child when required by law.

(d) The juvenile court in those counties in which the judge of the probate-juvenile court has been admitted to the practice of law in this state shall proceed under the laws relating to adoptions in all adoption matters. In those counties in which the judge of the probate-juvenile court has not been admitted to the practice of law in this state the district court shall proceed under the laws relating to adoptions in all adoption matters.

(e) The review of the ~~foster care status~~ placement of a child who ~~has been placed~~ is in a residential facility, as defined in section 260C.212, subdivision 1, foster care pursuant to a voluntary release by placement agreement between the child's parent or parents and the responsible social services agency under section 260C.212, subdivision 8.

(f) The review of voluntary foster care placement of a child for treatment under chapter 260D according to the review requirements of that chapter.

Sec. 29. Minnesota Statutes 2006, section 260C.141, subdivision 2, is amended to read:

Subd. 2. **Review of foster care status.** ~~Except for a child in foster care due solely to the child's developmental disability or emotional disturbance,~~ When a child continues in voluntary placement foster care according to section 260C.212, subdivision 8, a petition shall be filed alleging the child to be in need of protection or services or seeking termination of parental rights or other permanent placement of the child away from the parent within 90 days of the date of the voluntary placement agreement. The petition shall state the reasons why the child is in placement foster care, the progress on the out-of-home placement plan required under section 260C.212, subdivision 1, and the statutory basis for the petition under section 260C.007, subdivision 6, 260C.201, subdivision 11, or 260C.301.

(1) In the case of a petition alleging the child to be in need of protection or services filed under this paragraph, if all parties agree and the court finds it is in the best interests of the child, the court may find the petition states a prima facie case that:

- (i) the child's needs are being met;
- (ii) the placement of the child in foster care is in the best interests of the child;
- (iii) reasonable efforts to reunify the child and the parent or guardian are being made; and
- (iv) the child will be returned home in the next three months.

(2) If the court makes findings under paragraph (1), the court shall approve the voluntary arrangement and continue the matter for up to three more months to ensure the child returns to the parents' home. The responsible social services agency shall:

(i) report to the court when the child returns home and the progress made by the parent on the out-of-home placement plan required under section 260C.212, in which case the court shall dismiss jurisdiction;

(ii) report to the court that the child has not returned home, in which case the matter shall be returned to the court for further proceedings under section 260C.163; or

(iii) if any party does not agree to continue the matter under this paragraph and paragraph (1), the matter shall proceed under section 260C.163.

Sec. 30. Minnesota Statutes 2007 Supplement, section 260C.163, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) Except for hearings arising under section 260C.425, hearings on any matter shall be without a jury and may be conducted in an informal manner. In all adjudicatory proceedings involving a child alleged to be in need of protection or services, the court shall admit only evidence that would be admissible in a civil trial. To be proved at trial, allegations of a petition alleging a child to be in need of protection or services must be proved by clear and convincing evidence.

(b) Except for proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may be continued or adjourned from time to time. In proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may not be continued or adjourned for more than one week unless the court makes specific findings that the continuance or adjournment is in the best interests of the child. If a hearing is held on a petition involving physical or sexual abuse of a child who is alleged to be in need of protection or services or neglected and in foster care, the court shall file the decision with the court administrator as soon as possible but no later than 15 days after the matter is submitted to the court. When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with the provisions of sections 260C.001 to 260C.421.

~~(c) Except as otherwise provided in this paragraph, the court shall exclude the general public from hearings under this chapter and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court. Absent exceptional circumstances, hearings under this chapter are presumed to be accessible to the public, however the court may close any hearing and the records related to any matter as provided in the Minnesota Rules of Juvenile Protection Procedure.~~

(d) Adoption hearings shall be conducted in accordance with the provisions of laws relating to adoptions.

(e) In any permanency hearing, including the transition of a child from foster care to independent living, the court shall ensure that any consult with the child is in an age-appropriate manner.

Sec. 31. Minnesota Statutes 2006, section 260C.171, subdivision 2, is amended to read:

Subd. 2. **Public inspection of records.** (a) ~~The following records from proceedings or portions of proceedings involving a child in need of protection or services that, permanency, or termination of parental rights are open accessible to the public as authorized by Supreme Court order and court rules are accessible to the public unless the court determines that access should be restricted because of the intensely personal nature of the information: the Minnesota Rules of Juvenile Protection Procedure.~~

- ~~(1) the summons and petition;~~
- ~~(2) affidavits of publication and service;~~
- ~~(3) certificates of representation;~~
- ~~(4) court orders;~~
- ~~(5) hearing and trial notices, witness lists, and subpoenas;~~
- ~~(6) motions and legal memoranda;~~

~~(7) exhibits introduced at hearings or trial that are not inaccessible under paragraph (b);~~

~~(8) birth records, and~~

~~(9) all other documents not listed as inaccessible to the public under paragraph (b):~~

~~(b) The following records are not accessible to the public under paragraph (a):~~

~~(1) written, audiotaped, or videotaped information from the social services agency, except to the extent the information appears in the petition, court orders, or other documents that are accessible under paragraph (a);~~

~~(2) child protection intake or screening notes;~~

~~(3) documents identifying reporters of maltreatment, unless the names and other identifying information are redacted;~~

~~(4) guardian ad litem reports;~~

~~(5) victim statements and addresses and telephone numbers;~~

~~(6) documents identifying nonparty witnesses under the age of 18, unless the names and other identifying information are redacted;~~

~~(7) transcripts of testimony taken during closed hearing;~~

~~(8) fingerprinting materials;~~

~~(9) psychological, psychiatric, and chemical dependency evaluations;~~

~~(10) presentence evaluations of juveniles and probation reports;~~

~~(11) medical records and test results;~~

~~(12) reports issued by sexual predator programs;~~

~~(13) diversion records of juveniles;~~

~~(14) any document which the court, upon its own motion or upon motion of a party, orders inaccessible to serve the best interests of the child; and~~

~~(15) any other records that are not accessible to the public under rules developed by the courts.~~

~~In addition, records that are accessible to the public under paragraph (a) become inaccessible to the public if one year has elapsed since either the proceeding was dismissed or the court's jurisdiction over the matter was terminated.~~

~~(c) Except as otherwise provided by this section, none of the records of the juvenile court and (b) None of the records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion, shall be open to public inspection or their contents disclosed except by order of a court.~~

~~(d) (c) The records of juvenile probation officers are records of the court for the purposes of this subdivision. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record and the guardian ad litem a reasonable time before it is used in connection with any proceeding before the court.~~

~~(c) When a judge of a juvenile court, or duly authorized agent of the court, determines under a proceeding under this chapter that a child has violated a state or local law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets and highways, except parking violations, the judge or agent shall immediately report the violation to the commissioner of public safety. The report must be made on a form provided by the Department of Public Safety and must contain the information required under section 169.95.~~

Sec. 32. Minnesota Statutes 2006, section 260C.178, subdivision 1, is amended to read:

Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody under section 260C.175, subdivision 1, clause (a) or (b)(2), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1.

(c) If the court determines there is reason to believe that the child would endanger self or others; not return for a court hearing; run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released; or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child into foster care under the legal responsibility of the responsible social services agency or responsible probation or corrections agency for the purposes of protective care as that term is used in the juvenile court rules; or into the home of a noncustodial parent and order the noncustodial parent to comply with any conditions the court determines to be appropriate to the safety and care of the child, including cooperating with paternity establishment proceedings in the case of a man who has not been adjudicated the child's father. The court shall not give the responsible social services legal custody and order a trial home visit at any time prior to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or guardian who has custody and from whom the child was removed and order the parent or guardian to comply with any conditions the court determines to be appropriate to meet the safety, health, and welfare of the child.

(d) In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse.

