

**CHAPTER 301—S.F.No. 2855**

*An act relating to human services; making changes to children and family services technical and policy provisions; Minnesota family investment program and adult supports; early childhood development; child welfare; amending Minnesota Statutes 2008, sections 119B.189, by adding subdivisions; 119B.19, subdivision 7; 119B.21, as amended; 245A.04, subdivision 11; 256.01, by adding a subdivision; 256.046, subdivision 1; 256.82, subdivision 3; 256.98, subdivision 8; 256J.24, subdivisions 3, 5a, 10; 256J.37, subdivision 3a; 256J.425, subdivision 5; 260C.007, subdivision 4; 260C.193, subdivision 6; 260C.201, subdivision 10; 260C.451; 626.556, subdivision 10; Minnesota Statutes 2009 Supplement, sections 256D.44, subdivision 3; 256J.24, subdivision 5; 256J.425, subdivision 2; 256J.521, subdivision 2; 256J.561, subdivision 3; 256J.66, subdivision 1; 256J.95, subdivisions 3, 11; 260.012; 260C.212, subdivision 7; repealing Minnesota Statutes 2008, section 256.82, subdivision 5; Minnesota Rules, part 9560.0660.*

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

**ARTICLE 1**

**MFIP AND ADULTS**

Section 1. Minnesota Statutes 2008, section 256.046, subdivision 1, is amended to read:

Subdivision 1. **Hearing authority.** A local agency must initiate an administrative fraud disqualification hearing for individuals, including child care providers caring for children receiving child care assistance, accused of wrongfully obtaining assistance or intentional program violations, in lieu of a criminal action when it has not been pursued, in the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, MFIP, and any affiliated program to include the diversionary work program and the work participation cash benefit program, child care assistance programs, general assistance, family general assistance program formerly codified in section 256D.05, subdivision 1, clause (15), Minnesota supplemental aid, food stamp programs, general assistance medical care, MinnesotaCare for adults without children, and upon federal approval, all categories of medical assistance and remaining categories of MinnesotaCare except for children through age 18. The Department of Human Services, in lieu of a local agency, may initiate an administrative fraud disqualification hearing when the state agency is directly responsible for administration or investigation of the program for which benefits were wrongfully obtained. The hearing is subject to the requirements of section 256.045 and the requirements in Code of Federal Regulations, title 7, section 273.16.

Sec. 2. Minnesota Statutes 2008, section 256.98, subdivision 8, is amended to read:

Subd. 8. **Disqualification from program.** (a) Any person found to be guilty of wrongfully obtaining assistance by a federal or state court or by an administrative hearing

determination, or waiver thereof, through a disqualification consent agreement, or as part of any approved diversion plan under section 401.065, or any court-ordered stay which carries with it any probationary or other conditions, in the Minnesota family investment program, and any affiliated program to include the diversionary work program and the work participation cash benefit program, the food stamp or food support program, the general assistance program, the group residential housing program, or the Minnesota supplemental aid program shall be disqualified from that program. In addition, any person disqualified from the Minnesota family investment program shall also be disqualified from the food stamp or food support program. The needs of that individual shall not be taken into consideration in determining the grant level for that assistance unit:

- (1) for one year after the first offense;
- (2) for two years after the second offense; and
- (3) permanently after the third or subsequent offense.

The period of program disqualification shall begin on the date stipulated on the advance notice of disqualification without possibility of postponement for administrative stay or administrative hearing and shall continue through completion unless and until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved. A disqualification established through hearing or waiver shall result in the disqualification period beginning immediately unless the person has become otherwise ineligible for assistance. If the person is ineligible for assistance, the disqualification period begins when the person again meets the eligibility criteria of the program from which they were disqualified and makes application for that program.

(b) A family receiving assistance through child care assistance programs under chapter 119B with a family member who is found to be guilty of wrongfully obtaining child care 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, is disqualified from child care assistance programs. The disqualifications must be for periods of three months, six months, and two years for the first, second, and third offenses respectively. Subsequent violations must result in permanent disqualification. During the disqualification period, disqualification from any child care program must extend to all child care programs and must be immediately applied.

(c) A provider caring for children receiving assistance through child care assistance programs under chapter 119B is disqualified from receiving payment for child care services from the child care assistance program under chapter 119B when the provider is found to have wrongfully obtained child care assistance by a federal court, state court, or an administrative hearing determination or waiver under section 256.046, 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. The disqualification must be for a period of one year for the first offense and two years for the second offense. Any subsequent violation must result in permanent disqualification. The disqualification period must be imposed immediately after a determination is made under this paragraph. During the disqualification period, the provider is disqualified from receiving payment from any child care program under chapter 119B.

(d) Any person found to be guilty of wrongfully obtaining general assistance medical care, MinnesotaCare for adults without children, and upon federal approval, all categories of medical assistance and remaining categories of MinnesotaCare, except for children through age 18, by a federal or state court or by an administrative hearing determination, or waiver thereof, through a disqualification consent agreement, or as part of any approved diversion plan under section 401.065, or any court-ordered stay which carries with it any probationary or other conditions, is disqualified from that program. The period of disqualification is one year after the first offense, two years after the second offense, and permanently after the third or subsequent offense. The period of program disqualification shall begin on the date stipulated on the advance notice of disqualification without possibility of postponement for administrative stay or administrative hearing and shall continue through completion unless and until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved.

Sec. 3. Minnesota Statutes 2009 Supplement, section 256D.44, subdivision 3, is amended to read:

Subd. 3. **Standard of assistance for basic needs.** Except as provided in subdivision 4, the monthly state standard of assistance for basic needs is as follows:

(a) If an applicant or recipient does not reside with another person or persons, the state standard of assistance is \$519.

