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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **1169**

February 19, 2007

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

A bill for an act

relating to human services; changing child welfare provisions; amending Minnesota Statutes 2006, sections 256.01, subdivision 2; 259.24, subdivision 3; 259.53, subdivision 1; 259.57, subdivision 1; 259.67, subdivision 7; 259.75, subdivision 8; 260.012; 260.771, subdivisions 1, 2; 260C.152, subdivision 5; 260C.201, subdivision 11; 260C.212, subdivisions 1, 4; 260C.317, subdivision 3; 626.556, subdivisions 10, 10a, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 260; repealing Laws 1997, chapter 8, section 1; Minnesota Rules, part 9560.0102, subpart 2, item C.

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

Section 1. Minnesota Statutes 2006, section 256.01, subdivision 2, is amended to read:

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

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

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

(2) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules,

2.1 federal laws, regulations, and policies governing welfare services and promote excellence  
2.2 of administration and program operation;

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

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

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

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

2.12 (7) enter into contractual agreements with federally recognized Indian tribes with  
2.13 a reservation in Minnesota to the extent necessary for the tribe to operate a federally  
2.14 approved family assistance program or any other program under the supervision of the  
2.15 commissioner. The commissioner shall consult with the affected county or counties in  
2.16 the contractual agreement negotiations, if the county or counties wish to be included,  
2.17 in order to avoid the duplication of county and tribal assistance program services. The  
2.18 commissioner may establish necessary accounts for the purposes of receiving and  
2.19 disbursing funds as necessary for the operation of the programs.

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

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

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

2.34 (e) Assist and actively cooperate with other departments, agencies and institutions,  
2.35 local, state, and federal, by performing services in conformity with the purposes of Laws  
2.36 1939, chapter 431.

3.1 (f) Act as the agent of and cooperate with the federal government in matters of  
3.2 mutual concern relative to and in conformity with the provisions of Laws 1939, chapter  
3.3 431, including the administration of any federal funds granted to the state to aid in the  
3.4 performance of any functions of the commissioner as specified in Laws 1939, chapter 431,  
3.5 and including the promulgation of rules making uniformly available medical care benefits  
3.6 to all recipients of public assistance, at such times as the federal government increases its  
3.7 participation in assistance expenditures for medical care to recipients of public assistance,  
3.8 the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

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

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

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

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

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

3.34 (l) Have the authority to conduct and administer experimental projects to test  
3.35 methods and procedures of administering assistance and services to recipients or potential  
3.36 recipients of public welfare. To carry out such experimental projects, it is further provided

4.1 that the commissioner of human services is authorized to waive the enforcement of  
4.2 existing specific statutory program requirements, rules, and standards in one or more  
4.3 counties. The order establishing the waiver shall provide alternative methods and  
4.4 procedures of administration, shall not be in conflict with the basic purposes, coverage, or  
4.5 benefits provided by law, and in no event shall the duration of a project exceed four years.  
4.6 It is further provided that no order establishing an experimental project as authorized by  
4.7 the provisions of this section shall become effective until the following conditions have  
4.8 been met:

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

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

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

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

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

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

5.7 (o) Develop and implement special projects that maximize reimbursements and  
5.8 result in the recovery of money to the state. For the purpose of recovering state money,  
5.9 the commissioner may enter into contracts with third parties. Any recoveries that result  
5.10 from projects or contracts entered into under this paragraph shall be deposited in the  
5.11 state treasury and credited to a special account until the balance in the account reaches  
5.12 \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be  
5.13 transferred and credited to the general fund. All money in the account is appropriated to  
5.14 the commissioner for the purposes of this paragraph.

5.15 (p) Have the authority to make direct payments to facilities providing shelter  
5.16 to women and their children according to section 256D.05, subdivision 3. Upon  
5.17 the written request of a shelter facility that has been denied payments under section  
5.18 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make  
5.19 a determination within 30 days of the request for review regarding issuance of direct  
5.20 payments to the shelter facility. Failure to act within 30 days shall be considered a  
5.21 determination not to issue direct payments.

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

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

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

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

6.7 (4) a county board that submits reports that are late, illegible, incomplete, or not  
6.8 in the required format for two out of three consecutive reporting periods is considered  
6.9 noncompliant. When a county board is found to be noncompliant, the commissioner  
6.10 shall notify the county board of the reason the county board is considered noncompliant  
6.11 and request that the county board develop a corrective action plan stating how the  
6.12 county board plans to correct the problem. The corrective action plan must be submitted  
6.13 to the commissioner within 45 days after the date the county board received notice  
6.14 of noncompliance;

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

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

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

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

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

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

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

7.22 (v) Have the authority to administer the federal drug rebate program for drugs  
7.23 purchased under the medical assistance program as allowed by section 1927 of title XIX  
7.24 of the Social Security Act and according to the terms and conditions of section 1927.  
7.25 Rebates shall be collected for all drugs that have been dispensed or administered in an  
7.26 outpatient setting and that are from manufacturers who have signed a rebate agreement  
7.27 with the United States Department of Health and Human Services.

7.28 (w) Have the authority to administer a supplemental drug rebate program for drugs  
7.29 purchased under the medical assistance program. The commissioner may enter into  
7.30 supplemental rebate contracts with pharmaceutical manufacturers and may require prior  
7.31 authorization for drugs that are from manufacturers that have not signed a supplemental  
7.32 rebate contract. Prior authorization of drugs shall be subject to the provisions of section  
7.33 256B.0625, subdivision 13.

7.34 (x) Operate the department's communication systems account established in Laws  
7.35 1993, First Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared  
7.36 communication costs necessary for the operation of the programs the commissioner

8.1 supervises. A communications account may also be established for each regional  
8.2 treatment center which operates communications systems. Each account must be used  
8.3 to manage shared communication costs necessary for the operations of the programs the  
8.4 commissioner supervises. The commissioner may distribute the costs of operating and  
8.5 maintaining communication systems to participants in a manner that reflects actual usage.  
8.6 Costs may include acquisition, licensing, insurance, maintenance, repair, staff time and  
8.7 other costs as determined by the commissioner. Nonprofit organizations and state, county,  
8.8 and local government agencies involved in the operation of programs the commissioner  
8.9 supervises may participate in the use of the department's communications technology and  
8.10 share in the cost of operation. The commissioner may accept on behalf of the state any  
8.11 gift, bequest, devise or personal property of any kind, or money tendered to the state for  
8.12 any lawful purpose pertaining to the communication activities of the department. Any  
8.13 money received for this purpose must be deposited in the department's communication  
8.14 systems accounts. Money collected by the commissioner for the use of communication  
8.15 systems must be deposited in the state communication systems account and is appropriated  
8.16 to the commissioner for purposes of this section.

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

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

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

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

9.5 (cc) Have the authority to administer a drug rebate program for drugs purchased for  
 9.6 persons eligible for general assistance medical care under section 256D.03, subdivision 3.  
 9.7 For manufacturers that agree to participate in the general assistance medical care rebate  
 9.8 program, the commissioner shall enter into a rebate agreement for covered drugs as  
 9.9 defined in section 256B.0625, subdivisions 13 and 13d. For each drug, the amount of the  
 9.10 rebate shall be equal to the rebate as defined for purposes of the federal rebate program in  
 9.11 United States Code, title 42, section 1396r-8. The manufacturers must provide payment  
 9.12 within the terms and conditions used for the federal rebate program established under  
 9.13 section 1927 of title XIX of the Social Security Act. The rebate program shall utilize  
 9.14 the terms and conditions used for the federal rebate program established under section  
 9.15 1927 of title XIX of the Social Security Act.