~~(c)~~ (e) The court, before determining whether a child should be placed in or continue in foster care under the protective care of the responsible agency, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts were made to prevent placement or whether reasonable efforts to prevent placement are not required. In the case of an Indian child, the court shall determine whether active efforts, according

to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement. The court shall enter a finding that the responsible social services agency has made reasonable efforts to prevent placement when the agency establishes either:

(1) that it has actually provided services or made efforts in an attempt to prevent the child's removal but that such services or efforts have not proven sufficient to permit the child to safely remain in the home; or

(2) that there are no services or other efforts that could be made at the time of the hearing that could safely permit the child to remain home or to return home. When reasonable efforts to prevent placement are required and there are services or other efforts that could be ordered which would permit the child to safely return home, the court shall order the child returned to the care of the parent or guardian and the services or efforts put in place to ensure the child's safety. When the court makes a prima facie determination that one of the circumstances under paragraph ~~(e)~~ (g) exists, the court shall determine that reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.

If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

~~(d)~~ (f) The court may not order or continue the foster care placement of the child unless the court makes explicit, individualized findings that continued custody of the child by the parent or guardian would be contrary to the welfare of the child and that placement is in the best interest of the child.

~~(e)~~ (g) At the emergency removal hearing, or at any time during the course of the proceeding, and upon notice and request of the county attorney, the court shall determine whether a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been involuntarily terminated;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parents' custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction; or

(5) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable.

~~(f)~~ (h) When a petition to terminate parental rights is required under section 260C.301, subdivision 3 or 4, but the county attorney has determined not to proceed with a termination of parental rights petition, and has instead filed a petition to transfer permanent legal and physical custody to a relative under section 260C.201, subdivision 11, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

~~(g)~~ (i) If the county attorney has filed a petition under section 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section 260C.201, subdivision 3.

~~(h)~~ (j) If the court determines the child should be ordered into foster care and the child's parent refuses to give information to the responsible social services agency regarding the child's father or relatives of the child, the court may order the parent to disclose the names, addresses, telephone numbers, and other identifying information to the responsible social services agency for the purpose of complying with the requirements of sections 260C.151, 260C.212, and 260C.215.

~~(i)~~ (k) If a child ordered into foster care has siblings, whether full, half, or step, who are also ordered into foster care, the court shall inquire of the responsible social services agency of the efforts to place the children together as required by section 260C.212, subdivision 2, paragraph (d), if placement together is in each child's best interests, unless a child is in placement due solely to the child's own behavior or a child is placed with a previously noncustodial parent who is not parent to all siblings. If the children are not placed together at the time of the hearing, the court shall inquire at each subsequent hearing of the agency's efforts to place the siblings together. If any sibling is not placed with another sibling or siblings, the agency must develop a plan for visitation among the siblings as required under section 260C.212, subdivision 1.

Sec. 33. Minnesota Statutes 2006, section 260C.205, is amended to read:

260C.205 DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS FOR TREATMENT.

~~Unless the court disposes of the petition under section 260C.141, subdivision 2, Upon a petition for review of the foster care status of a by a parent or guardian under section 260C.141, subdivision 1, regarding a child in voluntary foster care for treatment under chapter 260D, the court may:~~

~~(a) find that the child's needs are not being met, in which case the court shall order the social services 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 services agency of services to the parents which would enable the child to live at home, and order a disposition under section 260C.201.~~

~~(b) 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 disabling condition, in which case the court shall order the social services agency to file an appropriate petition pursuant to section 260C.141, subdivision 1, or 260C.307.~~

~~(c) When a child is in placement due solely to the child's developmental disability or emotional disturbance and the court finds that there are compelling reasons which permit the court to approve the continued voluntary placement of the child and retain jurisdiction to conduct reviews as required under section 260C.141, subdivision 2, the court shall give the parent notice by registered United States mail of the review requirements of section 260C.141, subdivision 2, in the event the child continues in placement 12 months or longer.~~

~~Nothing in this section shall be construed to prohibit bringing a petition pursuant to section 260C.141, subdivision 1 or 4, sooner than required by court order pursuant to this section.~~

Sec. 34. Minnesota Statutes 2007 Supplement, section 260C.209, subdivision 1, is amended to read:

Subdivision 1. **Subjects.** The responsible social services agency ~~must initiate a background study to be completed by the commissioner under chapter 245C~~ may have access to the criminal history and history of child and adult maltreatment on the following individuals:

(1) a noncustodial parent or nonadjudicated parent who is being assessed for purposes of providing day-to-day care of a child temporarily or permanently under section 260C.212, subdivision 4, and any member of the parent's household who is over the age of 13 when there is a reasonable cause to believe that the parent or household member over age 13 has a criminal history or a history of maltreatment of a child or vulnerable adult which would endanger the child's health, safety, or welfare;

(2) an individual whose suitability for relative placement under section 260C.212, subdivision 5, is being determined and any member of the relative's household who is over the age of 13 when:

(i) the relative must be licensed for foster care; or

(ii) the background study is required under section 259.53, subdivision 2; or

(iii) the agency or the commissioner has reasonable cause to believe the relative or household member over the age of 13 has a criminal history which would not make transfer of permanent legal and physical custody to the relative under section 260C.201, subdivision 11, in the child's best interest; and

(3) a parent, following an out-of-home placement, when the responsible social services agency has reasonable cause to believe that the parent has been convicted of a crime directly related to the parent's capacity to maintain the child's health, safety, or welfare or the parent is the subject of an open investigation of, or has been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years.

"Reasonable cause" means that the agency has received information or a report from the subject or a third person that creates an articulable suspicion that the individual has a history that may pose a risk to the health, safety, or welfare of the child. The information or report must be specific to the potential subject of the background check and shall not be based on the race, religion, ethnic background, age, class, or lifestyle of the potential subject.

Sec. 35. Minnesota Statutes 2007 Supplement, section 260C.209, subdivision 2, is amended to read:

Subd. 2. **General procedures.** (a) When ~~initiating a background check~~ accessing information under subdivision 1, the agency shall require the individual being assessed to provide sufficient information to ensure an accurate assessment under this section, including:

(1) the individual's first, middle, and last name and all other names by which the individual has been known;

(2) home address, zip code, city, county, and state of residence for the past five years;

(3) sex;

(4) date of birth; and

(5) driver's license number or state identification number.

(b) When notified by the ~~commissioner or the~~ responsible social services agency that it is ~~conducting an assessment under this section~~ accessing information under subdivision 1, the Bureau of Criminal Apprehension, commissioners of health and human services, law enforcement, and county agencies must provide ~~the commissioner or~~ the responsible social services agency or county attorney with the following information on the individual being assessed: criminal history data, local law enforcement data about the household, reports about the maltreatment of adults substantiated under section 626.557, and reports of maltreatment of minors substantiated under section 626.556.

Sec. 36. Minnesota Statutes 2007 Supplement, section 260C.209, is amended by adding a subdivision to read:

Subd. 5. **Assessment for emergency relative placement.** The responsible social services agency may obtain household members' criminal history and the history of maltreatment of a child or adult and use the history to assess whether putting the child in the household would endanger the child's health, safety, or welfare and to assess the suitability of a relative prior to an emergency placement. This assessment does not substitute for the background study required under chapter 245C and does not supersede requirements related to emergency placement under section 245A.035.

Sec. 37. Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 1, is amended to read:

Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan shall be prepared within 30 days after any child is placed in ~~a residential facility foster care~~ by court order or ~~by the a voluntary release of the child by placement agreement between the responsible social services agency and the child's parent or parents pursuant to subdivision 8 or chapter 260D.~~

~~For purposes of this section, a residential facility means any group home, family foster home or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county or other political subdivision, or any agency thereof, to provide those services or foster care as defined in section 260C.007, subdivision 18.~~

(b) An out-of-home placement plan means a written document which is prepared by the responsible social services agency jointly with the parent or parents or guardian of the child and in consultation with the child's guardian ad litem, the child's tribe, if the child is an Indian child, the child's foster parent or representative of the residential facility, and, where appropriate, the child. For a child in ~~placement due solely or in part to the child's emotional disturbance~~ voluntary foster care for treatment under chapter 260D, preparation of the out-of-home placement plan shall additionally include the child's mental health treatment provider. As appropriate, the plan shall be:

(1) submitted to the court for approval under section 260C.178, subdivision 7;

(2) ordered by the court, either as presented or modified after hearing, under section 260C.178, subdivision 7, or 260C.201, subdivision 6; and

(3) signed by the parent or parents or guardian of the child, the child's guardian ad litem, a representative of the child's tribe, the responsible social services agency, and, if possible, the child.