(b) If an applicant married couple or recipient married couple who live together, does not reside with others, the state standard of assistance is \$778.

(c) If an applicant or recipient resides with another person or persons, the state standard of assistance is \$395.

(d) If an applicant married couple or recipient married couple who live together, resides with others, the state standard of assistance is \$519.

(e) Married couples, living together who do not reside with others and were receiving MSA prior to January 1, 1994, and whose eligibility has not been terminated a full calendar month, the state standard of assistance is \$793.

(f) Married couples living together who reside with others and were receiving MSA prior to January 1, 1994, and whose eligibility has not been terminated a full calendar month, the state standard of assistance is \$782.

(g) For an individual who (1) receives ~~Social Security insurance~~ Supplemental Security Income under federal living arrangement D or (2) is a resident of a licensed residential facility and has unmet personal needs, the state standard of assistance is the personal needs allowance for medical assistance recipients under section 256B.35.

Sec. 4. Minnesota Statutes 2008, section 256J.24, subdivision 3, is amended to read:

Subd. 3. **Individuals who must be excluded from an assistance unit.** (a) The following individuals who are part of the assistance unit determined under subdivision 2 are ineligible to receive MFIP:

(1) individuals who are recipients of Supplemental Security Income or Minnesota supplemental aid;

(2) individuals disqualified from the food stamp or food support program or MFIP, until the disqualification ends;

(3) children on whose behalf federal, state or local foster care payments are made, except as provided in sections 256J.13, subdivision 2, and 256J.74, subdivision 2; ~~and~~

(4) children receiving ongoing monthly adoption assistance payments under section 259.67; ~~and~~

(5) individuals disqualified from the work participation cash benefit program until that disqualification ends.

(b) The exclusion of a person under this subdivision does not alter the mandatory assistance unit composition.

Sec. 5. Minnesota Statutes 2009 Supplement, 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 including a breakdown of the cash and food portions effective April October 1, 2009.

Number of Eligible People	Transitional Standard	Cash Portion	Food Portion
1	\$428:	\$250	\$178
2	\$764:	\$437	\$327
3	\$1,005:	\$532	\$473
4	<del>\$1,217</del> \$1,222:	\$621	<del>\$596</del> \$601
5	<del>\$1,393</del> \$1,399:	\$697	<del>\$696</del> \$702
6	<del>\$1,602</del> \$1,608:	\$773	<del>\$829</del> \$835
7	<del>\$1,748</del> \$1,754:	\$850	<del>\$898</del> \$904
8	<del>\$1,934</del> \$1,940:	\$916	<del>\$1,018</del> \$1,024
9	<del>\$2,119</del> \$2,125:	\$980	<del>\$1,139</del> \$1,145
10	<del>\$2,298</del> \$2,304:	\$1,035	<del>\$1,263</del> \$1,269
over 10	add \$178:	\$53	\$125

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. 6. Minnesota Statutes 2008, section 256J.24, subdivision 5a, is amended to read:

Subd. 5a. **Food portion of MFIP transitional standard.** The commissioner shall adjust the food portion of the MFIP transitional standard ~~by October 1 each year beginning October 1998~~ as needed to reflect the cost-of-living adjustments to the Food Stamp Supplemental Nutrition Assistance Program. The commissioner shall ~~annually~~ publish ~~in the State Register~~ the transitional standard including a breakdown of the cash and food portions for an assistance unit of sizes one to ten in the State Register whenever an adjustment is made.

Sec. 7. Minnesota Statutes 2008, section 256J.24, subdivision 10, is amended to read:

Subd. 10. **MFIP exit level.** The commissioner shall adjust the MFIP earned income disregard to ensure that most participants do not lose eligibility for MFIP until their income reaches at least 115 percent of the federal poverty guidelines ~~in effect in October of each fiscal year at the time of the adjustment.~~ The adjustment to the disregard shall be based on a household size of three, and the resulting earned income disregard percentage must be applied to all household sizes. The adjustment under this subdivision must be implemented ~~at the same time as the October food stamp or food support cost-of-living whenever a Supplemental Nutrition Assistance Program adjustment is reflected in the food portion of the MFIP transitional standard as required under subdivision 5a.~~

Sec. 8. Minnesota Statutes 2008, section 256J.37, subdivision 3a, is amended to read:

Subd. 3a. **Rental subsidies; unearned income.** (a) Effective July 1, 2003, the county agency shall count \$50 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income to the cash portion of the MFIP grant. The full amount of the subsidy must be counted as unearned income when the subsidy is less than \$50. The income from this subsidy shall be budgeted according to section 256J.34.

(b) The provisions of this subdivision shall not apply to an MFIP assistance unit which includes a participant who is:

(1) age 60 or older;

(2) a caregiver who is suffering from an illness, injury, or incapacity that has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and ~~prevents the person from obtaining or retaining employment; severely limits the person's ability to obtain or maintain suitable employment; or~~

(3) a caregiver whose presence in the home is required due to the illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household when the illness or incapacity and the need for the participant's presence in the home has been certified by a qualified professional and is expected to continue for more than 30 days.

(c) The provisions of this subdivision shall not apply to an MFIP assistance unit where the parental caregiver is an SSI recipient.

(d) Prior to implementing this provision, the commissioner must identify the MFIP participants subject to this provision and provide written notice to these participants at least 30 days before the first grant reduction. The notice must inform the participant of the basis for the potential grant reduction, the exceptions to the provision, if any, and inform the participant of the steps necessary to claim an exception. A person who is found not to

meet one of the exceptions to the provision must be notified and informed of the right to a fair hearing under section 256J.40. The notice must also inform the participant that the participant may be eligible for a rent reduction resulting from a reduction in the MFIP grant and encourage the participant to contact the local housing authority.

