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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3971

03/03/2022 Authored by Becker-Finn and Kotyza-Witthuhn The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act
1.2 relating to child maltreatment; modifying child maltreatment family assessment
1.3 and investigation requirements; providing immunity for minors who make a child
1.4 maltreatment report or assist in a child maltreatment assessment or investigation;
1.5 amending Minnesota Statutes 2020, sections 260E.22, subdivision 2; 260E.24,
1.6 subdivision 2; 260E.34; Minnesota Statutes 2021 Supplement, section 260E.20,
1.7 subdivision 2.

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

1.9 Section 1. Minnesota Statutes 2021 Supplement, section 260E.20, subdivision 2, is amended
1.10 to read:

1.11 Subd. 2. Face-to-face contact. (a) Upon receipt of a screened in report, the local welfare
1.12 agency shall conduct a face-to-face contact with the child reported to be maltreated and
1.13 with the child's primary caregiver sufficient to complete a safety assessment and ensure the
1.14 immediate safety of the child. If the report alleges maltreatment that presents a significant
1.15 safety concern, the local welfare agency or agency responsible for assessing or investigating
1.16 the report is not required to provide notice before conducting the initial face-to-face contact
1.17 with the child and the child's primary caregiver.

1.18 (b) The face-to-face contact with the child and primary caregiver shall occur immediately
1.19 if sexual abuse or substantial child endangerment is alleged and within five calendar days
1.20 for all other reports. If the alleged offender was not already interviewed as the primary
1.21 caregiver, the local welfare agency shall also conduct a face-to-face interview with the
1.22 alleged offender in the early stages of the assessment or investigation. Face-to-face contact
1.23 with the child and primary caregiver in response to a report alleging sexual abuse or
1.24 substantial child endangerment may be postponed for no more than five calendar days if

2.1 the child is residing in a location that is confirmed to restrict contact with the alleged offender
 2.2 as established in guidelines issued by the commissioner, or if the local welfare agency is
 2.3 pursuing a court order for the child's caregiver to produce the child for questioning under
 2.4 section 260E.22, subdivision 5.

2.5 (c) At the initial contact with the alleged offender, the local welfare agency or the agency
 2.6 responsible for assessing or investigating the report must inform the alleged offender of the
 2.7 complaints or allegations made against the individual in a manner consistent with laws
 2.8 protecting the rights of the person who made the report. The interview with the alleged
 2.9 offender may be postponed if it would jeopardize an active law enforcement investigation.

2.10 (d) The local welfare agency or the agency responsible for assessing or investigating
 2.11 the report must provide the alleged offender with an opportunity to make a statement. The
 2.12 alleged offender may submit supporting documentation relevant to the assessment or
 2.13 investigation.

2.14 Sec. 2. Minnesota Statutes 2020, section 260E.22, subdivision 2, is amended to read:

2.15 Subd. 2. **Child interview procedure.** (a) The interview may take place at school or at
 2.16 any facility or other place where the alleged victim or other children might be found or the
 2.17 child may be transported to, and the interview may be conducted at a place appropriate for
 2.18 the interview of a child designated by the local welfare agency or law enforcement agency.

2.19 (b) Other than in exceptional circumstances, the interview ~~may~~ must take place outside
 2.20 the presence of the alleged offender or parent, legal custodian, guardian, or school official-
 2.21 and must take place prior to any interviews of the alleged offender or parent, legal custodian,
 2.22 guardian, or school official.

2.23 (c) ~~For a family assessment, it is the preferred practice to request a parent or guardian's~~
 2.24 ~~permission to interview the child before conducting the child interview, unless doing so~~
 2.25 ~~would compromise the safety assessment~~ The child interview may proceed without a parent's
 2.26 or guardian's permission.

2.27 (d) An interview of a child in foster care who is over four years of age must take place
 2.28 outside the presence of the child's foster parent or parents.

2.29 Sec. 3. Minnesota Statutes 2020, section 260E.24, subdivision 2, is amended to read:

2.30 Subd. 2. **Determination after family assessment.** After conducting a family assessment,
 2.31 the local welfare agency shall determine whether child protective services are needed to
 2.32 address the safety of the child and other family members and the risk of subsequent

3.1 maltreatment. The local welfare agency must document the information collected under
3.2 section 260E.20, subdivision 3, related to the completed family assessment in the child's or
3.3 family's case notes.

3.4 Sec. 4. Minnesota Statutes 2020, section 260E.34, is amended to read:

3.5 **260E.34 IMMUNITY.**

3.6 (a) The following persons are immune from any civil or criminal liability that otherwise
3.7 might result from the person's actions if the person is acting in good faith:

3.8 (1) a person making a voluntary or mandated report under this chapter or assisting in an
3.9 assessment under this chapter;

3.10 (2) a person with responsibility for performing duties under this section or supervisor
3.11 employed by a local welfare agency, the commissioner of an agency responsible for operating
3.12 or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital,
3.13 sanitarium, or other facility or institution required to be licensed or certified under sections
3.14 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B or 245H; or a school as
3.15 defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed
3.16 personal care provider organization as defined in section 256B.0625, subdivision 19a,
3.17 complying with sections 260E.23, subdivisions 2 and 3, and 260E.30; and

3.18 (3) a public or private school, facility as defined in section 260E.03, or the employee of
3.19 any public or private school or facility who permits access by a local welfare agency, the
3.20 Department of Education, or a local law enforcement agency and assists in an investigation
3.21 or assessment pursuant to this chapter.

3.22 (b) A person who is a supervisor or person with responsibility for performing duties
3.23 under this chapter employed by a local welfare agency, the commissioner of human services,
3.24 or the commissioner of education complying with this chapter or any related rule or provision
3.25 of law is immune from any civil or criminal liability that might otherwise result from the
3.26 person's actions if the person is (1) acting in good faith and exercising due care, or (2) acting
3.27 in good faith and following the information collection procedures established under section
3.28 260E.20, subdivision 3.

3.29 (c) Any physician or other medical personnel administering a toxicology test under
3.30 section 260E.32 to determine the presence of a controlled substance in a pregnant woman,
3.31 in a woman within eight hours after delivery, or in a child at birth or during the first month
3.32 of life is immune from civil or criminal liability arising from administration of the test if
3.33 the physician ordering the test believes in good faith that the test is required under this

4.1 section and the test is administered in accordance with an established protocol and reasonable
4.2 medical practice.

4.3 (d) This section does not provide immunity to any person for failure to make a required
4.4 report or for committing maltreatment.

4.5 (e) If a person who makes a voluntary or mandatory report under section 260E.06 prevails
4.6 in a civil action from which the person has been granted immunity under this section, the
4.7 court may award the person attorney fees and costs.

4.8 (f) A person under 18 years of age who makes a report under this chapter or assists in
4.9 an assessment or investigation under this chapter is immune from any civil or criminal
4.10 liability that might otherwise result from making the report or from assisting in the assessment
4.11 or investigation of a report under this chapter.