(c) The out-of-home placement plan shall be explained to all persons involved in its implementation, including the child who has signed the plan, and shall set forth:

(1) a description of the residential facility including how the out-of-home placement plan is designed to achieve a safe placement for the child in the least restrictive, most family-like, setting available which is in close proximity to the home of the parent or parents or guardian of the child when the case plan goal is reunification, and how the placement is consistent with the best interests and special needs of the child according to the factors under subdivision 2, paragraph (b);

(2) the specific reasons for the placement of the child in a residential facility, and when reunification is the plan, a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home and the changes the parent or parents must make in order for the child to safely return home;

(3) a description of the services offered and provided to prevent removal of the child from the home and to reunify the family including:

(i) the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (2), and the time period during which the actions are to be taken; and

(ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made to achieve a safe and stable home for the child including social and other supportive services to be provided or offered to the parent or parents or guardian of the child, the child, and the residential facility during the period the child is in the residential facility;

(4) a description of any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of the child's placement in the residential facility, and whether those services or resources were provided and if not, the basis for the denial of the services or resources;

(5) the visitation plan for the parent or parents or guardian, other relatives as defined in section 260C.007, subdivision 27, and siblings of the child if the siblings are not placed together in ~~the residential facility~~ foster care, and whether visitation is consistent with the best interest of the child, during the period the child is in ~~the residential facility~~ foster care;

(6) documentation of steps to finalize the adoption or legal guardianship of the child if the court has issued an order terminating the rights of both parents of the child or of the only known, living parent of the child. At a minimum, the documentation must include child-specific recruitment efforts such as relative search and the use of state, regional, and national adoption exchanges to facilitate orderly and timely placements in and outside of the state. A copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b);

(7) the health and educational records of the child including the most recent information available regarding:

(i) the names and addresses of the child's health and educational providers;

(ii) the child's grade level performance;

(iii) the child's school record;

(iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;

(v) a record of the child's immunizations;

(vi) the child's known medical problems, including any known communicable diseases, as defined in section 144.4172, subdivision 2;

(vii) the child's medications; and

(viii) any other relevant health and education information;

(8) an independent living plan for a child age 16 or older who is in placement as a result of a permanency disposition. The plan should include, but not be limited to, the following objectives:

(i) educational, vocational, or employment planning;

(ii) health care planning and medical coverage;

(iii) transportation including, where appropriate, assisting the child in obtaining a driver's license;

(iv) money management;

(v) planning for housing;

(vi) social and recreational skills; and

(vii) establishing and maintaining connections with the child's family and community; and

(9) for a child in ~~placement due solely or in part to the child's emotional disturbance~~ voluntary foster care for treatment under chapter 260D, diagnostic and assessment information, specific services relating to meeting the mental health care needs of the child, and treatment outcomes.

(d) The parent or parents or guardian and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social services agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved or approved or ordered by the court, the foster parents shall be fully informed of the provisions of the case plan and shall be provided a copy of the plan.

Upon discharge from foster care, the parent, adoptive parent, or permanent legal and physical custodian, as appropriate, and the child, if appropriate, must be provided with a current copy of the child's health and education record.

Sec. 38. Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 4, is amended to read:

Subd. 4. **Responsible social service agency's duties for children in placement.**
 (a) When a child is in ~~placement~~ foster care, the responsible social services agency shall

make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

(1) The responsible social services agency shall assess whether a noncustodial or nonadjudicated parent is willing and capable of providing for the day-to-day care of the child temporarily or permanently. An assessment under this clause may include, but is not limited to, obtaining information under section 260C.209. If after assessment, the responsible social services agency determines that a noncustodial or nonadjudicated parent is willing and capable of providing day-to-day care of the child, the responsible social services agency may seek authority from the custodial parent or the court to have that parent assume day-to-day care of the child. If a parent is not an adjudicated parent, the responsible social services agency shall require the nonadjudicated parent to cooperate with paternity establishment procedures as part of the case plan.

(2) If, after assessment, the responsible social services agency determines that the child cannot be in the day-to-day care of either parent, the agency shall:

(i) prepare an out-of-home placement plan addressing the conditions that each parent must meet before the child can be in that parent's day-to-day care; and

(ii) provide a parent who is the subject of a background study under section 260C.209 15 days' notice that it intends to use the study to recommend against putting the child with that parent, as well as the notice provided in section 260C.209, subdivision 4, and the court shall afford the parent an opportunity to be heard concerning the study.

The results of a background study of a noncustodial parent shall not be used by the agency to determine that the parent is incapable of providing day-to-day care of the child unless the agency reasonably believes that placement of the child into the home of that parent would endanger the child's health, safety, or welfare.

(3) If, after the provision of services following an out-of-home placement plan under this section, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section 260C.201, subdivision 11. If paternity has not already been established, it may be established in the same proceeding in the manner provided for under chapter 257.

(4) The responsible social services agency may be relieved of the requirement to locate and offer services to both parents by the juvenile court upon a finding of good cause after the filing of a petition under section 260C.141.

(b) The responsible social services agency shall give notice to the parent ~~or parents~~ or guardian of each child in a ~~residential facility~~ foster care, other than a child in placement due solely to that child's developmental disability or emotional disturbance voluntary foster care for treatment under chapter 260D, of the following information:

(1) that ~~residential care of the child~~ child's placement in foster care may result in termination of parental rights or an order permanently placing the child out of the custody of the parent, but only after notice and a hearing as required under chapter 260C and the juvenile court rules;

(2) time limits on the length of placement and of reunification services, including the date on which the child is expected to be returned to and safely maintained in the

home of the parent or parents or placed for adoption or otherwise permanently removed from the care of the parent by court order;

(3) the nature of the services available to the parent;

(4) the consequences to the parent and the child if the parent fails or is unable to use services to correct the circumstances that led to the child's placement;

(5) the first consideration for placement with relatives;

(6) the benefit to the child in getting the child out of ~~residential~~ foster care as soon as possible, preferably by returning the child home, but if that is not possible, through a permanent legal placement of the child away from the parent;

(7) when safe for the child, the benefits to the child and the parent of maintaining visitation with the child as soon as possible in the course of the case and, in any event, according to the visitation plan under this section; and

(8) the financial responsibilities and obligations, if any, of the parent or parents for the support of the child during the period the child is in ~~the residential facility~~ foster care.

(c) The responsible social services agency shall inform a parent considering voluntary placement of a child ~~who is not developmentally disabled or emotionally disturbed~~ under subdivision 8, of the following information:

(1) the parent and the child each has a right to separate legal counsel before signing a voluntary placement agreement, but not to counsel appointed at public expense;

(2) the parent is not required to agree to the voluntary placement, and a parent who enters a voluntary placement agreement may at any time request that the agency return the child. If the parent so requests, the child must be returned within 24 hours of the receipt of the request;

(3) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging that the child is in need of protection or services or as the basis for a petition seeking termination of parental rights or other permanent placement of the child away from the parent;

(4) if the responsible social services agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental rights or other permanent placement of the child away from the parent, the parent would have the right to appointment of separate legal counsel and the child would have a right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and

(5) the timelines and procedures for review of voluntary placements under subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under section 260C.201, subdivision 11.

(d) When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child

has an examination within 30 days of coming into the agency's care and once a year in subsequent years.

