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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3711

1.1 A bill for an act
1.2 relating to human services; modifying home and community-based services
1.3 standards for out-of-home respite services for children; amending Minnesota
1.4 Statutes 2022, section 245C.03, by adding a subdivision; proposing coding for
1.5 new law in Minnesota Statutes, chapter 245D.

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

1.7 Section 1. Minnesota Statutes 2022, section 245C.03, is amended by adding a subdivision
1.8 to read:

1.9 Subd. 16. **Out-of-home respite services for children in home and community-based**
1.10 **services licensed programs.** The commissioner shall conduct background studies initiated
1.11 by home and community-based services license holders on volunteers living in a household
1.12 providing out-of-home respite services for children under section 245D.13. For purposes
1.13 of this subdivision, volunteers include household members 13 years of age or older. For
1.14 purposes of the background study, the license holder must maintain documentation that all
1.15 household members 13 years of age or older living in a home are volunteers for the program.

1.16 Sec. 2. [245D.13] **OUT-OF-HOME RESPITE SERVICES FOR CHILDREN.**

1.17 Subdivision 1. **Licensed setting required.** A license holder with a home and
1.18 community-based services license must provide out-of-home respite services for children
1.19 in a licensed setting, unless exempt under subdivision 2.

1.20 Subd. 2. **Exemption from licensed setting requirement.** (a) A license holder with a
1.21 home and community-based services license may provide out-of-home respite services for
1.22 children in an unlicensed setting if:

2.1 (1) all background studies are completed according to the requirements in section
2.2 245C.03, subdivision 16;

2.3 (2) a child's case manager conducts and documents an assessment of the setting and its
2.4 environment before services are provided and at least once each calendar year thereafter.
2.5 The assessment must ensure that the setting is suitable for the child receiving respite services.
2.6 The assessment must be conducted on the form and in the manner prescribed by the
2.7 commissioner;

2.8 (3) the child's legal representative visits the residence and signs and dates a statement
2.9 authorizing services for the residence before services are provided and at least once each
2.10 calendar year thereafter if services continue to be provided at that residence;

2.11 (4) the services are provided in a residential setting that is not licensed to provide any
2.12 other licensed services;

2.13 (5) the services are provided to no more than four children at any one time. Each child
2.14 must have their own bedroom, with the exception of two siblings who may share a bedroom;

2.15 (6) services are not provided to children and adults over the age of 21 in the same
2.16 residence at the same time;

2.17 (7) services are not provided to a single family for more than 46 calendar days in a
2.18 calendar year and no more than ten consecutive days unless an exception is approved by
2.19 the commissioner. A child's legal representative may submit a request for an exception to
2.20 the allowable number of days of out-of-home respite in an unlicensed setting in a calendar
2.21 year to the commissioner. The exception request must include:

2.22 (i) the reason for the exception;

2.23 (ii) the number of additional days being requested; and

2.24 (iii) approval of the child's case manager; and

2.25 (8) the license holder is in substantial and consistent compliance during the previous 24
2.26 months, which means the license holder's license was not made conditional, suspended, or
2.27 revoked.

2.28 (b) The license holder must maintain documentation of the following:

2.29 (1) background studies completed under section 245C.03, subdivision 16;

2.30 (2) service recipient records indicating the calendar dates and times when services were
2.31 provided;

3.1 (3) the case manager's assessment for the initial setting assessment and each assessment
3.2 completed thereafter; and

3.3 (4) the legal representative's approval of the setting before services are provided and
3.4 each year thereafter.

3.5 (c) This subdivision does not apply to children placed in a licensed foster care setting
3.6 as required in Minnesota Rules, part 9560.0529.

3.7 (d) A child may not receive out-of-home respite services in more than two unlicensed
3.8 residential settings in a calendar year.

3.9 (e) The license holder must ensure the requirements in this subdivision are met.