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

9.18 (1) are covered under the medical assistance program as described in section  
 9.19 256B.0625, subdivisions 13 and 13d; and

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

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

9.27 Sec. 2. Minnesota Statutes 2006, section 259.24, subdivision 3, is amended to read:

9.28 Subd. 3. **Child.** When the child to be adopted is over 14 years of age, the child's  
 9.29 written consent to adoption by a particular person is also ~~shall be~~ necessary. A child  
 9.30 of any age who is under the guardianship of the commissioner and is legally available  
 9.31 for adoption may not refuse or waive the commissioner's agent's exhaustive efforts to  
 9.32 recruit, identify, and place the child in an adoptive home required under section 260C.317,  
 9.33 subdivision 3, paragraph (b), or sign a document relieving county social services agencies  
 9.34 of all recruitment efforts on the child's behalf.

10.1 Sec. 3. Minnesota Statutes 2006, section 259.53, subdivision 1, is amended to read:

10.2 Subdivision 1. **Notice to commissioner; referral for postplacement assessment.**

10.3 (a) Upon the filing of a petition for adoption of a child who is:

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

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

10.9 (3) placed by preadoptive custody order for a direct adoptive placement ordered  
10.10 by the district court under section 259.47,

10.11 the court administrator shall immediately transmit a copy of the petition to the  
10.12 commissioner of human services.

10.13 (b) The court shall immediately refer the petition to the agency specified below for  
10.14 completion of a postplacement assessment and report as required by subdivision 2.

10.15 (1) If the child to be adopted has been committed to the guardianship of the  
10.16 commissioner or an agency under section 260C.317 or an agency has been given authority  
10.17 to place the child under section 259.25, the court shall refer the petition to that agency,  
10.18 unless another agency is supervising the placement, in which case the court shall refer the  
10.19 petition to the supervising agency.

10.20 (2) If the child to be adopted has been placed in the petitioner's home by a direct  
10.21 adoptive placement, the court shall refer the petition to the agency supervising the  
10.22 placement under section 259.47, subdivision 3, paragraph (a), clause (6).

10.23 (3) If the child is to be adopted by an individual who is related to the child as defined  
10.24 by section 245A.02, subdivision 13, and in all other instances not described in clause (1)  
10.25 or (2), the court shall refer the petition to the local social services agency of the county in  
10.26 which the prospective adoptive parent lives.

10.27 Sec. 4. Minnesota Statutes 2006, section 259.57, subdivision 1, is amended to read:

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

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

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

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

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

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

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

11.13 Sec. 5. Minnesota Statutes 2006, section 259.67, subdivision 7, is amended to read:

11.14 Subd. 7. **Reimbursement of costs.** (a) Subject to rules of the commissioner, and  
 11.15 the provisions of this subdivision a child-placing agency licensed in Minnesota or any  
 11.16 other state, or local or tribal social services agency shall receive a reimbursement from the  
 11.17 commissioner equal to 100 percent of the reasonable and appropriate cost of providing  
 11.18 adoption services ~~for a child certified as eligible for adoption assistance under subdivision~~  
 11.19 ~~4. Such assistance.~~ Adoption services under this subdivision may include adoptive family  
 11.20 recruitment, counseling, and special training when needed.

11.21 (b) An eligible child must have a goal of adoption, which may include an adoption  
 11.22 in accordance with tribal law, and meet one of the following criteria:

11.23 (1) is a ward of the commissioner of human services or a ward of tribal court  
 11.24 pursuant to section 260.755, subdivision 12, who meets one of the criteria in subdivision  
 11.25 4, paragraph (b), clause (1), (2), or (3); or

11.26 (2) is under the guardianship of a Minnesota-licensed child-placing agency who  
 11.27 meets one of the criteria in subdivision 4, paragraph (b), clause (1) or (2).

11.28 (c) A child-placing agency licensed in Minnesota or any other state shall receive  
 11.29 reimbursement for adoption services it purchases for or directly provides to an eligible  
 11.30 child. Tribal social services shall receive reimbursement for adoption services it purchases  
 11.31 for or directly provides to an eligible child. A local or tribal social services agency shall  
 11.32 receive such reimbursement only for adoption services it purchases for an eligible child.

11.33 ~~A child-placing agency licensed in Minnesota or any other state or local or tribal~~  
 11.34 ~~social services agency seeking reimbursement under this subdivision shall enter into~~  
 11.35 Before providing adoption services for which reimbursement will be sought under this

12.1 subdivision, a reimbursement agreement, on the designated format, must be entered into  
 12.2 with the commissioner before providing adoption services for which reimbursement  
 12.3 is sought. No reimbursement under this subdivision shall be made to an agency for  
 12.4 services provided prior to entering a reimbursement agreement. Separate reimbursement  
 12.5 agreements shall be made for each child and separate records shall be kept on each child  
 12.6 for whom a reimbursement agreement is made. The commissioner of human services shall  
 12.7 agree that the reimbursement costs are reasonable and appropriate. The commissioner  
 12.8 may spend up to \$16,000 for each purchase of service agreement. Only one agreement per  
 12.9 child is allowed, unless an exception is granted by the commissioner. Funds encumbered  
 12.10 and obligated under such an agreement for the child remain available until the terms of  
 12.11 the agreement are fulfilled or the agreement is terminated.

12.12 ~~(c) When a local or tribal social services agency uses a purchase of service agreement~~  
 12.13 ~~to provide services reimbursable under a reimbursement agreement,~~ The commissioner  
 12.14 ~~may~~ shall make reimbursement payments directly to the agency providing the service if  
 12.15 direct reimbursement is specified by the purchase of service agreement, and if the request  
 12.16 for reimbursement is submitted by the local or tribal social services agency along with a  
 12.17 verification that the service was provided.

12.18 Sec. 6. Minnesota Statutes 2006, section 259.75, subdivision 8, is amended to read:

12.19 Subd. 8. **Reasons for deferral.** Deferral of the listing of a child with the state  
 12.20 adoption exchange shall be only for one or more of the following reasons:

12.21 (a) the child is in an adoptive placement but is not legally adopted;

12.22 (b) the child's foster parents or other individuals are now considering adoption;

12.23 (c) diagnostic study or testing is required to clarify the child's problem and provide  
 12.24 an adequate description; or

12.25 (d) the child is currently in a hospital and continuing need for daily professional care  
 12.26 will not permit placement in a family setting; ~~or,~~

12.27 ~~(e) the child is 14 years of age or older and will not consent to an adoption plan.~~

12.28 Approval of a request to defer listing for any of the reasons specified in paragraph (b) or  
 12.29 (c) shall be valid for a period not to exceed 90 days, with no subsequent deferrals for  
 12.30 those reasons.