Sec. 9. Minnesota Statutes 2009 Supplement, section 256J.425, subdivision 2, is amended to read:

Subd. 2. **Ill or incapacitated.** (a) An assistance unit subject to the time limit in section 256J.42, subdivision 1, is eligible to receive months of assistance under a hardship extension if the participant who reached the time limit belongs to any of the following groups:

(1) participants who are suffering from an illness, injury, or incapacity which has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and severely limits the person's ability to obtain or maintain suitable employment. These participants must follow the treatment recommendations of the qualified professional certifying the illness, injury, or incapacity;

(2) participants whose presence in the home is required as a caregiver because of the illness, injury, or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household when the illness or incapacity and the need for a person to provide assistance in the home has been certified by a qualified professional and is expected to continue for more than 30 days; or

(3) caregivers with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0651, subdivision 1, paragraph (c), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c). Caregivers in this category are presumed to be prevented from obtaining or ~~retaining~~ maintaining suitable employment.

(b) An assistance unit receiving assistance under a hardship extension under this subdivision may continue to receive assistance as long as the participant meets the criteria in paragraph (a), clause (1), (2), or (3).

Sec. 10. Minnesota Statutes 2008, section 256J.425, subdivision 5, is amended to read:

Subd. 5. **Accrual of certain exempt months.** (a) Participants ~~who meet the criteria in clause (1), (2), or (3) and~~ who are not eligible for assistance under a hardship extension under ~~subdivision 2, paragraph (a), clause (3),~~ this section shall be eligible for a hardship extension for a period of time equal to the number of months that were counted toward the ~~federal~~ 60-month time limit while the participant was a caregiver with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0651, subdivision 1, paragraph (c), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c), and who was subject to the requirements in section 256J.561, subdivision 2.

(b) A participant who received ~~TANF~~ MFIP assistance that counted towards the ~~federal~~ 60-month time limit while the participant met the state time limit exemption

criteria under section 256J.42, subdivision 4 or 5, is eligible for assistance under a hardship extension for a period of time equal to the number of months that were counted toward the ~~federal~~ 60-month time limit while the participant met the state time limit exemption criteria under section 256J.42, subdivision 4 or 5.

(c) After the accrued months have been exhausted, the county agency must determine if the assistance unit is eligible for an extension under another extension category in subdivision 2, 3, or 4.

(d) At the time of the case review, a county agency must explain to the participant the basis for receiving a hardship extension based on the accrual of exempt months. The participant must provide documentation necessary to enable the county agency to determine whether the participant is eligible to receive a hardship extension based on the accrual of exempt months or authorize a county agency to verify the information.

(e) While receiving extended MFIP assistance under this subdivision, a participant is subject to the MFIP policies that apply to participants during the first 60 months of MFIP, unless the participant is a member of a two-parent family in which one parent is extended under subdivision 3 or 4. For two-parent families in which one parent is extended under subdivision 3 or 4, the sanction provisions in subdivision 6 shall apply.

Sec. 11. Minnesota Statutes 2009 Supplement, section 256J.521, subdivision 2, is amended to read:

Subd. 2. **Employment plan; contents.** (a) Based on the assessment under subdivision 1, the job counselor and the participant must develop an employment plan that includes participation in activities and hours that meet the requirements of section 256J.55, subdivision 1. The purpose of the employment plan is to identify for each participant the most direct path to unsubsidized employment and any subsequent steps that support long-term economic stability. The employment plan should be developed using the highest level of activity appropriate for the participant. Activities must be chosen from clauses (1) to (6), which are listed in order of preference. Notwithstanding this order of preference for activities, priority must be given for activities related to a family violence waiver when developing the employment plan. The employment plan must also list the specific steps the participant will take to obtain employment, including steps necessary for the participant to progress from one level of activity to another, and a timetable for completion of each step. Levels of activity include:

- (1) unsubsidized employment;
- (2) job search;
- (3) subsidized employment or unpaid work experience;
- (4) unsubsidized employment and job readiness education or job skills training;
- (5) unsubsidized employment or unpaid work experience and activities related to a family violence waiver or preemployment needs; and
- (6) activities related to a family violence waiver or preemployment needs.

(b) Participants who are determined to possess sufficient skills such that the participant is likely to succeed in obtaining unsubsidized employment must job search at least 30 hours per week for up to six weeks and accept any offer of suitable employment. The remaining hours necessary to meet the requirements of section 256J.55, subdivision 1, may be met through participation in other work activities under section 256J.49,

subdivision 13. The participant's employment plan must specify, at a minimum: (1) whether the job search is supervised or unsupervised; (2) support services that will be provided; and (3) how frequently the participant must report to the job counselor. Participants who are unable to find suitable employment after six weeks must meet with the job counselor to determine whether other activities in paragraph (a) should be incorporated into the employment plan. Job search activities which are continued after six weeks must be structured and supervised.

(c) Participants who are determined to have barriers to obtaining or ~~retaining~~ maintaining suitable employment that will not be overcome during six weeks of job search under paragraph (b) must work with the job counselor to develop an employment plan that addresses those barriers by incorporating appropriate activities from paragraph (a), clauses (1) to (6). The employment plan must include enough hours to meet the participation requirements in section 256J.55, subdivision 1, unless a compelling reason to require fewer hours is noted in the participant's file.

(d) The job counselor and the participant must sign the employment plan to indicate agreement on the contents.

(e) Except as provided under paragraph (f), failure to develop or comply with activities in the plan, or voluntarily quitting suitable employment without good cause, will result in the imposition of a sanction under section 256J.46.

(f) When a participant fails to meet the agreed-upon hours of participation in paid employment because the participant is not eligible for holiday pay and the participant's place of employment is closed for a holiday, the job counselor shall not impose a sanction or increase the hours of participation in any other activity, including paid employment, to offset the hours that were missed due to the holiday.

