

2015



SESSION SUMMARIES

Session Summaries

Introduction

The Legal Services Advocacy Project (LSAP) is pleased to present the 2015 Session Summaries. These summaries cover a wide range of substantive areas and the specific changes to Minnesota law made by the 2015 Legislature that are of most relevant to the lives of low-income and financially-fragile Minnesotans and to the attorneys and advocates who represent and serve them. They are divided by area of substantive law, and contain the name and contact information for the LSAP attorney who is the lead in that substantive area. We hope you find them useful.

A Note on the Session Summaries

Each of the bills that became law in 2015 is assigned a *Chapter* number mostly in the order they are presented to the Governor. Collectively, the *Chapters* that became law comprise the 2015 “Minnesota Session Laws.”

In these Session Summaries, the *Chapter* number -- and either the House or Senate bill number associated with it -- are noted under each major law summarized. All the Chapters may be found on the Minnesota Legislature’s award-winning Web site. [Click here to view.](#)

Table of Contents

ADMINISTRATIVE LAW	4
ASSET BUILDING.....	5
CHILD CARE	8
CONSUMER LAW.....	14
COURTS.....	22
DHS LICENSING/BACKGROUND STUDIES.....	25
DISABILITY LAW.....	34
Health Care.....	35
Home and Community-Based Services (HCBS) Waiver-Related Changes	39
Long-Term Services and Supports (LTSS).....	45
Mental Health Changes.....	50
Deaf, Deafblind and Hard of Hearing.....	58
Special Education.....	59
Miscellaneous	61
State-Operated Services.....	63
Task Forces, Studies and Reports.....	64
ELDER LAW	67
FAMILY LAW/DOMESTIC ABUSE	68
GUARDIANSHIP and CONSERVATORSHIP LAW.....	88
HEALTH LAW	89
Public Programs.....	89
Mental Health	101
Continuing Care	112
Long-Term Care	119
Miscellaneous.....	120
JUVENILE LAW.....	128

PUBLIC BENEFITS LAW.....	151
RACIAL and CULTURAL EQUITY	157
UNEMPLOYMENT INSURANCE (UI) LAW	167
UTILITIES LAW	170

ADMINISTRATIVE LAW

Prepared by:
Ron Elwood, Supervising Attorney
Legal Services Advocacy Project
651-842-6909
relwood@mnlisap.org

I. ELECTRONIC FILINGS IN CONTESTED CASE HEARINGS

Regular Session, Chapter 63, Section 7 (HF 1725)

Amends Minn. Stat. § 14.58

Effective January 1, 2016, and applies to a contested case initiated on or after that date.

Permits all parties to a contested case, including agencies, to e-file all documents and necessary notices and information with the Office of Administrative Hearings.

II. ELECTRONIC FILING OF RULE-RELATED DOCUMENTS IN ADMINISTRATIVE MATTERS

Regular Session, Chapter 63, Sections 1 - 6 (HF 1725)

Amends Minn. Stat. §§ 14.08; 14.16, subd. 3; 14.26, subd. 3; and 14.386

Adds Minn. Stat. §§ 14.05, subd. 7; and 14.26, subd. 3a

Effective January 1, 2016, and applies to a rule for which a notice of intent to adopt a rule without a public hearing, a notice of hearing, a dual notice, or a notice of the proposed rule repeal is published in the State Register on or after that date

A. Filings by Agencies

Permits agencies to e-file rule-related documents with the Office of Administrative Hearings in a manner approved by the Revisor of Statutes.

Adds Minn. Stat. § 14.06, subd. 7

B. Filings by Office of Administrative Hearings and Administrative Law Judges

Allows e-filing by the Office of Administrative Hearings, the Chief ALJ, and other ALJs with the Secretary of State for required rule-related filings.