(e) Whether under state guardianship or not, if a child leaves foster care by reason of having attained the age of majority under state law, the child must be given at no cost a copy of the child's ~~health~~ social and medical history, as defined in section 259.43, and education report.

Sec. 39. Minnesota Statutes 2006, section 260C.212, is amended by adding a subdivision to read:

Subd. 4a. **Monthly caseworker visits with children in foster care.** (a) Every child in foster care or on a trial home visit shall be visited by the child's caseworker on a monthly basis, with the majority of visits occurring in the child's residence. For the purposes of this section, the following definitions apply:

(1) "visit" is defined as a face-to-face contact between a child and the child's caseworker;

(2) "visited on a monthly basis" is defined as at least one visit per calendar month;

(3) "the child's caseworker" is defined as the person who has responsibility for managing the child's foster care placement case as assigned by the responsible social service agency; and

(4) "the child's residence" is defined as the home where the child is residing, and can include the foster home, child care institution, or the home from which the child was removed if the child is on a trial home visit.

(b) Caseworker visits shall be of sufficient substance and duration to address issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the child.

Sec. 40. Minnesota Statutes 2006, section 260C.212, subdivision 7, is amended to read:

Subd. 7. **Administrative or court review of placements.** (a) There shall be an administrative review of the out-of-home placement plan of each child placed in ~~a residential facility~~ foster care no later than 180 days after the initial placement of the child in ~~a residential facility~~ foster care 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 out-of-home placement plan must be monitored and updated at each administrative review. The administrative review shall be conducted by the responsible social services agency using a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

(b) As an alternative to the administrative review required in paragraph (a), the social services agency responsible for the placement may bring a petition as provided in section 260C.141, subdivision 2, 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 in order for a court determination to be made regarding the best interests of the child within the applicable six months and is not in lieu of the requirements contained in subdivision ~~3 or 4.~~ may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement

plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.193; 260C.201, subdivision 1 or 11; or section 260C.141, subdivision 2; or 2a, clause (2); or 260C.317 shall satisfy the requirement for an administrative review so long as the other requirements of this section are met.

(b) (c) At the review required under paragraph (a), the reviewing administrative body As appropriate to the stage of the proceedings and relevant court orders, the responsible social services agency or the court shall review:

- (1) the safety, permanency needs, and well-being of the child;
- (2) the continuing necessity for and appropriateness of the placement;
- (3) the extent of compliance with the out-of-home placement plan;
- (4) where appropriate, the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in a residential facility foster care;
- (5) where appropriate, the projected date by which the child may be returned to and safely maintained in the home or placed permanently away from the care of the parent or parents or guardian; and
- (6) the appropriateness of the services provided to the child.

(d) When a child is age 16 or older, in addition to any administrative review conducted by the agency, at the review required under section 260C.201, subdivision 11, paragraph (d), clause (3), item (iii); or 260C.317, subdivision 3, clause (3), the court shall review the independent living plan required under subdivision 1, paragraph (c), clause (8), and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care.

(1) At the court review, the responsible social services agency shall establish that it has given the notice required under Minnesota Rules, part 9560.0060, regarding the right to continued access to services for certain children in foster care past age 18 and of the right to appeal a denial of social services under section 256.245. If the agency is unable to establish that the notice, including the right to appeal a denial of social services, has been given, the court shall require the agency to give it.

(2) The court shall make findings regarding progress toward or accomplishment of the following goals:

- (i) the child has obtained a high school diploma or its equivalent;
- (ii) the child has completed a driver's education course or has demonstrated the ability to use public transportation in the child's community;
- (iii) the child is employed or enrolled in postsecondary education;
- (iv) the child has applied for and obtained postsecondary education financial aid for which the child is eligible;
- (v) the child has health care coverage and health care providers to meet the child's physical and mental health needs;

(vi) the child has applied for and obtained disability income assistance for which the child is eligible;

(vii) the child has obtained affordable housing with necessary supports, which does not include a homeless shelter;

(viii) the child has saved sufficient funds to pay for the first month's rent and a damage deposit;

(ix) the child has an alternative affordable housing plan, which does not include a homeless shelter, if the original housing plan is unworkable;

(x) the child, if male, has registered for the Selective Service; and

(xi) the child has a permanent connection to a caring adult.

(3) The court shall ensure that the responsible agency in conjunction with the placement provider assists the child in obtaining the following documents prior to the child's leaving foster care: a Social Security card; the child's birth certificate; a state identification card or driver's license, green card, or school visa; the child's school, medical, and dental records; a contact list of the child's medical, dental, and mental health providers; and contact information for the child's siblings, if the siblings are in foster care.

Sec. 41. Minnesota Statutes 2006, section 260C.212, subdivision 8, is amended to read:

Subd. 8. **Review of Voluntary placements foster care; required court review.**
~~Except for a child in placement due solely to the child's developmental disability or emotional disturbance, if~~ When the responsible social services agency and the child's parent or guardian agree that the child's safety, health, and best interests require that the child be in foster care, the agency and the parent or guardian may enter into a voluntary agreement for the placement of the child in foster care. The voluntary agreement must be in writing and in a form approved by the commissioner. When the child has been placed in a residential facility foster care pursuant to a voluntary release by foster care agreement between the agency and the parent or parents, under this subdivision and the child is not returned home within 90 days after initial placement in the residential facility foster care, the social services agency responsible for the child's placement in foster care shall:

(1) return the child to the home of the parent or parents; or

(2) file a petition according to section 260C.141, subdivision 1 or 2, which may:

(i) ask the court to review the child's placement in foster care and approve it as continued voluntary foster care for up to an additional 90 days;

(ii) ask the court to order continued ~~out-of-home placement~~ foster care according to sections 260C.178 and 260C.201; or

(iii) ask the court to terminate parental rights under section 260C.301.

The out-of-home placement plan must be updated and filed along with the petition.

If the court approves ~~continued out-of-home placement~~ continuing the child in foster care for up to 90 more days on a voluntary basis, at the end of the court-approved 90-day period, the child must be returned to the parent's home. If the child is not returned home, the responsible social services agency must proceed on the petition filed alleging the child in need of protection or services or the petition for termination of parental rights or other

permanent placement of the child away from the parent. The court must find a statutory basis to order the placement of the child under section 260C.178; 260C.201; or 260C.317.

Sec. 42. Minnesota Statutes 2006, section 260C.325, subdivision 1, is amended to read:

Subdivision 1. **Transfer of custody.** (a) If the court terminates parental rights of both parents or of the only known living parent, the court shall order the guardianship and the legal custody of the child transferred to:

~~(a)~~ (1) the commissioner of human services; ~~or~~

~~(b)~~ (2) a licensed child-placing agency; or

~~(c)~~ (3) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

(b) The court shall order transfer of guardianship and legal custody of a child to the commissioner of human services only when the responsible county social services agency had legal responsibility for planning for the permanent placement of the child and the child was in foster care under the legal responsibility of the responsible county social services agency at the time the court orders guardianship and legal custody transferred to the commissioner.

Sec. 43. Minnesota Statutes 2006, section 260C.325, subdivision 3, is amended to read:

Subd. 3. **Both parents deceased.** (a) If upon petition to the juvenile court by a reputable person, including but not limited to an agent of the commissioner of human services, and upon hearing in the manner provided in section 260C.163, the court finds that both parents or the only known legal parent are or is deceased and no appointment has been made or petition for appointment filed pursuant to sections 524.5-201 to 524.5-317, the court shall order the guardianship and legal custody of the child transferred to:

~~(a)~~ (1) the commissioner of human services;

~~(b)~~ (2) a licensed child-placing agency; or

~~(c)~~ (3) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

(b) The court shall order transfer of guardianship and legal custody of a child to the commissioner of human services only if there is no individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

Sec. 44. **[260D.01] CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.**

(a) Sections 260D.01 to 260D.10, may be cited as the "child in voluntary foster care for treatment" provisions of the Juvenile Court Act.