(g) Employment plans must be reviewed at least every three months to determine whether activities and hourly requirements should be revised. The job counselor is encouraged to allow participants who are participating in at least 20 hours of work activities to also participate in education and training activities in order to meet the federal hourly participation rates.

Sec. 12. Minnesota Statutes 2009 Supplement, section 256J.561, subdivision 3, is amended to read:

Subd. 3. **Child under 12 months of age.** (a) A participant who has a natural born child who is less than 12 months of age who meets the criteria in this subdivision is not required to participate in employment services until the child reaches 12 months of age. To be eligible for this provision exemption, the assistance unit must not have already used ~~this provision or the previously allowed child under age one exemption.~~ However, ~~an assistance unit that has an approved child under age one exemption at the time this provision becomes effective may continue to use that exemption until the child reaches one year of age a total of 12 months under the previously allowed "child under 12 weeks" or "child under age one" exemptions.~~ The 12 months of exemption are available only once in a caregiver's lifetime. In a two-parent household, only one parent is allowed to claim this exemption in any one month.

(b) The provision in paragraph (a) ends the first full month after the child reaches 12 months of age. ~~This provision is available only once in a caregiver's lifetime. In a two-parent household, only one parent shall be allowed to use this provision.~~ The



participant ~~and job counselor~~ must meet ~~within ten days after~~ with an employment services job counselor the month after the month the child reaches 12 months of age ~~to revise the participant's employment plan.~~

Sec. 13. Minnesota Statutes 2009 Supplement, section 256J.66, subdivision 1, is amended to read:

Subdivision 1. **Establishing the on-the-job training program.** (a) County agencies may develop on-the-job training programs for MFIP caregivers who are participating in employment and training services. A county agency that chooses to provide on-the-job training may make payments to employers for on-the-job training costs that, during the period of the training, must not exceed 50 percent of the wages paid by the employer to the participant. The payments are deemed to be in compensation for the extraordinary costs associated with training participants under this section and in compensation for the costs associated with the lower productivity of the participants during training.

~~(b) Provision of an on-the-job training program under the Workforce Investment Act of 1998, Public Law 105-220, in and of itself, does not qualify as an on-the-job training program under this section.~~

~~(c)~~ Employers must compensate participants in on-the-job training at the same rates, including periodic increases, as similarly situated employees or trainees and in accordance with applicable law, but in no event less than the federal or applicable state minimum wage, whichever is higher.

Sec. 14. Minnesota Statutes 2009 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 or individuals 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 months 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 the work participation cash benefit program, DWP, or MFIP due to fraud; and

(10) refugees and asylees as defined in Code of Federal Regulations, title 45, part 400, subpart d, section 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), (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.

Sec. 15. Minnesota Statutes 2009 Supplement, section 256J.95, subdivision 11, is amended to read:

Subd. 11. **Universal participation required.** (a) All DWP caregivers, except caregivers who meet the criteria in paragraph (d), are required to participate in DWP employment services. Except as specified in paragraphs (b) and (c), employment plans under DWP must, at a minimum, meet the requirements in section 256J.55, subdivision 1.

(b) A caregiver who is a member of a two-parent family that is required to participate in DWP who would otherwise be ineligible for DWP under subdivision 3 may be allowed to develop an employment plan under section 256J.521, subdivision 2, that may contain alternate activities and reduced hours.

(c) A participant who is a victim of family violence shall be allowed to develop an employment plan under section 256J.521, subdivision 3. A claim of family violence must be documented by the applicant or participant by providing a sworn statement which is supported by collateral documentation in section 256J.545, paragraph (b).

(d) One parent in a two-parent family unit that has a natural born child under 12 months of age is not required to have an employment plan until the child reaches 12 months of age unless the family unit has already used the exclusion under section 256J.561, subdivision 3, or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5).

(e) The provision in paragraph (d) ends the first full month after the child reaches 12 months of age. This provision is allowable only once in a caregiver's lifetime. In a two-parent household, only one parent shall be allowed to use this category.

(f) The participant and job counselor must meet ~~within ten working days after~~ in the month after the month the child reaches 12 months of age to revise the participant's employment plan. The employment plan for a family unit that has a child under 12 months of age that has already used the exclusion in section 256J.561 ~~or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5)~~, must be tailored to recognize the caregiving needs of the parent.

## ARTICLE 2

### EARLY CHILDHOOD DEVELOPMENT

Section 1. Minnesota Statutes 2008, section 119B.189, is amended by adding a subdivision to read:

Subd. 5. **Child care services grants.** "Child care services grants" means grants awarded to child care centers and family child care providers, both licensed and legal nonlicensed, under section 119B.21, subdivision 5.

Sec. 2. Minnesota Statutes 2008, section 119B.189, is amended by adding a subdivision to read:

Subd. 6. **District.** "District" means the selected geographical area comprising one or more regions defined in subdivision 3. Six district programs and one statewide tribal program provide designated child care resource and referral services for the district area. As determined by the commissioner, the district program shall work in partnership with the regional child care resource and referral programs, local communities, tribal programs, and other early childhood education programs located within the district.

Sec. 3. Minnesota Statutes 2008, section 119B.19, subdivision 7, is amended to read:

Subd. 7. **Child care resource and referral programs.** Within each region, a child care resource and referral program must:

(1) maintain one database of all existing child care resources and services and one database of family referrals;

(2) provide a child care referral service for families;

(3) develop resources to meet the child care service needs of families;

(4) increase the capacity to provide culturally responsive child care services;

(5) coordinate professional development opportunities for child care and school-age care providers;

(6) administer and award child care services grants;

~~(7) administer and provide loans for child development education and training;~~

~~(8)~~ (7) cooperate with the Minnesota Child Care Resource and Referral Network and its member programs to develop effective child care services and child care resources; and

~~(9)~~ (8) assist in fostering coordination, collaboration, and planning among child care programs and community programs such as school readiness, Head Start, early childhood family education, local interagency early intervention committees, early childhood screening, special education services, and other early childhood care and education services and programs that provide flexible, family-focused services to families with young children to the extent possible.