Amends Minn. Stat. §§ 14.08; 14.16, subd. 3; 14.26, subd. 3; and 14.386

Adds Minn. Stat. §§ 14.05, subd. 7; and 14.26, subd. 3a

ASSET BUILDING

Prepared by:

Ron Elwood, Supervising Attorney
Legal Services Advocacy Project
651-842-6909
relwood@mnlisap.org

I. FAMILY ASSETS FOR INDEPENDENCE IN MINNESOTA (FAIM) – FINANCIAL COACHING

Regular Session, Chapter 71, Article 1, Sections 13 and 14 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 256E.35, subd. 2

Adds Minn. Stat. § 256E.35, subd. 4a

Effective July 1, 2015

A. New Definition of “Financial Coach”

Adds a new definition of “financial coach” under the FAIM Program to mean a person who: (1) is trained in financial literacy and asset building; (2) participates in FAIM network training meetings under FAIM supervision; and (3) provides financial coaching to FAIM participants.

Amends Minn. Stat. § 256E.35, subd. 2

B. Duties of a Financial Coach

Specifies that a financial coach provides to FAIM participants: (1) financial education relating to budgeting, debt reduction, and financial stability activities; (2) asset-specific training related to buying a home, acquiring postsecondary education, or starting or expanding a small business; and (3) financial stability education and training to improve and sustain financial security.

Adds Minn. Stat. § 256E.35, subd. 4a

II. PRIZE-LINKED SAVINGS (SAVINGS PROMOTION RAFFLES)

Regular Session, Chapter 29 (HF 1127)

Amends Minn. Stat. §§ 48.15, subd.1; 52.04, subd.1; and 325F.755, subd.6

Adds Minn. Stat. §§ 609.75, subs. 14 - 16; and 609.761, subd. 6

Repeals Minn. Stat. § 609.75, subd. 13

Effective August 1, 2015

Prize-Linked Savings is one strategy to incent customers of credit unions and potentially mainstream banks to make deposits into their savings accounts in order to grow their assets. A financial institution offers a specified sum of money as a “prize” to a customer drawn at random who deposits at least the minimum amount required within the time established to qualify.

A. Authority to Offer

Provides statutory authority to banks and credit unions to offer “prize-linked” savings (defined in statute as “savings promotion raffles).” Exempts banks and credit unions from the consumer protection regulation under Minn. Stat. § 325F.55 (prizes and solicitations).

Amends Minn. Stat. §§ 48.15, subd. 1 (banks); and 52.04, subd. 1 (credit unions)

B. Definition

Defines "savings promotion raffle" as a contest or promotion where a prize is awarded through a lottery for bank customers who deposit specified minimums or amounts in certain designated accounts.

Adds Minn. Stat. § 609.75, subd. 14

III. MANDATORY REPORTING BY STATE OF CHILD SUPPORT ARREARS TO CREDIT BUREAUS

Regular Session, Chapter 71, Article 1, Section 86 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds Minn. Stat. § 518A.685

Effective July 1, 2016

A. Conditions for Reporting

Requires a “public authority” to report child support arrears to “consumer reporting agencies” if: (1) the person (“the obligor”) is behind in child support for the current month plus “any required arrearage payment for three months”; and (2) the public authority provides written notice to the last known mailing address at least 30 days before the public authority reports the arrears to the credit bureau.

Adds Minn. Stat. § 518A.685 (a) and (b)

Notes:

- A “public authority” is defined as “the local unit of government, acting on behalf of the state, that is responsible for child support enforcement or the Department of Human Services, Child Support Enforcement Division.” Minn. Stat. § 518A.26, subd. 18a.
- “Consumer reporting agency” is defined by cross-referencing the existing definitions found in state and federal statutes. See 15 U.S.C. § 1681a (f); and Minn. Stat. § 13C.001, subd. 4.

B. How Person (Obligor) Subject to Reporting Can Avoid an Adverse Report

Permits the person behind in the arrears and subject to the reporting of the arrears to prevent the reporting by, within 21 days of receipt of the notice: (1) paying the full arrears; or (2) requesting an administrative hearing, provided: (i) the request is to resolve a claim of mistaken identity; (ii) there is a pending legal action involving the arrears; or (iii) the arrears balance is incorrect.