12.31 Sec. 7. Minnesota Statutes 2006, section 260.012, is amended to read:

12.32 **260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY**  
 12.33 **REUNIFICATION; REASONABLE EFFORTS.**

13.1 (a) Once a child alleged to be in need of protection or services is under the court's  
13.2 jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate  
13.3 services, by the social services agency are made to prevent placement or to eliminate the  
13.4 need for removal and to reunite the child with the child's family at the earliest possible  
13.5 time, and when a child cannot be reunified with the parent or guardian from whom the  
13.6 child was removed, the court must ensure that the responsible social services agency  
13.7 makes reasonable efforts to finalize an alternative permanent plan for the child as provided  
13.8 in paragraph (e). In determining reasonable efforts to be made with respect to a child and  
13.9 in making those reasonable efforts, the child's best interests, health, and safety must be of  
13.10 paramount concern. Reasonable efforts to prevent placement and for rehabilitation and  
13.11 reunification are always required except upon a determination by the court that a petition  
13.12 has been filed stating a prima facie case that:

13.13 (1) the parent has subjected a child to egregious harm as defined in section  
13.14 260C.007, subdivision 14;

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

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

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

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

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

13.29 (c) In the case of an Indian child, in proceedings under sections 260B.178 or  
13.30 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions  
13.31 consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section  
13.32 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child  
13.33 Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social  
13.34 services agency must provide active efforts as required under United States Code, title  
13.35 25, section 1911(d).

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

14.1 (1) the agency has made reasonable efforts to prevent the placement of the child in  
14.2 foster care; or

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

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

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

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

14.12 (3) conduct a relative search as required under section 260C.212, subdivision 5; and

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

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

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

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

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

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

15.1 efforts to reunify the parent and child, or through testimony or a certified report required  
15.2 under juvenile court rules.

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

15.12 (1) a violation of, or an attempt or conspiracy to commit a violation of, sections  
15.13 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the  
15.14 parent;

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

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

15.19 (h) The juvenile court, in proceedings under sections 260B.178 or 260C.178,  
15.20 260C.201, and 260C.301 shall make findings and conclusions as to the provision of  
15.21 reasonable efforts. When determining whether reasonable efforts have been made, the  
15.22 court shall consider whether services to the child and family were:

15.23 (1) relevant to the safety and protection of the child;

15.24 (2) adequate to meet the needs of the child and family;

15.25 (3) culturally appropriate;

15.26 (4) available and accessible;

15.27 (5) consistent and timely; and

15.28 (6) realistic under the circumstances.

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

15.32 (i) This section does not prevent out-of-home placement for treatment of a child with  
15.33 a mental disability when the child's diagnostic assessment or individual treatment plan  
15.34 indicates that appropriate and necessary treatment cannot be effectively provided outside  
15.35 of a residential or inpatient treatment program.

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

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

16.16 Sec. 8. Minnesota Statutes 2006, section 260.771, subdivision 1, is amended to read:

16.17 Subdivision 1. **Indian tribe jurisdiction.** An Indian tribe with a tribal court has  
 16.18 exclusive jurisdiction over a child placement proceeding involving an Indian child who  
 16.19 resides or is domiciled within the reservation of such tribe ~~at the commencement of the~~  
 16.20 ~~proceedings.~~ When an Indian child is ~~in the legal custody of a person or agency pursuant~~  
 16.21 ~~to an order of a~~ ward of the tribal court, the Indian tribe retains exclusive jurisdiction,  
 16.22 notwithstanding the residence or domicile of the child.

16.23 Sec. 9. Minnesota Statutes 2006, section 260.771, subdivision 2, is amended to read:

16.24 Subd. 2. **Court determination of tribal affiliation of child.** In any child placement  
 16.25 proceeding, the court shall establish whether an Indian child is involved and the identity  
 16.26 of the Indian child's tribe. The federal Indian Child Welfare Act and this chapter are  
 16.27 applicable without exception in a child custody proceeding as defined in the federal  
 16.28 Indian Child Welfare Act involving an Indian child. This chapter applies to child custody  
 16.29 proceedings involving an Indian child whether the child is in the physical or legal custody  
 16.30 of an Indian parent, Indian custodian, Indian extended family member, or other person at  
 16.31 the commencement of the proceedings. A court may not determine the applicability of  
 16.32 the federal Indian Child Welfare Act or this chapter to a child custody proceeding based  
 16.33 upon whether an Indian child is part of an existing Indian family or based upon the level  
 16.34 of contact a child has with the child's Indian tribe, reservation, society, or community.

17.1 Sec. 10. **[260.852] PLACEMENT PROCEDURES.**

17.2 Subdivision 1. **Home study.** The state must have procedures for the orderly and  
17.3 timely interstate placement of children that are implemented in accordance with an  
17.4 interstate compact and that, within 60 days after the state receives from another state a  
17.5 request to conduct a study of a home environment for purposes of assessing the safety  
17.6 and suitability of placing a child in the home, the state shall, directly or by contract,  
17.7 conduct and complete a home study and return to the other state a report on the results of  
17.8 the study, which shall address the extent to which placement in the home would meet the  
17.9 needs of the child; except in the case of a home study begun before October 1, 2008, if the  
17.10 state fails to comply with conducting and completing the home study within the 60-day  
17.11 period and this is as a result of circumstances beyond the control of the state, the state has  
17.12 75 days to comply if the state documents the circumstances involved and certifies that  
17.13 completing the home study is in the best interests of the child.

17.14 This subdivision does not require the completion within the applicable period of  
17.15 the parts of the home study involving the education and training of the prospective foster  
17.16 or adoptive parents.

17.17 Subd. 2. **Effect of received report.** The state shall treat any report described in  
17.18 subdivision 1 that is received from another state, an Indian tribe, or a private agency  
17.19 under contract with another state or Indian tribe as meeting any requirements imposed by  
17.20 the state for the completion of a home study before placing a child in the home, unless,  
17.21 within 14 days after receipt of the report, the state determines, based on grounds that  
17.22 are specific to the content of the report, that making a decision in reliance on the report  
17.23 would be contrary to the welfare of the child.

17.24 Subd. 3. **Resources.** The state shall make effective use of cross-jurisdictional  
17.25 resources including through contract for the purchase of services and shall eliminate legal  
17.26 barriers to facilitate timely adoptive or permanent placements for waiting children. The  
17.27 state shall not impose any restriction on the use of private agencies for the purpose of  
17.28 conducting a home study to meet the 60-day requirement.

17.29 Subd. 4. **Incentive eligibility.** Minnesota is an incentive-eligible state and must:

17.30 (1) have an approved plan as required by the United States Secretary of Health  
17.31 and Human Services;

17.32 (2) be in compliance with the data requirements of the United States Department of  
17.33 Health and Human Services; and

17.34 (3) have data that verify that a home study is completed within 30 days.

18.1 Subd. 5. **Data requirements.** The state shall provide to the United States Secretary  
 18.2 of Health and Human Services a written report, covering the preceding fiscal year, that  
 18.3 specifies:

18.4 (1) the total number of interstate home studies requested by the state with respect to  
 18.5 children in foster care under the responsibility of the state, and with respect to each such  
 18.6 study, the identity of the other state involved;

18.7 (2) the total number of timely interstate home studies completed by the state with  
 18.8 respect to children in foster care under the responsibility of other states and, with respect  
 18.9 to each such study, the identity of the other state involved; and

18.10 (3) other information the United States Secretary of Health and Human Services  
 18.11 requires in order to determine whether Minnesota is a home study incentive-eligible state.