Sec. 4. Minnesota Statutes 2008, section 119B.21, as amended by Laws 2009, chapter 79, article 2, sections 3 and 4, is amended to read:

#### **119B.21 CHILD CARE SERVICES GRANTS.**

Subdivision 1. **Distribution of grant funds.** (a) The commissioner shall distribute funds to the child care resource and referral programs designated under section 119B.19, subdivision 1a, for child care services grants to centers under subdivision 5 and family child care ~~technical assistance grants under subdivision 10~~ programs based upon the following factors.

(b) Up to ten percent of funds appropriated for grants under this section may be used by the commissioner for statewide child care development initiatives, training initiatives, collaboration programs, and research and data collection. The commissioner shall develop eligibility guidelines and a process to distribute funds under this paragraph. ~~Child care resource and referral programs may apply for funding under this paragraph.~~

(c) At least 90 percent of funds appropriated for grants under this section may be distributed by the commissioner to child care resource and referral programs under section 119B.19, subdivision 1a, for child care services center grants and family child care ~~technical assistance~~ grants based on the following factors:

- (1) the number of children under 13 years of age needing child care in the region;
- (2) the region served by the program;
- (3) the ratio of children under 13 years of age needing child care to the number of licensed spaces in the region;
- (4) the number of licensed child care providers and school-age care programs in the region; and
- (5) other related factors determined by the commissioner.

(d) Child care resource and referral programs must award child care services center grants and family child care ~~technical assistance~~ grants based on the recommendation of the child care ~~regional~~ district proposal review committees under subdivision 3.

(e) The commissioner may distribute funds under this section for a two-year period.

Subd. 3. **Child care ~~regional~~ district proposal review committees.** (a) Child care ~~regional~~ district proposal review committees ~~must establish regional priorities and review applications for family child care technical assistance grants and child care services center grants under this section and make funding recommendations to the child care resource and referral program designated under section 119B.19, subdivision 1a. Within each region, the committee must allocate available funding between child care services grants and child care technical assistance grants. The committee must also allocate funding for child care services grants for facility financing purposes and provider training purposes. Each region within a district must be represented on the review committee. The child care regional~~ district proposal review committees must complete their reviews and forward their recommendations to the child care resource and referral ~~program~~ district programs by the date specified by the commissioner.

(b) A child care resource and referral district program shall establish a process to select members of the child care ~~regional~~ district proposal review committee. Members must represent reflect a broad cross-section of the community, and may include the following constituent groups: family child care providers, child care center providers, school-age care providers, parents who use child care services, health services, social services, public schools, Head Start, employers, representatives of cultural and ethnic communities, and other citizens with demonstrated interest in child care issues. Members

of the proposal review committee with a direct financial interest in a pending grant proposal may not provide a recommendation or participate in the ranking of that grant proposal.

(c) The child care resource and referral district program may reimburse committee members for their actual travel, child care, and child care provider substitute expenses for up to ~~six~~ two committee meetings per year. The program may also pay a stipend to parent representatives for participating in ~~up to six~~ two meetings per year.

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)~~ (4) capacity building through the purchase of appropriate technology to create, enhance, and maintain business management systems;

~~(6)~~ (5) emergency assistance for child care programs;

~~(7)~~ (6) new programs or projects for the creation, expansion, or improvement of programs that serve ethnic immigrant and refugee communities; and

~~(8)~~ (7) 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 organization designated under section 119B.19, subdivision 1a, may award child care services grants of up to \$1,000 to family child care providers. 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)~~ (c) 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
- (6) any combination of clauses (1) to (5).

~~(c)~~ (d) A child care center that is 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. A local match is not required for grants to family child care providers.

~~(d)~~ (e) Beginning July 1, 2009, grants to child care centers under this subdivision shall be increasingly awarded for activities that improve provider quality, including activities under paragraph (a), clauses (1) to (3) and ~~(7)~~ (6). Grants to family child care providers shall be increasingly awarded for activities that improve provider quality, including activities under paragraph (b), clauses (1), (3), and (6).

~~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, materials, and equipment to improve the learning environment;~~

~~(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;~~

~~(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.~~

~~(d) Beginning July 1, 2009, grants under this subdivision shall be increasingly awarded for activities that improve provider quality, including activities under paragraph (a), clauses (1), (3), and (6).~~

**ARTICLE 3****CHILD WELFARE**

Section 1. Minnesota Statutes 2008, section 245A.04, subdivision 11, is amended to read:

Subd. 11. **Education program; permitted ages, additional requirement.** (a) The education program offered in a residential or nonresidential program, except for child care, foster care, or services for adults, must be approved by the commissioner of education before the commissioner of human services may grant a license to the program.

(b) A residential program licensed by the commissioner of human services under Minnesota Rules, parts 2960.0010 to 2960.0710, may serve persons through the age of 19 when:

(1) the admission or continued stay is necessary for a person to complete a secondary school program or its equivalent, or it is necessary to facilitate a transition period after completing the secondary school program or its equivalent for up to four months in order for the resident to obtain other living arrangements;

(2) the facility develops policies, procedures, and plans required under section 245A.65;

(3) the facility documents an assessment of the 18- or 19-year-old person's risk of victimizing children residing in the facility, and develops necessary risk reduction measures, including sleeping arrangements, to minimize any risk of harm to children; and

(4) notwithstanding the license holder's target population age range, whenever persons age 18 or 19 years old are receiving residential services, the age difference among residents may not exceed five years.

