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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2965

03/12/2014 Authored by Abeler

The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to human services; updating and clarifying language governing consent
1.3 to marriage for developmentally disabled persons under state guardianship;
1.4 amending Minnesota Statutes 2012, sections 246.01; 252A.111, by adding a
1.5 subdivision; Minnesota Statutes 2013 Supplement, section 517.08, by adding
1.6 a subdivision; repealing Minnesota Statutes 2013 Supplement, section 517.03,
1.7 subdivision 2.

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

1.9 Section 1. Minnesota Statutes 2012, section 246.01, is amended to read:

1.10 **246.01 POWERS AND DUTIES.**

1.11 The commissioner of human services is hereby specifically constituted the guardian
1.12 of all persons with developmental disabilities, the guardianship of whom has heretofore
1.13 been vested in the State Board of Control or in the director of social welfare whether by
1.14 operation of law or by an order of court without any further act or proceeding, and all the
1.15 powers and duties vested in or imposed upon the State Board of Control or the director of
1.16 social welfare, with reference to mental testing of persons with developmental disabilities,
1.17 and with reference to the institutions of the state of Minnesota except correctional facilities
1.18 administered and managed by the commissioner of corrections, are hereby transferred to,
1.19 vested in, and imposed upon the commissioner of human services, and in relation thereto is
1.20 hereby charged with and shall have the exclusive power of administration and management
1.21 of all of the following state institutions: state hospitals for persons with developmental
1.22 disabilities, mental illness, or chemical dependency. The commissioner shall have power
1.23 and authority to determine all matters relating to the unified and continuous development
1.24 of all of the foregoing institutions and of such other institutions, the supervision of which
1.25 may, from time to time, be vested in the commissioner. It is intended that there be vested

2.1 in the commissioner all of the powers, functions, and authority heretofore vested in the
 2.2 State Board of Control relative to such state institutions. The commissioner shall have the
 2.3 power and authority to accept, in behalf of the state, contributions and gifts of money and
 2.4 personal property for the use and benefit of the residents of the public institutions under
 2.5 the commissioner's control, and all money and securities so received shall be deposited
 2.6 in the state treasury subject to the order of the commissioner of human services. If the
 2.7 gift or contribution is designated by the donor for a certain institution or purpose, the
 2.8 commissioner of human services shall expend or use the same as nearly as may be in
 2.9 accordance with the conditions of the gift or contribution, compatible with the best
 2.10 interests of the inmates and the state. The commissioner of human services is hereby
 2.11 constituted the "state agency" as defined by the Social Security Act of the United States
 2.12 and the laws of this state for all purposes relating to mental health and mental hygiene.

2.13 ~~For the purpose of carrying out these duties, the commissioner of human services~~
 2.14 ~~shall accept from wards with developmental disabilities for whom the commissioner is~~
 2.15 ~~specifically appointed guardian a signed application for consent to the marriage of said~~
 2.16 ~~ward. Upon receipt of such application the commissioner shall promptly conduct such~~
 2.17 ~~investigation as the commissioner deems proper and determine if the contemplated~~
 2.18 ~~marriage is for the best interest of the ward and the public. A signed copy of the~~
 2.19 ~~commissioner's determination shall be mailed to the ward and to the court administrator of~~
 2.20 ~~the district court of the county where the application for such marriage license was made.~~

2.21 There is hereby appropriated to such persons or institutions as are entitled to such
 2.22 sums as are provided for in this section, from the fund or account in the state treasury to
 2.23 which the money was credited, an amount sufficient to make such payment.

2.24 Sec. 2. Minnesota Statutes 2012, section 252A.111, is amended by adding a
 2.25 subdivision to read:

2.26 Subd. 7. **Permission to marry; procedure.** This subdivision applies if the powers
 2.27 of the commissioner specifically include the power to permit or withhold permission for
 2.28 the ward to marry. Upon receipt of a request for consent to marry from the ward, the
 2.29 commissioner shall grant consent unless it appears from the commissioner's investigation
 2.30 that the civil marriage is not in the best interests of the ward and the public. A signed copy
 2.31 of the commissioner's determination must be mailed to the ward and to the local registrar
 2.32 of the county where the application for the civil marriage license is made.

2.33 Sec. 3. Minnesota Statutes 2013 Supplement, section 517.08, is amended by adding a
 2.34 subdivision to read:

3.1 Subd. 5. **Consent of commissioner of human services required in certain cases.**
3.2 If a developmentally disabled person has been committed to the guardianship of the
3.3 commissioner of human services and the powers granted to the commissioner specifically
3.4 include the power to permit or withhold permission for the ward to marry, the local
3.5 registrar must not issue a license unless the local registrar has received a signed copy of
3.6 the consent from the commissioner.

3.7 **Sec. 4. REPEALER.**

3.8 Minnesota Statutes 2013 Supplement, section 517.03, subdivision 2, is repealed.

517.03 PROHIBITED CIVIL MARRIAGES.

Subd. 2. **Developmentally disabled persons; consent by commissioner of human services.** Developmentally disabled persons committed to the guardianship of the commissioner of human services and developmentally disabled persons committed to the conservatorship of the commissioner of human services in which the terms of the conservatorship limit the right to marry, may marry on receipt of written consent of the commissioner. The commissioner shall grant consent unless it appears from the commissioner's investigation that the civil marriage is not in the best interest of the ward or conservatee and the public. The local registrar in the county where the application for a license is made by the ward or conservatee shall not issue the license unless the local registrar has received a signed copy of the consent of the commissioner of human services.