18.12 Subd. 6. **Definitions.** (a) The definitions in this subdivision apply to this section.

18.13 (b) "Home study" means an evaluation of a home environment conducted in  
 18.14 accordance with applicable requirements of the state in which the home is located, to  
 18.15 determine whether a proposed placement of a child would meet the individual needs of the  
 18.16 child, including the child's safety, permanency, health, well-being, and mental, emotional,  
 18.17 and physical development.

18.18 (c) "Interstate home study" means a home study conducted by a state at the request  
 18.19 of another state to facilitate an adoptive or foster placement in the state of a child in foster  
 18.20 care under the responsibility of the state.

18.21 (d) "Timely interstate home study" means an interstate home study completed by a  
 18.22 state if the state provides to the state that requested the study, within 30 days after receipt  
 18.23 of the request, a report on the results of the study, except that there is no requirement  
 18.24 for completion within the 30-day period of the parts of the home study involving the  
 18.25 education and training of the prospective foster or adoptive parents.

18.26 Subd. 7. **Background study requirements for adoption and foster care.** (a)  
 18.27 Background study requirements for an adoption home study must be completed consistent  
 18.28 with section 259.41, subdivisions 1, 2, and 3.

18.29 (b) Background study requirements for a foster care license must be completed  
 18.30 consistent with section 245C.08.

18.31 Subd. 8. **Home visits.** If a child has been placed in foster care outside the state in  
 18.32 which the home of the parents of the child is located, periodically, but at least every six  
 18.33 months, a caseworker on the staff of the agency of the state in which the home of the  
 18.34 parents of the child is located or the state in which the child has been placed, or a private  
 18.35 agency under contract with either state, must visit the child in the home or institution and

19.1 submit a report on each visit to the agency of the state in which the home of the parents of  
19.2 the child is located.

19.3 Sec. 11. Minnesota Statutes 2006, section 260C.152, subdivision 5, is amended to read:

19.4 Subd. 5. **Notice to foster parents and preadoptive parents and relatives.** The  
19.5 foster parents, if any, of a child and any preadoptive parent or relative providing care  
19.6 for the child must be provided notice of and ~~an opportunity~~ a right to be heard in any  
19.7 review or hearing to be held with respect to the child. Any other relative may also request,  
19.8 and must be granted, a notice and the opportunity to be heard under this section. This  
19.9 subdivision does not require that a foster parent, preadoptive parent, or relative providing  
19.10 care for the child be made a party to a review or hearing solely on the basis of the notice  
19.11 and ~~opportunity~~ right to be heard.

19.12 Sec. 12. Minnesota Statutes 2006, section 260C.201, subdivision 11, is amended to  
19.13 read:

19.14 Subd. 11. **Review of court-ordered placements; permanent placement**  
19.15 **determination.** (a) This subdivision and subdivision 11a do not apply in cases where  
19.16 the child is in placement due solely to the child's developmental disability or emotional  
19.17 disturbance, where legal custody has not been transferred to the responsible social services  
19.18 agency, and where the court finds compelling reasons under section 260C.007, subdivision  
19.19 8, to continue the child in foster care past the time periods specified in this subdivision.  
19.20 Foster care placements of children due solely to their disability are governed by section  
19.21 260C.141, subdivision 2a. In all other cases where the child is in foster care or in the care  
19.22 of a noncustodial parent under subdivision 1, the court shall commence proceedings  
19.23 to determine the permanent status of a child not later than 12 months after the child is  
19.24 placed in foster care or in the care of a noncustodial parent. At the admit-deny hearing  
19.25 commencing such proceedings, the court shall determine whether there is a prima facie  
19.26 basis for finding that the agency made reasonable efforts, or in the case of an Indian  
19.27 child active efforts, required under section 260.012 and proceed according to the rules of  
19.28 juvenile court.

19.29 For purposes of this subdivision, the date of the child's placement in foster care is  
19.30 the earlier of the first court-ordered placement or 60 days after the date on which the  
19.31 child has been voluntarily placed in foster care by the child's parent or guardian. For  
19.32 purposes of this subdivision, time spent by a child under the protective supervision of  
19.33 the responsible social services agency in the home of a noncustodial parent pursuant to  
19.34 an order under subdivision 1 counts towards the requirement of a permanency hearing

20.1 under this subdivision or subdivision 11a. Time spent on a trial home visit ~~does not count~~  
20.2 counts towards the requirement of a permanency hearing under this subdivision ~~or~~ and a  
20.3 permanency review for a child under eight years of age under subdivision 11a.

20.4 For purposes of this subdivision, 12 months is calculated as follows:

20.5 (1) during the pendency of a petition alleging that a child is in need of protection  
20.6 or services, all time periods when a child is placed in foster care or in the home of a  
20.7 noncustodial parent are cumulated;

20.8 (2) if a child has been placed in foster care within the previous five years under one  
20.9 or more previous petitions, the lengths of all prior time periods when the child was placed  
20.10 in foster care within the previous five years are cumulated. If a child under this clause  
20.11 has been in foster care for 12 months or more, the court, if it is in the best interests of the  
20.12 child and for compelling reasons, may extend the total time the child may continue out  
20.13 of the home under the current petition up to an additional six months before making a  
20.14 permanency determination.

20.15 (b) Unless the responsible social services agency recommends return of the child  
20.16 to the custodial parent or parents, not later than 30 days prior to the admit-deny hearing  
20.17 required under paragraph (a) and the rules of juvenile court, the responsible social services  
20.18 agency shall file pleadings in juvenile court to establish the basis for the juvenile court to  
20.19 order permanent placement of the child, including a termination of parental rights petition,  
20.20 according to paragraph (d). Notice of the hearing and copies of the pleadings must be  
20.21 provided pursuant to section 260C.152.

20.22 (c) The permanency proceedings shall be conducted in a timely fashion including  
20.23 that any trial required under section 260C.163 shall be commenced within 60 days of the  
20.24 admit-deny hearing required under paragraph (a). At the conclusion of the permanency  
20.25 proceedings, the court shall:

20.26 (1) order the child returned to the care of the parent or guardian from whom the  
20.27 child was removed; or

20.28 (2) order a permanent placement or termination of parental rights if permanent  
20.29 placement or termination of parental rights is in the child's best interests. The "best  
20.30 interests of the child" means all relevant factors to be considered and evaluated. Transfer  
20.31 of permanent legal and physical custody, termination of parental rights, or guardianship  
20.32 and legal custody to the commissioner through a consent to adopt are preferred  
20.33 permanency options for a child who cannot return home.