(b) The juvenile court has original and exclusive jurisdiction over a child in voluntary foster care for treatment upon the filing of a report or petition required under this chapter. All obligations of the agency to a child and family in foster care contained in chapter 260C not inconsistent with this chapter are also obligations of the agency with regard to a child in foster care for treatment under this chapter.

(c) This chapter shall be construed consistently with the mission of the children's mental health service system as set out in section 245.487, subdivision 3, and the duties of

an agency under section 256B.092, and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the needs of a child with a developmental disability or related condition. This chapter:

(1) establishes voluntary foster care through a voluntary foster care agreement as the means for an agency and a parent to provide needed treatment when the child must be in foster care to receive necessary treatment for an emotional disturbance or developmental disability or related condition;

(2) establishes court review requirements for a child in voluntary foster care for treatment due to emotional disturbance or developmental disability or a related condition;

(3) establishes the ongoing responsibility of the parent as legal custodian to visit the child, to plan together with the agency for the child's treatment needs, to be available and accessible to the agency to make treatment decisions, and to obtain necessary medical, dental, and other care for the child; and

(4) applies to voluntary foster care when the child's parent and the agency agree that the child's treatment needs require foster care either:

(i) due to a level of care determination by the agency's screening team informed by the diagnostic and functional assessment under section 245.4885; or

(ii) due to a determination regarding the level of services needed by the responsible social services' screening team under section 256B.092, and Minnesota Rules, parts 9525.0004 to 9525.0016.

(d) This chapter does not apply when there is a current determination under section 626.556 that the child requires child protective services or when the child is in foster care for any reason other than treatment for the child's emotional disturbance or developmental disability or related condition. When there is a determination under section 626.556 that the child requires child protective services based on an assessment that there are safety and risk issues for the child that have not been mitigated through the parent's engagement in services or otherwise, or when the child is in foster care for any reason other than the child's emotional disturbance or developmental disability or related condition, the provisions of chapter 260C apply.

(e) The paramount consideration in all proceedings concerning a child in voluntary foster care for treatment is the safety, health, and the best interests of the child. The purpose of this chapter is:

(1) to ensure a child with a disability is provided the services necessary to treat or ameliorate the symptoms of the child's disability;

(2) to preserve and strengthen the child's family ties whenever possible and in the child's best interests, approving the child's placement away from the child's parents only when the child's need for care or treatment requires it and the child cannot be maintained in the home of the parent; and

(3) to ensure the child's parent retains legal custody of the child and associated decision-making authority unless the child's parent willfully fails or is unable to make decisions that meet the child's safety, health, and best interests. The court may not find that the parent willfully fails or is unable to make decisions that meet the child's needs solely because the parent disagrees with the agency's choice of foster care facility, unless

the agency files a petition under chapter 260C, and establishes by clear and convincing evidence that the child is in need of protection or services.

(f) The legal parent-child relationship shall be supported under this chapter by maintaining the parent's legal authority and responsibility for ongoing planning for the child and by the agency's assisting the parent, where necessary, to exercise the parent's ongoing right and obligation to visit or to have reasonable contact with the child. Ongoing planning means:

(1) actively participating in the planning and provision of educational services, medical, and dental care for the child;

(2) actively planning and participating with the agency and the foster care facility for the child's treatment needs; and

(3) planning to meet the child's need for safety, stability, and permanency, and the child's need to stay connected to the child's family and community.

(g) The provisions of section 260.012 to ensure placement prevention, family reunification, and all active and reasonable effort requirements of that section apply. This chapter shall be construed consistently with the requirements of the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et al., and the provisions of the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

Sec. 45. **[260D.02] DEFINITIONS.**

Subdivision 1. **Definitions.** The definitions in this section supplement the definitions in section 260C.007. The definitions in section 260C.007 apply to this chapter and have the same meaning for purposes of this chapter as for chapter 260C.

Subd. 2. **Agency.** "Agency" means the responsible social services agency or a licensed child-placing agency.

Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child and parent, or when reunification is not required, the child alone, that is developed according to the requirements of sections 245.4871, subdivision 19 or 21; 245.492, subdivision 16; 256B.092; 260C.212, subdivision 1; 626.556, subdivision 10; and Minnesota Rules, parts 9525.0004 to 9525.0016.

Subd. 4. **Child.** "Child" means an individual under 18 years of age.

Subd. 5. **Child in voluntary foster care for treatment.** "Child in voluntary foster care for treatment" means a child who is emotionally disturbed or developmentally disabled or has a related condition and is in foster care under a voluntary foster care agreement between the child's parent and the agency due to concurrence between the agency and the parent that the child's level of care requires placement in foster care either:

(1) due to a determination by the agency's screening team based on its review of the diagnostic and functional assessment under section 245.4885; or

(2) due to a determination by the agency's screening team under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016.

A child is not in voluntary foster care for treatment under this chapter when there is a current determination under section 626.556 that the child requires child protective services or when the child is in foster care for any reason other than the child's emotional or developmental disability or related condition.

Subd. 6. **Compelling reasons.** "Compelling reasons" has the same meaning given in section 260C.007, subdivision 8. The agency may determine compelling reasons when the child is in foster care for treatment and no grounds to terminate parental rights exist because the child must be in placement to access treatment, the child's individual treatment needs cannot be met in the child's home or through community-based care, and the parent continues to be responsible for planning together with the agency for the child's needs and maintains appropriate contact with the child.

Subd. 7. **Court.** "Court" means juvenile court unless otherwise specified in this section.

Subd. 8. **Development disability.** "Developmental disability" means developmental disability as defined in United States Code, title 42, section 6001(8).

Subd. 9. **Emotionally disturbed or emotional disturbance.** "Emotionally disturbed" or "emotional disturbance" means emotional disturbance as described in section 245.4871, subdivision 15.

Subd. 10. **Foster care.** "Foster care" means 24-hour substitute care for children placed away from their parents and for whom an agency has placement and care responsibility. Foster care includes, but is not limited to, placement in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities not excluded in this subdivision, child care institutions, and preadoptive homes. A child is in foster care under this definition, regardless of whether the facility is licensed and payments are made for the cost of care. Nothing in this definition creates any authority to place a child in a home or facility that is required to be licensed that is not licensed. Foster care does not include placement in any of the following facilities: hospitals, inpatient chemical dependency treatment facilities, facilities that are primarily for delinquent children, any corrections facility or program within a particular corrections facility not meeting requirements for Title IV-E facilities as determined by the commissioner, facilities to which a child is committed under the provision of chapter 253B, forestry camps, or jails.

Subd. 11. **Legal authority to place the child.** "Legal authority to place the child" means the agency has legal responsibility for the care and control of the child while the child is in foster care. The agency may acquire legal authority to place a child through a voluntary placement agreement between the agency and the child's parent under this chapter. Legal authority to place the child does not mean the agency has authority to make major life decisions regarding the child, including major medical decisions. A parent with legal custody of the child continues to have legal authority to make major life decisions regarding the child, including major medical decisions.

Subd. 12. **Minor.** "Minor" means an individual under 18 years of age.

Subd. 13. **Parent.** "Parent" means the birth or adoptive parent of a minor. Parent also means the child's legal guardian or any individual who has legal authority to make decisions and plans for the child. For an Indian child, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14.

Subd. 14. **Reasonable efforts to finalize a permanent plan for the child.** "Reasonable efforts to finalize a permanent plan for the child" has the same meaning under this chapter as provided in section 260.012, paragraph (e).

Sec. 46. **[260D.03] VOLUNTARY FOSTER CARE.**

Subdivision 1. **Voluntary foster care.** When the agency's screening team, based upon the diagnostic and functional assessment under section 245.4885 or 256B.092, subdivision 7, determines the child's need for treatment due to emotional disturbance or developmental disability or related condition requires foster care placement of the child, a voluntary foster care agreement between the child's parent and the agency gives the agency legal authority to place the child in foster care.