(c) A child foster care program licensed by the commissioner under Minnesota Rules, chapter 2960, may serve persons who are over the age of 18 but under the age of 21 when the person is:

(1) completing secondary education or a program leading to an equivalent credential;

(2) enrolled in an institution which provides postsecondary or vocational education;

(3) participating in a program or activity designed to promote, or remove barriers to, employment;

(4) employed for at least 80 hours per month; or

(5) incapable of doing any of the activities described in clauses (1) to (4) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the person.

(d) Nothing in this paragraph precludes the license holder from seeking other variances under subdivision 9.

Sec. 2. Minnesota Statutes 2008, section 256.01, is amended by adding a subdivision to read:

Subd. 30. **Donated funds from private postsecondary institutions.** The commissioner may accept, on behalf of the state, funds donated from private postsecondary

institutions, as the state's share in claiming federal Title IV-E reimbursement, to support the Child Welfare State/University Partnership, consistent with Code of Federal Regulations, title 45, chapter 235, section 235.66, Sources of State Funds, if the funds:

- (1) are transferred to the state and under the state's administrative control;
- (2) are donated with no restriction that the funds be used for the training of a particular individual or at a particular facility or institution; and
- (3) do not revert to the donor's facility or use.

Sec. 3. Minnesota Statutes 2008, section 256.82, subdivision 3, is amended to read:

Subd. 3. **Setting foster care standard rates.** The commissioner shall annually establish minimum standard maintenance rates for foster care maintenance and difficulty of care payments for all children in foster care. Any increase in rates shall in no case exceed three percent per annum.

Sec. 4. Minnesota Statutes 2009 Supplement, section 260.012, is amended to read:

**260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.**

(a) Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate services, by the social services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, and the court must ensure that the responsible social services agency makes reasonable efforts to finalize an alternative permanent plan for the child as provided in paragraph (e). In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's best interests, health, and safety must be of paramount concern. Reasonable efforts to prevent placement and for rehabilitation and reunification are always required except upon a determination by the court that 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 terminated involuntarily;
- (3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);
- (4) the parent's custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph ~~(c)~~ (d), 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 under the circumstances.

(b) When the court makes one of the prima facie determinations under paragraph (a), either permanency pleadings under section 260C.201, subdivision 11, or a termination of parental rights petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under section 260C.201, subdivision 11, must be held within 30 days of this determination.



(c) In the case of an Indian child, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social services agency must provide active efforts as required under United States Code, title 25, section 1911(d).

(d) "Reasonable efforts to prevent placement" means:

(1) the agency has made reasonable efforts to prevent the placement of the child in foster care by working with the family to develop and implement a safety plan; or

(2) given the particular circumstances of the child and family at the time of the child's removal, there are no services or efforts available which could allow the child to safely remain in the home.

(e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence by the responsible social services agency to:

(1) reunify the child with the parent or guardian from whom the child was removed;

(2) assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services necessary to enable the noncustodial parent to safely provide the care, as required by section 260C.212, subdivision 4;

(3) conduct a relative search to identify and provide notice to adult relatives as required under section 260C.212, subdivision 5;

(4) place siblings removed from their home in the same home for foster care or adoption, or transfer permanent legal and physical custody to a relative. Visitation between siblings who are not in the same foster care, adoption, or custodial placement or facility shall be consistent with section 260C.212, subdivision 2; and

(5) when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, and considers permanent alternative homes for the child inside or outside of the state, preferably through adoption or transfer of permanent legal and physical custody of the child.

(f) Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the needs of the child and the child's family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community. At each stage of the proceedings where the court is required to review the appropriateness of the responsible social services agency's reasonable efforts as described in paragraphs (a), (d), and (e), the social services agency has the burden of demonstrating that:

(1) it has made reasonable efforts to prevent placement of the child in foster care;

(2) it has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time;

(3) it has made reasonable efforts to finalize an alternative permanent home for the child, and considers permanent alternative homes for the child inside or outside of the state; or

(4) reasonable efforts to prevent placement and to reunify the child with the parent or guardian are not required. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate there is no need for reasonable efforts to reunify the parent and child, or through testimony or a certified report required under juvenile court rules.

(g) Once the court determines that reasonable efforts for reunification are not required because the court has made one of the prima facie determinations under paragraph (a), the court may only require reasonable efforts for reunification after a hearing according to section 260C.163, where the court finds there is not clear and convincing evidence of the facts upon which the court based its prima facie determination. In this case when there is clear and convincing evidence that the child is in need of protection or services, the court may find the child in need of protection or services and order any of the dispositions available under section 260C.201, subdivision 1. Reunification of a surviving child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the surviving child; or

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent.

(h) The juvenile court, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

- (1) relevant to the safety and protection of the child;
- (2) adequate to meet the needs of the child and family;
- (3) culturally appropriate;
- (4) available and accessible;
- (5) consistent and timely; and
- (6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for treatment of a child with a mental disability when it is determined to be medically necessary as a result of the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program and the level or intensity of supervision and treatment cannot be effectively and safely provided in the child's home or community and it is determined that a residential treatment setting is the least restrictive setting that is appropriate to the needs of the child.

(j) If continuation of reasonable efforts to prevent placement or reunify the child with the parent or guardian from whom the child was removed is determined by the court to be inconsistent with the permanent plan for the child or upon the court making one of the prima facie determinations under paragraph (a), reasonable efforts must be made to place the child in a timely manner in a safe and permanent home and to complete whatever steps are necessary to legally finalize the permanent placement of the child.

(k) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraph (a), the agency shall disclose its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under both plans.