20.34 (d) If the child is not returned to the home, the court must order one of the following  
20.35 dispositions:

21.1 (1) permanent legal and physical custody to a relative in the best interests of the  
21.2 child according to the following conditions:

21.3 (i) an order for transfer of permanent legal and physical custody to a relative shall  
21.4 only be made after the court has reviewed the suitability of the prospective legal and  
21.5 physical custodian;

21.6 (ii) in transferring permanent legal and physical custody to a relative, the juvenile  
21.7 court shall follow the standards applicable under this chapter and chapter 260, and the  
21.8 procedures set out in the juvenile court rules;

21.9 (iii) an order establishing permanent legal and physical custody under this  
21.10 subdivision must be filed with the family court;

21.11 (iv) a transfer of legal and physical custody includes responsibility for the protection,  
21.12 education, care, and control of the child and decision making on behalf of the child;

21.13 (v) the social services agency may bring a petition or motion naming a fit and  
21.14 willing relative as a proposed permanent legal and physical custodian. The commissioner  
21.15 of human services shall annually prepare for counties information that must be given to  
21.16 proposed custodians about their legal rights and obligations as custodians together with  
21.17 information on financial and medical benefits for which the child is eligible; and

21.18 (vi) the juvenile court may maintain jurisdiction over the responsible social services  
21.19 agency, the parents or guardian of the child, the child, and the permanent legal and  
21.20 physical custodian for purposes of ensuring appropriate services are delivered to the child  
21.21 and permanent legal custodian or for the purpose of ensuring conditions ordered by the  
21.22 court related to the care and custody of the child are met;

21.23 (2) termination of parental rights when the requirements of sections 260C.301 to  
21.24 260C.328 are met or according to the following conditions:

21.25 (i) order the social services agency to file a petition for termination of parental  
21.26 rights in which case all the requirements of sections 260C.301 to 260C.328 remain  
21.27 applicable; and

21.28 (ii) an adoption completed subsequent to a determination under this subdivision may  
21.29 include an agreement for communication or contact under section 259.58;

21.30 (3) long-term foster care according to the following conditions:

21.31 (i) the court may order a child into long-term foster care only if it approves the  
21.32 responsible social service agency's compelling reasons that neither an award of permanent  
21.33 legal and physical custody to a relative, nor termination of parental rights is in the child's  
21.34 best interests;

21.35 (ii) further, the court may only order long-term foster care for the child under this  
21.36 section if it finds the following:

22.1 (A) the child has reached age 12 and the responsible social services agency has made  
22.2 reasonable efforts to locate and place the child with an adoptive family or with a fit and  
22.3 willing relative who will agree to a transfer of permanent legal and physical custody of  
22.4 the child, but such efforts have not proven successful; or

22.5 (B) the child is a sibling of a child described in subitem (A) and the siblings have  
22.6 a significant positive relationship and are ordered into the same long-term foster care  
22.7 home; and

22.8 (iii) at least annually, the responsible social services agency reconsiders its provision  
22.9 of services to the child and the child's placement in long-term foster care to ensure that:

22.10 (A) long-term foster care continues to be the most appropriate legal arrangement  
22.11 for meeting the child's need for permanency and stability, including whether there is  
22.12 another permanent placement option under this chapter that would better serve the child's  
22.13 needs and best interests;

22.14 (B) whenever possible, there is an identified long-term foster care family that is  
22.15 committed to being the foster family for the child as long as the child is a minor or under  
22.16 the jurisdiction of the court;

22.17 (C) the child is receiving appropriate services or assistance to maintain or build  
22.18 connections with the child's family and community;

22.19 (D) the child's physical and mental health needs are being appropriately provided  
22.20 for; and

22.21 (E) the child's educational needs are being met;

22.22 (4) foster care for a specified period of time according to the following conditions:

22.23 (i) foster care for a specified period of time may be ordered only if:

22.24 (A) the sole basis for an adjudication that the child is in need of protection or  
22.25 services is the child's behavior;

22.26 (B) the court finds that foster care for a specified period of time is in the best  
22.27 interests of the child; and

22.28 (C) the court approves the responsible social services agency's compelling reasons  
22.29 that neither an award of permanent legal and physical custody to a relative, nor termination  
22.30 of parental rights is in the child's best interests;

22.31 (ii) the order does not specify that the child continue in foster care for any period  
22.32 exceeding one year; or

22.33 (5) guardianship and legal custody to the commissioner of human services under  
22.34 the following procedures and conditions:

22.35 (i) there is an identified prospective adoptive home agreed to by the responsible  
22.36 social services agency having legal custody of the child pursuant to court order under this

23.1 section that has agreed to adopt the child and the court accepts the parent's voluntary  
23.2 consent to adopt under section 259.24, except that such consent executed by a parent under  
23.3 this item, following proper notice that consent given under this provision is irrevocable  
23.4 upon acceptance by the court, shall be irrevocable unless fraud is established and an order  
23.5 issues permitting revocation as stated in item (vii);

23.6 (ii) if the court accepts a consent to adopt in lieu of ordering one of the other  
23.7 enumerated permanency dispositions, the court must review the matter at least every 90  
23.8 days. The review will address the reasonable efforts of the agency to achieve a finalized  
23.9 adoption;

23.10 (iii) a consent to adopt under this clause vests all legal authority regarding the child,  
23.11 including guardianship and legal custody of the child, with the commissioner of human  
23.12 services as if the child were a state ward after termination of parental rights;

23.13 (iv) the court must forward a copy of the consent to adopt, together with a certified  
23.14 copy of the order transferring guardianship and legal custody to the commissioner, to  
23.15 the commissioner;

23.16 (v) if an adoption is not finalized by the identified prospective adoptive parent within  
23.17 12 months of the execution of the consent to adopt under this clause, the commissioner of  
23.18 human services or the commissioner's delegate shall pursue adoptive placement in another  
23.19 home unless the commissioner certifies that the failure to finalize is not due to either an  
23.20 action or a failure to act by the prospective adoptive parent;

23.21 (vi) notwithstanding item (v), the commissioner of human services or the  
23.22 commissioner's designee must pursue adoptive placement in another home as soon as the  
23.23 commissioner or commissioner's designee determines that finalization of the adoption with  
23.24 the identified prospective adoptive parent is not possible, that the identified prospective  
23.25 adoptive parent is not willing to adopt the child, that the identified prospective adoptive  
23.26 parent is not cooperative in completing the steps necessary to finalize the adoption, or  
23.27 upon the commissioner's determination to withhold consent to the adoption.

23.28 (vii) unless otherwise required by the Indian Child Welfare Act, United States Code,  
23.29 title 25, section 1913, a consent to adopt executed under this section, following proper  
23.30 notice that consent given under this provision is irrevocable upon acceptance by the court,  
23.31 shall be irrevocable upon acceptance by the court except upon order permitting revocation  
23.32 issued by the same court after written findings that consent was obtained by fraud.

23.33 (e) In ordering a permanent placement of a child, the court must be governed by the  
23.34 best interests of the child, including a review of the relationship between the child and  
23.35 relatives and the child and other important persons with whom the child has resided or  
23.36 had significant contact. When the court has determined that permanent placement of the

24.1 child away from the parent is necessary, the court shall consider permanent alternative  
24.2 homes that are available both inside and outside the state.

24.3 (f) Once a permanent placement determination has been made and permanent  
24.4 placement has been established, further court reviews are necessary if:

24.5 (1) the placement is long-term foster care or foster care for a specified period of time;

24.6 (2) the court orders further hearings because it has retained jurisdiction of a transfer  
24.7 of permanent legal and physical custody matter;

24.8 (3) an adoption has not yet been finalized; or

24.9 (4) there is a disruption of the permanent or long-term placement.