Subd. 2. **Voluntary foster care agreement.** A voluntary foster care agreement shall be used to provide the agency the legal authority to place a child in foster care for treatment due to the child's disability. The agreement must be in writing and signed by both the child's parent and the agency. The agreement must be in a form approved by the commissioner of human services, and shall contain notice to parents of the consequences to the parent and to the child of being in voluntary foster care.

Sec. 47. **[260D.04] REQUIRED INFORMATION FOR A CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.**

An agency with authority to place a child in voluntary foster care for treatment due to emotional disturbance or developmental disability or related condition, shall inform the child, age 12 or older, of the following:

(1) the child has the right to be consulted in the preparation of the out-of-home placement plan required under section 260C.212, subdivision 1, and the administrative review required under section 260C.212, subdivision 7;

(2) the child has the right to visit the parent and the right to visit the child's siblings as determined safe and appropriate by the parent and the agency;

(3) if the child disagrees with the foster care facility or services provided under the out-of-home placement plan required under section 260C.212, subdivision 1, the agency shall include information about the nature of the child's disagreement and, to the extent possible, the agency's understanding of the basis of the child's disagreement in the information provided to the court in the report required under section 260D.06; and

(4) the child has the rights established under Minnesota Rules, part 2960.0050, as a resident of a facility licensed by the state.

Sec. 48. **[260D.05] ADMINISTRATIVE REVIEW OF CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.**

The administrative reviews required under section 260C.212, subdivision 7, must be conducted for a child in voluntary foster care for treatment, except that the initial administrative review must take place prior to the submission of the report to the court required under section 260D.06, subdivision 2.

Sec. 49. **[260D.06] AGENCY REPORT TO THE COURT AND COURT REVIEW OF CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT DUE TO DISABILITY.**

Subdivision 1. **Judicial review.** In the case of a child in voluntary foster care for treatment due to disability under section 260D.03, the agency shall obtain judicial review of the child's voluntary foster care placement within 165 days of the placement.

Subd. 2. **Agency report to court; court review.** The agency shall obtain judicial review by reporting to the court according to the following procedures:

(a) A written report shall be forwarded to the court within 165 days of the date of the voluntary placement agreement. The written report shall contain or have attached:

(1) a statement of facts that necessitate the child's foster care placement;

(2) the child's name, date of birth, race, gender, and current address;

(3) the names, race, date of birth, residence, and post office addresses of the child's parents or legal custodian;

(4) a statement regarding the child's eligibility for membership or enrollment in an Indian tribe and the agency's compliance with applicable provisions of sections 260.751 to 260.835;

(5) the names and addresses of the foster parents or chief administrator of the facility in which the child is placed, if the child is not in a family foster home or group home;

(6) a copy of the out-of-home placement plan required under section 260C.212, subdivision 1;

(7) a written summary of the proceedings of any administrative review required under section 260C.212, subdivision 7; and

(8) any other information the agency, parent or legal custodian, the child or the foster parent, or other residential facility wants the court to consider.

(b) In the case of a child in placement due to emotional disturbance, the written report shall include as an attachment, the child's individual treatment plan developed by the child's treatment professional, as provided in section 245.4871, subdivision 21, or the child's individual interagency intervention plan, as provided in section 125A.023, subdivision 3, paragraph (c).

(c) In the case of a child in placement due to developmental disability or a related condition, the written report shall include as an attachment, the child's individual service plan, as provided in section 256B.092, subdivision 1b; the child's individual program plan, as provided in Minnesota Rules, part 9525.0004, subpart 11; the child's waiver care plan; or the child's individual interagency intervention plan, as provided in section 125A.023, subdivision 3, paragraph (c).

(d) The agency must inform the child, age 12 or older, the child's parent, and the foster parent or foster care facility of the reporting and court review requirements of this section and of their right to submit information to the court:

(1) if the child or the child's parent or the foster care provider wants to send information to the court, the agency shall advise those persons of the reporting date and the date by which the agency must receive the information they want forwarded to the court so the agency is timely able submit it with the agency's report required under this subdivision;

(2) the agency must also inform the child, age 12 or older, the child's parent, and the foster care facility that they have the right to be heard in person by the court and how to exercise that right;

(3) the agency must also inform the child, age 12 or older, the child's parent, and the foster care provider that an in-court hearing will be held if requested by the child, the parent, or the foster care provider; and

(4) if, at the time required for the report under this section, a child, age 12 or older, disagrees about the foster care facility or services provided under the out-of-home

placement plan required under section 260C.212, subdivision 1, the agency shall include information regarding the child's disagreement, and to the extent possible, the basis for the child's disagreement in the report required under this section.

(e) After receiving the required report, the court has jurisdiction to make the following determinations and must do so within ten days of receiving the forwarded report, whether a hearing is requested:

(1) whether the voluntary foster care arrangement is in the child's best interests;

(2) whether the parent and agency are appropriately planning for the child; and

(3) in the case of a child age 12 or older, who disagrees with the foster care facility or services provided under the out-of-home placement plan, whether it is appropriate to appoint counsel and a guardian ad litem for the child using standards and procedures under section 260C.163.

(f) Unless requested by a parent, representative of the foster care facility, or the child, no in-court hearing is required in order for the court to make findings and issue an order as required in paragraph (e).

(g) If the court finds the voluntary foster care arrangement is in the child's best interests and that the agency and parent are appropriately planning for the child, the court shall issue an order containing explicit, individualized findings to support its determination. The individualized findings shall be based on the agency's written report and other materials submitted to the court. The court may make this determination notwithstanding the child's disagreement, if any, reported under paragraph (d).

(h) The court shall send a copy of the order to the county attorney, the agency, parent, child, age 12 or older, and the foster parent or foster care facility.

(i) The court shall also send the parent, the child, age 12 or older, the foster parent, or representative of the foster care facility notice of the permanency review hearing required under section 260D.07, paragraph (e).

(j) If the court finds continuing the voluntary foster care arrangement is not in the child's best interests or that the agency or the parent are not appropriately planning for the child, the court shall notify the agency, the parent, the foster parent or foster care facility, the child, age 12 or older, and the county attorney of the court's determinations and the basis for the court's determinations. In this case, the court shall set the matter for hearing and appoint a guardian ad litem for the child under section 260C.163, subdivision 5.

Sec. 50. [260D.07] REQUIRED PERMANENCY REVIEW HEARING.

(a) When the court has found that the voluntary arrangement is in the child's best interests and that the agency and parent are appropriately planning for the child pursuant to the report submitted under section 260D.06, and the child continues in voluntary foster care as defined in section 260D.02, subdivision 10, for 13 months from the date of the voluntary foster care agreement, or has been in placement for 15 of the last 22 months, the agency must:

(1) terminate the voluntary foster care agreement and return the child home; or

(2) determine whether there are compelling reasons to continue the voluntary foster care arrangement and, if the agency determines there are compelling reasons, seek judicial approval of its determination; or

(3) file a petition for the termination of parental rights.

(b) When the agency is asking for the court's approval of its determination that there are compelling reasons to continue the child in the voluntary foster care arrangement, the agency shall file a "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment" and ask the court to proceed under this section.

(c) The "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment" shall be drafted or approved by the county attorney and be under oath. The petition shall include:

(1) the date of the voluntary placement agreement;

(2) whether the petition is due to the child's developmental disability or emotional disturbance;

(3) the plan for the ongoing care of the child and the parent's participation in the plan;

(4) a description of the parent's visitation and contact with the child;

(5) the date of the court finding that the foster care placement was in the best interests of the child, if required under section 260D.06, or the date the agency filed the motion under section 260D.09, paragraph (b);

(6) the agency's reasonable efforts to finalize the permanent plan for the child, including returning the child to the care of the child's family; and

(7) a citation to this chapter as the basis for the petition.