Sec. 5. Minnesota Statutes 2008, section 260C.007, subdivision 4, is amended to read:

Subd. 4. **Child.** "Child" means an individual under 18 years of age. For purposes of this chapter, "child" also includes individuals under age 21 who are in foster care pursuant to section 260C.451.

Sec. 6. Minnesota Statutes 2008, section 260C.193, subdivision 6, is amended to read:

Subd. 6. **Jurisdiction to review foster care to age 21, termination of jurisdiction, jurisdiction to age 18.** (a) Jurisdiction over a child in foster care pursuant to section 260C.451 may continue to age 21 for the purpose of conducting the reviews required under section 260C.201, subdivision 11, paragraph (d), 260C.212, subdivision 7, or 260C.317, subdivision 3. Jurisdiction over a child in foster care pursuant to section 260C.451 shall not be terminated without giving the child notice of any motion or proposed order to dismiss jurisdiction and an opportunity to be heard on the appropriateness of the dismissal. When a child in foster care pursuant to section 260C.451 asks to leave foster care or actually leaves foster care, the court may terminate its jurisdiction.

(b) Except when a court order is necessary for a child to be in foster care or when continued review under (1) section 260C.212, subdivision 7, paragraph (d), or section 260C.201, subdivision 11, paragraph (d), and (2) 260C.317, subdivision 3, is required for a child in foster care under section 260C.451, the court may dismiss the petition or otherwise terminate its jurisdiction on its own motion or on the motion or petition of any interested party at any time upon a determination that jurisdiction is no longer necessary to protect the child's best interests.

(c) Unless terminated by the court, and except as otherwise provided in this subdivision, the jurisdiction of the court shall continue until the individual child becomes 19 18 years of age if the court determines it is in the best interest of the individual to do so.

Sec. 7. Minnesota Statutes 2008, section 260C.201, subdivision 10, is amended to read:

Subd. 10. **Court review of foster care.** (a) If the court orders a child placed in foster care, the court shall review the out-of-home placement at least every 90 days as required in juvenile court rules to determine whether continued out-of-home placement is necessary and appropriate or whether the child should be returned home. This review is

not required if the court has returned the child home, ordered the child permanently placed away from the parent under subdivision 11, or terminated rights under section 260C.301. Court review for a child permanently placed away from a parent, including where the child is under guardianship and legal custody of the commissioner, shall be governed by subdivision 11 or section 260C.317, subdivision 3, whichever is applicable.

(b) No later than six months after the child's placement in foster care, the court shall review agency efforts pursuant to section 260C.212, subdivision 2, and order that the efforts continue if the agency has failed to perform the duties under that section.

(c) The court shall review the out-of-home placement plan and may modify the plan as provided under subdivisions 6 and 7.

(d) When the court orders transfer of custody to a responsible social services agency resulting in foster care or protective supervision with a noncustodial parent under subdivision 1, the court shall notify the parents of the provisions of subdivisions 11 and 11a as required under juvenile court rules.

(e) When a child remains in foster care pursuant to section 260C.451 and the court has jurisdiction pursuant to section 260C.193, subdivision 6, paragraph (c), the court shall annually conduct the review required under subdivision 11, paragraph (d), or sections 260C.212, subdivision 7, and 260C.317, subdivision 3.

Sec. 8. Minnesota Statutes 2009 Supplement, 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 foster care no later than 180 days after the initial placement of the child in 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 court 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; 260C.141, subdivision 2 or 2a, clause (2); or 260C.317 shall satisfy the requirement for the review so long as the other requirements of this section are met.

(c) 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) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care;

(5) 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 (11), 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 section 260C.456 or Minnesota Rules, part ~~9560.0060~~ 9560.0660, 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 256.045. 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) Consistent with the requirements of the independent living plan, the court shall ~~make findings regarding review 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.

(e) When a child is age 17 or older, during the 90-day period immediately prior to the date the child is expected to be discharged from foster care, the responsible social services agency is required to provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child. The transition plan must be as detailed as the child may elect and include specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services. The county shall also provide the individual with appropriate contact information if the individual needs more information or needs help dealing with a crisis situation through age 21.

Sec. 9. Minnesota Statutes 2008, section 260C.451, is amended to read:

**260C.451 ~~AGE LIMIT FOR BENEFITS TO CHILDREN~~ FOSTER CARE BENEFITS TO AGE 21.**

Subdivision 1. **Notification of benefits.** For purposes of any program for foster children or children under state guardianship for which benefits are made available on June 1, 1973, unless specifically provided therein, the age of majority shall be 21 years of age. Within the six months prior to the child's 18th birthday, the local agency shall advise any child in foster care under this chapter, the child's parents or legal guardian, if any, and the child's foster parents of the availability of benefits of the foster care program up to age 21.

Subd. 2. **Independent living plan.** Upon the request of any child receiving foster care benefits immediately prior to the child's 18th birthday and who is in foster care at the time of the request, the local agency shall, in conjunction with the child and other appropriate parties, update the independent living plan required under section 260C.212, subdivision 1, paragraph (c), clause (11), related to the child's employment, vocational, educational, social, or maturational needs. The agency shall provide continued services and foster care for the child including as necessary to implement the independent living plan.

Subd. 3. **Eligibility.** A child already in foster care may continue in foster care past age 18. The child must meet at least one of the following conditions to be considered eligible to continue in foster care to age 21. The child must be:

- (1) completing secondary education or a program leading to an equivalent credential;
- (2) enrolled in an institution which provides postsecondary or vocational education;
- (3) participating in a program or activity designed to promote or remove barriers to employment;
- (4) employed for at least 80 hours per month; or
- (5) incapable of doing any of the activities described in clauses (1) to (4) due to a medical condition.