24.10 (g) Court reviews of an order for long-term foster care, whether under this section  
24.11 or section 260C.317, subdivision 3, paragraph (d), must be conducted at least yearly and  
24.12 must review the child's out-of-home placement plan and the reasonable efforts of the  
24.13 agency to finalize the permanent plan for the child including the agency's efforts to:

24.14 (1) ensure that long-term foster care continues to be the most appropriate legal  
24.15 arrangement for meeting the child's need for permanency and stability or, if not, to identify  
24.16 and attempt to finalize another permanent placement option under this chapter that would  
24.17 better serve the child's needs and best interests;

24.18 (2) identify a specific long-term foster home for the child, if one has not already  
24.19 been identified;

24.20 (3) support continued placement of the child in the identified home, if one has been  
24.21 identified;

24.22 (4) ensure appropriate services are provided to address the physical health, mental  
24.23 health, and educational needs of the child during the period of long-term foster care and  
24.24 also ensure appropriate services or assistance to maintain relationships with appropriate  
24.25 family members and the child's community; and

24.26 (5) plan for the child's independence upon the child's leaving long-term foster care  
24.27 living as required under section 260C.212, subdivision 1.

24.28 (h) In the event it is necessary for a child that has been ordered into foster care for a  
24.29 specified period of time to be in foster care longer than one year after the permanency  
24.30 hearing held under this section, not later than 12 months after the time the child was  
24.31 ordered into foster care for a specified period of time, the matter must be returned to  
24.32 court for a review of the appropriateness of continuing the child in foster care and of the  
24.33 responsible social services agency's reasonable efforts to finalize a permanent plan for  
24.34 the child; if it is in the child's best interests to continue the order for foster care for a  
24.35 specified period of time past a total of 12 months, the court shall set objectives for the

25.1 child's continuation in foster care, specify any further amount of time the child may be in  
25.2 foster care, and review the plan for the safe return of the child to the parent.

25.3 (i) An order permanently placing a child out of the home of the parent or guardian  
25.4 must include the following detailed findings:

25.5 (1) how the child's best interests are served by the order;

25.6 (2) the nature and extent of the responsible social service agency's reasonable efforts,  
25.7 or, in the case of an Indian child, active efforts to reunify the child with the parent or  
25.8 guardian where reasonable efforts are required;

25.9 (3) the parent's or parents' efforts and ability to use services to correct the conditions  
25.10 which led to the out-of-home placement; and

25.11 (4) that the conditions which led to the out-of-home placement have not been  
25.12 corrected so that the child can safely return home.

25.13 (j) An order for permanent legal and physical custody of a child may be modified  
25.14 under sections 518.18 and 518.185. The social services agency is a party to the proceeding  
25.15 and must receive notice. A parent may only seek modification of an order for long-term  
25.16 foster care upon motion and a showing by the parent of a substantial change in the parent's  
25.17 circumstances such that the parent could provide appropriate care for the child and that  
25.18 removal of the child from the child's permanent placement and the return to the parent's  
25.19 care would be in the best interest of the child. The responsible social services agency may  
25.20 ask the court to vacate an order for long-term foster care upon a prima facie showing  
25.21 that there is a factual basis for the court to order another permanency option under this  
25.22 chapter and that such an option is in the child's best interests. Upon a hearing where  
25.23 the court determines that there is a factual basis for vacating the order for long-term  
25.24 foster care and that another permanent order regarding the placement of the child is in  
25.25 the child's best interests, the court may vacate the order for long-term foster care and  
25.26 enter a different order for permanent placement that is in the child's best interests. The  
25.27 court shall not require further reasonable efforts to reunify the child with the parent or  
25.28 guardian as a basis for vacating the order for long-term foster care and ordering a different  
25.29 permanent placement in the child's best interests. The county attorney must file pleadings  
25.30 and give notice as required under the rules of juvenile court in order to modify an order for  
25.31 long-term foster care under this paragraph.

25.32 (k) The court shall issue an order required under this section within 15 days of the  
25.33 close of the proceedings. The court may extend issuing the order an additional 15 days  
25.34 when necessary in the interests of justice and the best interests of the child.

25.35 (l) This paragraph applies to proceedings required under this subdivision when  
25.36 the child is on a trial home visit:

26.1 (1) if the child is on a trial home visit 12 months after the child was placed in  
 26.2 foster care or in the care of a noncustodial parent as calculated in this subdivision, the  
 26.3 responsible social services agency may file a report with the court regarding the child's and  
 26.4 parent's progress on the trial home visit and its reasonable efforts to finalize the child's safe  
 26.5 and permanent return to the care of the parent in lieu of filing the pleadings required under  
 26.6 paragraph (b). The court shall make findings regarding reasonableness of the responsible  
 26.7 social services efforts to finalize the child's return home as the permanent order in the best  
 26.8 interests of the child. The court may continue the trial home visit to a total time not to  
 26.9 exceed six months as provided in subdivision 1. If the court finds the responsible social  
 26.10 services agency has not made reasonable efforts to finalize the child's return home as the  
 26.11 permanent order in the best interests of the child, the court may order other or additional  
 26.12 efforts to support the child's remaining in the care of the parent; and

26.13 (2) if a trial home visit ordered or continued at proceedings under this subdivision  
 26.14 terminates, the court shall re-commence proceedings under this subdivision to determine  
 26.15 the permanent status of the child not later than 30 days after the child is returned to foster  
 26.16 care.

26.17 Sec. 13. Minnesota Statutes 2006, section 260C.212, subdivision 1, is amended to read:

26.18 Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan  
 26.19 shall be prepared within 30 days after any child is placed in a residential facility by court  
 26.20 order or by the voluntary release of the child by the parent or parents.

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

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

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

26.34 (2) ordered by the court, either as presented or modified after hearing, under section  
 26.35 260C.178, subdivision 7, or 260C.201, subdivision 6; and

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

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

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

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

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

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

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

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

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

27.33 (6) documentation of steps to finalize the adoption or legal guardianship of the child  
27.34 if the court has issued an order terminating the rights of both parents of the child or of  
27.35 the only known, living parent of the child, ~~and~~. At a minimum, the documentation must  
27.36 include child-specific recruitment efforts such as relative search and the use of state,

28.1 regional, and national adoption exchanges to facilitate orderly and timely instate and  
28.2 interstate placements. A copy of this documentation shall be provided to the court in the  
28.3 review required under section 260C.317, subdivision 3, paragraph (b);

28.4 (7) ~~to the extent available and accessible~~, the health and educational records of the  
28.5 child including the most recent information available regarding:

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

28.7 (ii) the child's grade level performance;

28.8 (iii) the child's school record;

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

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

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

28.14 (vii) the child's medications; and

28.15 (viii) any other relevant health and education information;

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

28.19 (i) educational, vocational, or employment planning;

28.20 (ii) health care planning and medical coverage;

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

28.23 (iv) money management;

28.24 (v) planning for housing;

28.25 (vi) social and recreational skills; and

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

28.28 (9) for a child in placement due solely or in part to the child's emotional disturbance,  
28.29 diagnostic and assessment information, specific services relating to meeting the mental  
28.30 health care needs of the child, and treatment outcomes.

28.31 (d) The parent or parents or guardian and the child each shall have the right to legal  
28.32 counsel in the preparation of the case plan and shall be informed of the right at the time  
28.33 of placement of the child. The child shall also have the right to a guardian ad litem.

28.34 If unable to employ counsel from their own resources, the court shall appoint counsel  
28.35 upon the request of the parent or parents or the child or the child's legal guardian. The

29.1 parent or parents may also receive assistance from any person or social services agency  
29.2 in preparation of the case plan.