(d) An updated copy of the out-of-home placement plan required under section 260C.212, subdivision 1, shall be filed with the petition.

(e) The court shall set the date for the permanency review hearing no later than 14 months after the child has been in placement or within 30 days of the petition filing date when the child has been in placement 15 of the last 22 months. The court shall serve the petition together with a notice of hearing by United States mail on the parent, the child age 12 or older, the child's guardian ad litem, if one has been appointed, the agency, the county attorney, and counsel for any party.

(f) The court shall conduct the permanency review hearing on the petition no later than 14 months after the date of the voluntary placement agreement, within 30 days of the filing of the petition when the child has been in placement 15 days of the last 22 months, or within 15 days of a motion to terminate jurisdiction and to dismiss an order for foster care under chapter 260C, as provided in section 260D.09, paragraph (b).

(g) At the permanency review hearing, the court shall:

(1) inquire of the parent if the parent has reviewed the "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment," whether the petition is accurate, and whether the parent agrees to the continued voluntary foster care arrangement as being in the child's best interests;

(2) inquire of the parent if the parent is satisfied with the agency's reasonable efforts to finalize the permanent plan for the child, including whether there are services available and accessible to the parent that might allow the child to safely be with the child's family;

(3) inquire of the parent if the parent consents to the court entering an order that:

(i) approves the responsible agency's reasonable efforts to finalize the permanent plan for the child, which includes ongoing future planning for the safety, health, and best interests of the child; and

(ii) approves the responsible agency's determination that there are compelling reasons why the continued voluntary foster care arrangement is in the child's best interests; and

(4) inquire of the child's guardian ad litem and any other party whether the guardian or the party agrees that:

(i) the court should approve the responsible agency's reasonable efforts to finalize the permanent plan for the child, which includes ongoing and future planning for the safety, health, and best interests of the child; and

(ii) the court should approve of the responsible agency's determination that there are compelling reasons why the continued voluntary foster care arrangement is in the child's best interests.

(h) At a permanency review hearing under this section, the court may take the following actions based on the contents of the sworn petition and the consent of the parent:

(1) approve the agency's compelling reasons that the voluntary foster care arrangement is in the best interests of the child; and

(2) find that the agency has made reasonable efforts to finalize a plan for the permanent plan for the child.

(i) A child, age 12 or older, may object to the agency's request that the court approve its compelling reasons for the continued voluntary arrangement and may be heard on the reasons for the objection. Notwithstanding the child's objection, the court may approve the agency's compelling reasons and the voluntary arrangement.

(j) If the court does not approve the voluntary arrangement after hearing from the child or the child's guardian ad litem, the court shall dismiss the petition. In this case, either:

(1) the child must be returned to the care of the parent; or

(2) the agency must file a petition under section 260C.141, asking for appropriate relief under section 260C.201, subdivision 11, or 260C.301.

(k) When the court approves the agency's compelling reasons for the child to continue in voluntary foster care for treatment, and finds that the agency has made reasonable efforts to finalize a permanent plan for the child, the court shall approve the continued voluntary foster care arrangement, and continue the matter under the court's jurisdiction for the purposes of reviewing the child's placement every 12 months while the child is in foster care.

(l) A finding that the court approves the continued voluntary placement means the agency has continued legal authority to place the child while a voluntary placement agreement remains in effect. The parent or the agency may terminate a voluntary agreement as provided in section 260D.10. Termination of a voluntary foster care placement of an Indian child is governed by section 260.765, subdivision 4.

Sec. 51. **[260D.08] ANNUAL REVIEW.**

(a) After the court conducts a permanency review hearing under section 260D.07, the matter must be returned to the court for further review of the child's foster care placement at least every 12 months while the child is in foster care. The court shall give notice to the parent and child, age 12 or older, and the foster parents of the continued review requirements under this section at the permanency review hearing.

(b) Every 12 months, the court shall determine whether the agency made reasonable efforts to finalize the permanency plan for the child, which means the exercise of due diligence by the agency to:

(1) ensure that the agreement for voluntary foster care is the most appropriate legal arrangement to meet the child's safety, health, and best interests;

(2) engage and support the parent in continued involvement in planning and decision making for the needs of the child;

(3) strengthen the child's ties to the parent, relatives, and community;

(4) implement the out-of-home placement plan required under section 260C.212, subdivision 1, and ensure that the plan requires the provision of appropriate services to address the physical health, mental health, and educational needs of the child; and

(5) ensure appropriate planning for the child's safe, permanent, and independent living arrangement after the child's 18th birthday.

Sec. 52. **[260D.09] PERMANENCY REVIEW AFTER ADJUDICATION UNDER CHAPTER 260C.**

(a) If a child has been ordered into foster care under section 260C.178 or 260C.201, subdivision 1, and the conditions that led to the court's order have been corrected so that the child could safely return home except for the child's need to continue in foster care for treatment due to the child's disability, the child's parent and the agency may enter into a voluntary foster care agreement under this chapter using the procedure set out in paragraph (b).

(b) When the agency and the parent agree to enter into a voluntary foster care agreement under this chapter, the agency must file a motion to terminate jurisdiction under section 260C.193, subdivision 6, and to dismiss the order for foster care under section 260C.178 or 260C.201, subdivision 1, together with the petition required under section 260D.07, paragraph (b), for permanency review and the court's approval of the voluntary arrangement.

(c) The court shall send the motion and the petition filed under subdivision 2 together with a notice of hearing by mail as required in section 260D.07, paragraph (e).

(d) The petition and motion under this section must be filed no later than the time the agency is required to file a petition for permanent placement under section 260C.201, subdivision 11, but may be filed as soon as the agency and the parent agree that the child should remain in foster care under a voluntary foster care agreement, because the child needs treatment and voluntary foster care is in the child's best interest.

(e) In order for the agency to have continuous legal authority to place the child, the parent and the agency must execute a voluntary foster care agreement for the child's continuation in foster care for treatment prior to the termination of the order for foster care under section 260C.178 or 260C.201, subdivision 1. The parent and agency may execute the voluntary foster care agreement at or before the permanency review hearing required

under this section. The voluntary foster care agreement shall not be effective until the court terminates jurisdiction under section 260C.193, subdivision 6, and dismisses the order for foster care under section 260C.178 or 260C.201, subdivision 1. Unless the agency and the parent execute a voluntary placement agreement for the child to continue in voluntary foster care for treatment, the agency shall not have legal authority to place the child after the court terminates jurisdiction under chapter 260C.

Sec. 53. **[260D.10] TERMINATION OF VOLUNTARY PLACEMENT AGREEMENT.**

(a) The child's parent may terminate a voluntary placement agreement under this chapter upon written notice to the agency of the termination of the agreement. The termination of a voluntary foster care agreement regarding an Indian child shall be governed by section 260.765, subdivision 4.

(b) The agency may terminate a voluntary placement agreement under this section upon written notice of the termination of the agreement to the parent. Prior to sending notice of termination of the voluntary foster care placement agreement, the agency shall contact the parent regarding transition planning under paragraph (e). Written notice by the agency shall be considered received by the parent three business days after mailing by the agency.

(c) Upon receipt of notice of the termination of the voluntary foster care agreement, the agency, the parent, and the facility may agree to a time that the child shall return home. The scheduled time to return home shall meet the child's need for safety and reasonable transition. Unless otherwise agreed by the parent and the agency, the child's return home shall not occur sooner than 72 hours and not later than 30 days after written notice of termination is received or sent by the agency.

(d) A parent who disagrees with the termination of a voluntary foster care agreement by the agency under this chapter has the right to a fair hearing under section 256.045 to appeal the termination of the voluntary foster care agreement. When the agency gives written notice to the parent of the termination of the agreement, the agency must also give the parent notice of the parent's right to a fair hearing under section 256.045 to appeal the agency's decision to terminate the voluntary foster care agreement.