Subd. 4. **Foster care benefits.** For children between the ages of 18 and 21, "foster care benefits" means payment for those foster care settings defined in section 260C.007, subdivision 18. Additionally, foster care benefits means payment for a supervised setting in which a child may live independently.

Subd. 5. **Permanent decision.** The particular foster care setting, including supervised settings, shall be selected based on the best interest of the child consistent with section 260C.212, subdivision 2. Supervision in approved settings must be determined by an individual determination of the child's needs by the responsible social services agency and consistent with section 260C.212, subdivision 4a.

Subd. 6. **Individual plan to age 21.** Upon request of an individual between the ages of 18 and 21 who, within six months of the individual's 18th birthday, had been under the guardianship of the commissioner and who has left foster care, the responsible social services agency which had been the commissioner's agent for purposes of the guardianship shall develop with the individual a plan related to the individual's vocational, educational, social, or maturational needs. The agency shall provide foster care with maintenance and counseling benefits as required to implement the plan. The agency shall enter into a voluntary placement agreement with the individual if the plan includes foster care.

Subd. 7. **Jurisdiction.** Notwithstanding that the court retains jurisdiction pursuant to this section, individuals in foster care pursuant to this section are adults for all purposes except the continued provision of foster care. Any order establishing guardianship under section 260C.325, any legal custody order under section 260C.201, subdivision 1, and any order for legal custody associated with an order for long-term foster care under section 260C.201, subdivision 11, terminates on the child's 18th birthday.

Sec. 10. Minnesota Statutes 2008, section 626.556, subdivision 10, is amended to read:

**Subd. 10. Duties of local welfare agency and local law enforcement agency upon receipt of report.** (a) Upon receipt of a report, the local welfare agency shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy for child maltreatment. The local welfare agency:

(1) shall conduct an investigation on reports involving substantial child endangerment;

(2) shall begin an immediate investigation if, at any time when it is using a family assessment response, it determines that there is reason to believe that substantial child endangerment or a serious threat to the child's safety exists;

(3) may conduct a family assessment for reports that do not allege substantial child endangerment. In determining that a family assessment is appropriate, the local welfare agency may consider issues of child safety, parental cooperation, and the need for an immediate response; and

(4) may conduct a family assessment on a report that was initially screened and assigned for an investigation. In determining that a complete investigation is not required, the local welfare agency must document the reason for terminating the investigation and notify the local law enforcement agency if the local law enforcement agency is conducting a joint investigation.

If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, or sexual abuse by a person with a significant relationship to the child when that person resides in the child's household or by a sibling, the local welfare agency shall immediately conduct a family assessment or investigation as identified in clauses (1) to (4). In conducting a family assessment or investigation, the local welfare agency shall gather information on the existence of substance abuse and domestic violence and offer

services for purposes of preventing future child maltreatment, safeguarding and enhancing the welfare of the abused or neglected minor, and supporting and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

If the family assessment or investigation indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part 9530.6615. ~~The local welfare agency shall report the determination of the chemical use assessment, and the recommendations and referrals for alcohol and other drug treatment services to the state authority on alcohol and drug abuse.~~

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97. The commissioner of education shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding a child defined as a client in section 245.91 that maltreatment occurred at a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

(c) Authority of the local welfare agency responsible for assessing or investigating the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. For family assessments, it is the preferred practice to request a parent or guardian's permission to interview the child prior to conducting the child interview, unless doing so would compromise the safety assessment. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents



of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded, unless a school employee or agent is alleged to have maltreated the child. Until that time, the local welfare or law enforcement agency or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(e) Where the alleged offender or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(f) Before making an order under paragraph (e), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(g) The commissioner of human services, the ombudsman for mental health and developmental disabilities, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies have the right to

enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(h) The local welfare agency responsible for conducting a family assessment or investigation shall collect available and relevant information to determine child safety, risk of subsequent child maltreatment, and family strengths and needs and share not public information with an Indian's tribal social services agency without violating any law of the state that may otherwise impose duties of confidentiality on the local welfare agency in order to implement the tribal state agreement. The local welfare agency or the agency responsible for investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency or the agency responsible for assessing or investigating the report may make a determination of no maltreatment early in an assessment, and close the case and retain immunity, if the collected information shows no basis for a full assessment or investigation.

Information relevant to the assessment or investigation must be asked for, and may include:

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the child maintained by any facility, clinic, or health care professional and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

(4) information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this paragraph precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report

from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access to medical data and records for purposes of clause (3). Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency or the agency responsible for assessing or investigating the report during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11. Data of the commissioner of education collected or maintained during and for the purpose of an investigation of alleged maltreatment in a school are governed by this section, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (i), the commissioner of education shall collect investigative reports and data that are relevant to a report of maltreatment and are from local law enforcement and the school facility.

(i) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact with the child reported to be maltreated and with the child's primary caregiver sufficient to complete a safety assessment and ensure the immediate safety of the child. The face-to-face contact with the child and primary caregiver shall occur immediately if substantial child endangerment is alleged and within five calendar days for all other reports. If the alleged offender was not already interviewed as the primary caregiver, the local welfare agency shall also conduct a face-to-face interview with the alleged offender in the early stages of the assessment or investigation. At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(j) When conducting an investigation, the local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. For investigations only, the following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

(k) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (i), the commissioner of education shall collect available and relevant information and use the procedures in paragraphs (i), (k), and subdivision 3d, except that the requirement for face-to-face observation of the child and face-to-face interview of the alleged offender is to occur in the initial stages of the assessment or investigation provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (i) and (k), and subdivision 3d.

Sec. 11. **REPEALER.**

Minnesota Statutes 2008, section 256.82, subdivision 5, and Minnesota Rules, part 9560.0660, are repealed.

Presented to the governor May 6, 2010

Signed by the governor May 10, 2010, 2:19 p.m.