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

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

29.9 Sec. 14. Minnesota Statutes 2006, section 260C.212, subdivision 4, is amended to read:

29.10 Subd. 4. **Responsible social service agency's duties for children in placement.** (a)

29.11 When a child is in placement, the responsible social services agency shall make diligent  
29.12 efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

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

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

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

29.27 (ii) provide a parent who is the subject of a background study under section  
29.28 260C.209 15 days' notice that it intends to use the study to recommend against putting the  
29.29 child with that parent, as well as the notice provided in section 260C.209, subdivision 4,  
29.30 and the court shall afford the parent an opportunity to be heard concerning the study.

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

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

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

30.11 (b) The responsible social services agency shall give notice to the parent or parents  
30.12 or guardian of each child in a residential facility, other than a child in placement due  
30.13 solely to that child's developmental disability or emotional disturbance, of the following  
30.14 information:

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

30.18 (2) time limits on the length of placement and of reunification services, including  
30.19 the date on which the child is expected to be returned to and safely maintained in the  
30.20 home of the parent or parents or placed for adoption or otherwise permanently removed  
30.21 from the care of the parent by court order;

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

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

30.25 (5) the first consideration for placement with relatives;

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

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

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

30.34 (c) The responsible social services agency shall inform a parent considering  
30.35 voluntary placement of a child who is not developmentally disabled or emotionally  
30.36 disturbed of the following information:

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

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

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

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

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

31.20 (d) When an agency accepts a child for placement, the agency shall determine  
31.21 whether the child has had a physical examination by or under the direction of a licensed  
31.22 physician within the 12 months immediately preceding the date when the child came into  
31.23 the agency's care. If there is documentation that the child has had an examination within  
31.24 the last 12 months, the agency is responsible for seeing that the child has another physical  
31.25 examination within one year of the documented examination and annually in subsequent  
31.26 years. If the agency determines that the child has not had a physical examination within  
31.27 the 12 months immediately preceding placement, the agency shall ensure that the child  
31.28 has an examination within 30 days of coming into the agency's care and once a year  
31.29 in subsequent years.

31.30 (e) If a child leaves foster care by reason of having attained the age of majority  
31.31 under state law, the child must be given at no cost a copy of the child's health and  
31.32 education report.

31.33 Sec. 15. Minnesota Statutes 2006, section 260C.317, subdivision 3, is amended to read:

31.34 Subd. 3. **Order; retention of jurisdiction.** (a) A certified copy of the findings and  
31.35 the order terminating parental rights, and a summary of the court's information concerning

32.1 the child shall be furnished by the court to the commissioner or the agency to which  
 32.2 guardianship is transferred. The orders shall be on a document separate from the findings.  
 32.3 The court shall furnish the individual to whom guardianship is transferred a copy of the  
 32.4 order terminating parental rights.

32.5 (b) The court shall retain jurisdiction in a case where adoption is the intended  
 32.6 permanent placement disposition until the child's adoption is finalized, the child is 18 years  
 32.7 of age, or the child is otherwise ordered discharged from the jurisdiction of the court. The  
 32.8 guardian ad litem and counsel for the child shall continue on the case until an adoption  
 32.9 decree is entered. A hearing must be held every 90 days following termination of parental  
 32.10 rights for the court to review progress toward an adoptive placement and the specific  
 32.11 recruitment efforts the agency has taken to find an adoptive family or other placement  
 32.12 living arrangement for the child and to finalize the adoption or other permanency plan.

32.13 (c) The responsible social services agency may make a determination of compelling  
 32.14 reasons for a child to be in long-term foster care when the agency has made exhaustive  
 32.15 efforts to recruit, identify, and place the child in an adoptive home, and the child continues  
 32.16 in foster care for at least 24 months after the court has issued the order terminating  
 32.17 parental rights. A child of any age who is under the guardianship of the commissioner of  
 32.18 the Department of Human Services and is legally available for adoption may not refuse  
 32.19 or waive the commissioner's agent's exhaustive efforts to recruit, identify, and place the  
 32.20 child in an adoptive home required under paragraph (b) or sign a document relieving  
 32.21 county social services agencies of all recruitment efforts on the child's behalf. Upon  
 32.22 approving the agency's determination of compelling reasons, the court may order the  
 32.23 child placed in long-term foster care. At least every 12 months thereafter as long as the  
 32.24 child continues in out-of-home placement, the court shall conduct a permanency review  
 32.25 hearing to determine the future status of the child using the review requirements of section  
 32.26 260C.201, subdivision 11, paragraph (g).

32.27 (d) The court shall retain jurisdiction through the child's minority in a case where  
 32.28 long-term foster care is the permanent disposition whether under paragraph (c) or section  
 32.29 260C.201, subdivision 11.

32.30 Sec. 16. Minnesota Statutes 2006, section 626.556, is amended by adding a subdivision  
 32.31 to read:

32.32 **Subd. 3e. Agency responsibility for assessing or investigating reports of sexual**  
 32.33 **abuse.** The local welfare agency is the agency responsible for investigating allegations  
 32.34 of sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual

33.1 functioning within the family unit as a person responsible for the child's care, or a person  
 33.2 with a significant relationship to the child if that person resides in the child's household.

33.3 Sec. 17. Minnesota Statutes 2006, section 626.556, is amended by adding a subdivision  
 33.4 to read:

33.5 Subd. 3f. **Law enforcement agency responsibility for investigating**  
 33.6 **maltreatment.** The local law enforcement agency has responsibility for investigating any  
 33.7 report of child maltreatment if a violation of a criminal statute is alleged. Law enforcement  
 33.8 and the responsible agency must coordinate their investigations or assessments as required  
 33.9 under subdivision 10.

33.10 Sec. 18. Minnesota Statutes 2006, section 626.556, subdivision 10, is amended to read:

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

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

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

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

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

33.29 (5) if the report alleges neglect, physical abuse, or sexual abuse of a child living  
 33.30 on an Indian reservation, the county agency shall notify the applicable Indian tribe of  
 33.31 the report and request that the tribe jointly conduct the assessment or investigation with  
 33.32 the county agency.

33.33 If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian,  
 33.34 or individual functioning within the family unit as a person responsible for the child's

34.1 care, or sexual abuse by a person with a significant relationship to the child when that  
34.2 person resides in the child's household or by a sibling, the local welfare agency shall  
34.3 immediately conduct a family assessment or investigation as identified in clauses (1) to  
34.4 (4). In conducting a family assessment or investigation, the local welfare agency shall  
34.5 gather information on the existence of substance abuse and domestic violence and offer  
34.6 services for purposes of preventing future child maltreatment, safeguarding and enhancing  
34.7 the welfare of the abused or neglected minor, and supporting and preserving family  
34.8 life whenever possible. If the report alleges a violation of a criminal statute involving  
34.9 sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the  
34.10 local law enforcement agency and local welfare agency shall coordinate the planning and  
34.11 execution of their respective investigation and assessment efforts to avoid a duplication of  
34.12 fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of  
34.13 the results of its investigation. In cases of alleged child maltreatment resulting in death,  
34.14 the local agency may rely on the fact-finding efforts of a law enforcement investigation  
34.15 to make a determination of whether or not maltreatment occurred. When necessary the  
34.16 local welfare agency shall seek authority to remove the child from the custody of a parent,  
34.17 guardian, or adult with whom the child is living. In performing any of these duties, the  
34.18 local welfare agency shall maintain appropriate records.