(e) The agency and the child's parents shall engage in transition planning for the child's return home, including establishing a scheduled time for the child to return home, an increased visitation plan between the parent and child, and a plan for what services will be provided and in place upon the child's return home.

(f) Notice of termination of voluntary foster care agreement does not terminate the agreement. The voluntary foster care agreement and the agency's legal authority to place the child are terminated by the child's return home or by court order.

Sec. 54. Minnesota Statutes 2006, section 524.2-114, is amended to read:

524.2-114 MEANING OF CHILD AND RELATED TERMS.

If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:

(1) An adopted ~~person~~ child is the child of an adopting parent and not of the birth parents except that adoption of a child by the spouse of a birth parent has no effect on the relationship between the child and that birth parent. If a parent dies and a child is

subsequently adopted by a stepparent who is the spouse of a surviving parent, any rights of inheritance of the child or the child's descendant from or through the deceased parent of the child which exist at the time of the death of that parent shall not be affected by the adoption.

(2) In cases not covered by clause (1), a person is the child of the person's parents regardless of the marital status of the parents and the parent and child relationship may be established under the Parentage Act, sections 257.51 to 257.74.

Sec. 55. Minnesota Statutes 2006, section 626.556, subdivision 7, is amended to read:

Subd. 7. **Report.** An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff, the agency responsible for assessing or investigating the report, or the local welfare agency, unless the appropriate agency has informed the reporter that the oral information does not constitute a report under subdivision 10. The local welfare agency shall determine if the report is accepted for an assessment or investigation as soon as possible but in no event longer than 24 hours after the report is received. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. If requested, the local welfare agency or the agency responsible for assessing or investigating the report shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11.

Sec. 56. Minnesota Statutes 2007 Supplement, section 626.556, subdivision 10a, is amended to read:

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

(b) The local agency may rely on the fact-finding efforts of the law enforcement investigation conducted under this subdivision to make a determination whether or not

threatened ~~harm~~ injury or other maltreatment has occurred under subdivision 2 if an alleged offender has minor children or lives with minors.

(c) The local welfare agency shall offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the abused or neglected minor.

Sec. 57. TARGETED CASE MANAGEMENT SERVICES FOR CHILDREN.

The commissioner of human services shall seek an amendment to the state plan to provide targeted case management services to children with developmental disabilities who are in need of activities that coordinate and link social and other services designed to help children gain access to needed medical, social, educational, and other services under Minnesota Statutes, section 256B.092.

Sec. 58. REVISOR'S INSTRUCTION.

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
<u>259.67</u>	<u>260.851, article 5</u>	<u>260.853, article 4</u>
<u>256B.094</u>	<u>260.851</u>	<u>260.853</u>

EFFECTIVE DATE. This section is effective upon legislative enactment of the interstate compact in section 23 by no less than 35 states.

Sec. 59. REPEALER.

(a) Minnesota Statutes 2006, section 260.851, is repealed effective upon legislative enactment of the interstate compact in section 23 by no less than 35 states. The commissioner of human services shall inform the revisor of statutes when this occurs.

(b) Minnesota Statutes 2006, sections 260B.241; 260C.141, subdivision 2a; 260C.207; 260C.431; and 260C.435, are repealed.

(c) Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 9, is repealed.

Minnesota Rules, parts 9560.0092; 9560.0093, subpart 2; and 9560.0609, are repealed.

ARTICLE 7

DATA PRIVACY

Section 1. Minnesota Statutes 2006, section 13.46, is amended by adding a subdivision to read:

Subd. 12. **Child care resource and referral programs.** This subdivision applies to data collected by child care resource and referral programs under section 119B.19. Data collected under section 119B.19 are not licensing data under subdivision 4. Data on unlicensed family child care providers are data on individuals governed by subdivision

2. In addition to the disclosures authorized by this section, the names and addresses of unlicensed family child care providers may be disclosed to the commissioner of education for purposes of promoting and evaluating school readiness.

Sec. 2. Minnesota Statutes 2006, section 13.46, is amended by adding a subdivision to read:

Subd. 13. **Family, friend, and neighbor grant program.** This subdivision applies to data collected by family, friend, and neighbor (FFN) grantees under section 119B.232. Data collected under section 119B.232 are data on individuals governed by subdivision 2. The commissioner may disclose private data collected under this section to early childhood care and education experts at the University of Minnesota to evaluate the impact of the grants under subdivision 2 on children's school readiness and to evaluate the FFN grant program. The commissioner may disclose the names and addresses of FFN caregivers to the commissioner of education for purposes of promoting and evaluating school readiness.

Sec. 3. Laws 2007, chapter 147, article 2, section 56, is amended to read:

Sec. 56. **COMMISSIONER OF HUMAN SERVICES DUTIES; EARLY CHILDHOOD AND SCHOOL-AGE PROFESSIONAL DEVELOPMENT TRAINING.**

Subdivision 1. **Development and implementation of an early childhood and school-age professional development system.** (a) The commissioner of human services, in cooperation with the commissioners of education and health, shall develop and phase-in the implementation of a professional development system for practitioners serving children in early childhood and school-age programs. The system shall provide training options and supports for practitioners to voluntarily choose, as they complete or exceed existing licensing requirements.

The system must, at a minimum, include the following features:

(1) a continuum of training content based on the early childhood and school-age care practitioner core competencies that translates knowledge into improved practice to support children's school success;

(2) training strategies that provide direct feedback about practice to practitioners through ongoing consultation, mentoring, or coaching with special emphasis on early literacy and early mathematics;

(3) an approval process for trainers;

(4) a professional development registry for early childhood and school-age care practitioners that will provide tracking and recognition of practitioner training/career development progress;

(5) a career lattice that includes a range of professional development and educational opportunities that provide appropriate coursework and degree pathways;

(6) development of a plan with public higher education institutions for an articulated system of education, training, and professional development that includes credit for prior learning and development of equivalences to two- and four-year degrees;

(7) incentives and supports for early childhood and school-age care practitioners to seek additional training and education, including TEACH, other scholarships, and career guidance; and

(8) coordinated and accessible delivery of training to early childhood and school-age care practitioners.

(b) By January 1, 2008, the commissioner, in consultation with the organizations named in subdivision 2 shall develop additional opportunities in order to qualify more licensed family child care providers under section 119B.13, subdivision 3a.

(c) The commissioner of human services must evaluate the professional development system and make continuous improvements.

(d) Beginning July 1, 2007, as appropriations permit, the commissioner shall phase-in the professional development system.

Subd. 2. **Two-hour early childhood training.** By January 15, 2008, the commissioner of human services, with input from the Minnesota Licensed Family Child Care Association and the Minnesota Professional Development Council, shall identify trainings that qualify for the two-hour early childhood development training requirement for new child care practitioners under Minnesota Statutes, section 245A.14, subdivision 9a, paragraphs (a) and (b). For licensed family child care, the commissioner shall also seek the input of labor unions that serve licensed family child care providers, if the union has been recognized by a county to serve licensed family child care providers.

Subd. 3. **Data classification for child care practitioner professional development system.** This subdivision applies to data collected under this section by the child care practitioner professional development system. Data collected under this section is welfare data under section 13.46 but is not licensing data under section 13.46, subdivision 4. Data on individuals who are licensed family child care providers are private data on individuals governed by section 13.46, subdivision 2. The commissioner may disclose nonpublic data collected under this section as described in section 13.46, subdivision 2. The commissioner also may disclose private and nonpublic data collected under this section to the following entities:

(1) personnel of the welfare system who require the data for child care licensing purposes;

(2) personnel of the welfare system who require the data to administer or evaluate the child care assistance program;

(3) the commissioner of education for purposes of implementing, administering, and evaluating the child care practitioner professional development system;

(4) the commissioner of health for purposes of implementing and administering this section; and

(5) an individual's employer for purposes of tracking and verifying employee training, education, and expertise.

Presented to the governor May 19, 2008

Signed by the governor May 23, 2008, 11:54 a.m.