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

34.25 (b) When a local agency receives a report or otherwise has information indicating  
34.26 that a child who is a client, as defined in section 245.91, has been the subject of physical  
34.27 abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section  
34.28 245.91, it shall, in addition to its other duties under this section, immediately inform the  
34.29 ombudsman established under sections 245.91 to 245.97. The commissioner of education  
34.30 shall inform the ombudsman established under sections 245.91 to 245.97 of reports  
34.31 regarding a child defined as a client in section 245.91 that maltreatment occurred at a  
34.32 school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

34.33 (c) Authority of the local welfare agency responsible for assessing or investigating  
34.34 the child abuse or neglect report, the agency responsible for assessing or investigating  
34.35 the report, and of the local law enforcement agency for investigating the alleged abuse or  
34.36 neglect includes, but is not limited to, authority to interview, without parental consent,

35.1 the alleged victim and any other minors who currently reside with or who have resided  
35.2 with the alleged offender. The interview may take place at school or at any facility or  
35.3 other place where the alleged victim or other minors might be found or the child may  
35.4 be transported to, and the interview conducted at, a place appropriate for the interview  
35.5 of a child designated by the local welfare agency or law enforcement agency. The  
35.6 interview may take place outside the presence of the alleged offender or parent, legal  
35.7 custodian, guardian, or school official. For family assessments, it is the preferred practice  
35.8 to request a parent or guardian's permission to interview the child prior to conducting the  
35.9 child interview, unless doing so would compromise the safety assessment. Except as  
35.10 provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the  
35.11 responsible local welfare or law enforcement agency no later than the conclusion of the  
35.12 investigation or assessment that this interview has occurred. Notwithstanding rule 49.02  
35.13 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after  
35.14 hearing on an ex parte motion by the local welfare agency, order that, where reasonable  
35.15 cause exists, the agency withhold notification of this interview from the parent, legal  
35.16 custodian, or guardian. If the interview took place or is to take place on school property,  
35.17 the order shall specify that school officials may not disclose to the parent, legal custodian,  
35.18 or guardian the contents of the notification of intent to interview the child on school  
35.19 property, as provided under this paragraph, and any other related information regarding  
35.20 the interview that may be a part of the child's school record. A copy of the order shall be  
35.21 sent by the local welfare or law enforcement agency to the appropriate school official.

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

36.1 for assessing or investigating a report of maltreatment shall be solely responsible for any  
36.2 disclosures regarding the nature of the assessment or investigation.

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

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

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

36.27 (g) The commissioner of human services, the ombudsman for mental health and  
36.28 developmental disabilities, the local welfare agencies responsible for investigating reports,  
36.29 the commissioner of education, and the local law enforcement agencies have the right to  
36.30 enter facilities as defined in subdivision 2 and to inspect and copy the facility's records,  
36.31 including medical records, as part of the investigation. Notwithstanding the provisions of  
36.32 chapter 13, they also have the right to inform the facility under investigation that they are  
36.33 conducting an investigation, to disclose to the facility the names of the individuals under  
36.34 investigation for abusing or neglecting a child, and to provide the facility with a copy of  
36.35 the report and the investigative findings.

37.1 (h) The local welfare agency responsible for conducting a family assessment shall  
37.2 collect available and relevant information to determine child safety, risk of subsequent  
37.3 child maltreatment, and family strengths and needs. The local welfare agency or the  
37.4 agency responsible for investigating the report shall collect available and relevant  
37.5 information to ascertain whether maltreatment occurred and whether protective services  
37.6 are needed. Information collected includes, when relevant, information with regard to  
37.7 the person reporting the alleged maltreatment, including the nature of the reporter's  
37.8 relationship to the child and to the alleged offender, and the basis of the reporter's  
37.9 knowledge for the report; the child allegedly being maltreated; the alleged offender; the  
37.10 child's caretaker; and other collateral sources having relevant information related to the  
37.11 alleged maltreatment. The local welfare agency or the agency responsible for assessing  
37.12 or investigating the report may make a determination of no maltreatment early in an  
37.13 assessment, and close the case and retain immunity, if the collected information shows no  
37.14 basis for a full assessment or investigation.

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

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

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

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

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

38.1 Nothing in this paragraph precludes the local welfare agency, the local law  
38.2 enforcement agency, or the agency responsible for assessing or investigating the report  
38.3 from collecting other relevant information necessary to conduct the assessment or  
38.4 investigation. Notwithstanding section 13.384 or 144.335, the local welfare agency has  
38.5 access to medical data and records for purposes of clause (3). Notwithstanding the data's  
38.6 classification in the possession of any other agency, data acquired by the local welfare  
38.7 agency or the agency responsible for assessing or investigating the report during the course  
38.8 of the assessment or investigation are private data on individuals and must be maintained  
38.9 in accordance with subdivision 11. Data of the commissioner of education collected  
38.10 or maintained during and for the purpose of an investigation of alleged maltreatment  
38.11 in a school are governed by this section, notwithstanding the data's classification as  
38.12 educational, licensing, or personnel data under chapter 13.

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

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

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

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

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

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

39.10 Sec. 19. Minnesota Statutes 2006, section 626.556, subdivision 10a, is amended to  
 39.11 read:

39.12 Subd. 10a. ~~Abuse outside family unit~~ **Law enforcement agency responsibility**  
 39.13 **for investigation; welfare agency reliance on law enforcement fact-finding; welfare**  
 39.14 **agency offer of services.** (a) If the report alleges neglect, physical abuse, or sexual abuse  
 39.15 by a person who is not a parent, guardian, sibling, person responsible for the child's care  
 39.16 functioning outside within the family unit as a person responsible for the child's care, or a  
 39.17 person who lives in the child's household and who has a significant relationship to the  
 39.18 child, in a setting other than a facility as defined in subdivision 2, the local welfare agency  
 39.19 shall immediately notify the appropriate law enforcement agency, which shall conduct an  
 39.20 investigation of the alleged abuse or neglect if a violation of a criminal statute is alleged.

39.21 (b) The local agency may rely on the fact-finding efforts of the law enforcement  
 39.22 investigation conducted under this subdivision to make a determination whether or not  
 39.23 threatened harm or other maltreatment has occurred under subdivision 2 if an alleged  
 39.24 offender has minor children or lives with minors.

39.25 (c) The local welfare agency shall offer appropriate social services for the purpose of  
 39.26 safeguarding and enhancing the welfare of the abused or neglected minor.

39.27 Sec. 20. **REVISOR'S INSTRUCTION.**

39.28 (a) The revisor shall renumber Minnesota Statutes, section 626.556, subdivision 3d,  
 39.29 as Minnesota Statutes, section 626.556, subdivision 3g.

39.30 (b) The revisor shall change references to Minnesota Statutes, section 260.851,  
 39.31 to section 260.853 and references to Minnesota Statutes, section 260.851, article 5, to  
 39.32 section 260.853, article IV, wherever those references appear in Minnesota Statutes and  
 39.33 Minnesota Rules.

40.1 Sec. 21. **REPEALER.**

40.2 (a) Laws 1997, chapter 8, section 1, is repealed.

40.3 (b) Minnesota Rules, part 9560.0102, subpart 2, item C, is repealed.