Adds Minn. Stat. § 518A.685(c)

C. Correcting Inaccurate Reports

Requires a public authority to report to the consumer reporting agency that the child support is current if the public authority, after the person is in arrears, determines that the person: (1) has paid the child support arrears in full; or (2) is paying the current monthly support payment plus any required arrearage payment.

Adds Minn. Stat. § 518A.685 (d)

CHILD CARE

Prepared by:

Melinda Hugdahl, Staff Attorney

Legal Services Advocacy Project

651-842-6907

mthugdahl@mnlsap.org

Acronyms Used in this Section

CCAP	=	Child Care Assistance Program
DHS	=	Minnesota Department of Human Services
DWP	=	Diversionary Work Program
GA	=	General Assistance
GRH	=	Group Residential Housing
MFIP	=	Minnesota Family Investment Program
MSA	=	Minnesota Supplemental Aid
SNAP	=	Supplemental Nutrition Assistance Program

I. BASIC SLIDING FEE APPROPRIATION

First Special Session, Chapter 6, Section 1 (HF 6)

Amends Regular Session, Chapter 71, Article 14, Section 2, subd. 5

Effective July 1, 2015

Increases funding by approximately \$10 million to specifically reduce the Basic Sliding Fee waiting list (by approximately 300 families) in the 2016-2017 fiscal biennium.

II. PUBLIC ASSISTANCE SIMPLIFICATION

Regular Session, Chapter 71, Article 5, Sections 1 - 35 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Various Sections in Chapters 119B, 256D, 256I, 256P, 256J

Effective August 1, 2016

Implements the second phase of administrative simplification for public benefits programs. Last session, the Legislature created Chapter 256P to bring uniform treatment to income, assets, and household composition for MFIP, GA, MSA, and GRH. This year's changes build on Chapter 256P by incorporating child care assistance, streamlining income calculations, simplifying the required reporting for income and household composition changes, and making uniform the process for correcting overpayments and underpayments. The income definition simplification efforts, in particular, are another step toward encouraging asset building among public benefits recipients.

A. Technical Conformity

Makes technical changes to streamline the definition of terms, incorporate references to Chapter 256P, and bring additional uniformity to child care assistance, GA, GRH, and MFIP. *Sections 1-23: Amends Minn. Stat. §§ 119B.011, subd. 15; 119B.025, subd. 1; 119B.035, subd. 4; 119B.09, subd. 4; 256D.01, subd. 1a; 256D.02, subds. 1a and 1b; 256D.02, subd. 8; 256D.06, subd. 1; 256D.405, subd. 3; 256I.03, subds. 1b and 7; 256I.04, subd. 1; 256I.06, subd. 6; 256J.08, subds. 26 and 86; 256J.30, subds. 1 and 9; 256J.35; 256J.40; and 256J.95, subd. 19.*

B. Simplified Definition of Income

Simplifies the definition of earned and unearned income for MFIP, GA, GRH, CCAP, DWP, and MSA. Directs county workers to count and evaluate a narrowed list of countable income rather than utilize an exhaustive list of exclusions.

1. Earned Income

Defines earned income as: “cash or in-kind income earned through the receipt of wages, salary, commissions, bonuses, tips, gratuities, profit from employment activities, net profit from self-employment activities, payments made by an employer for regularly accrued vacation or sick leave, severance pay based on accrued leave time, payments from training programs at a rate at or greater than the state's minimum wage, royalties, honoraria, or other profit from activity that results from the client's work, service, effort, or labor. The income must be in return for, or as a result of, legal activity.”

Section 24: Amends Minn. Stat. § 256P.01, subd. 3

2. Unearned Income

Includes as unearned income: interest and dividends from investments and savings; capital gains; proceeds from rent and contract for deed payments that exceed the principal and interest owed on property; income from trusts (excluding special needs and supplemental trusts); interest income from loans made; cash prizes and winnings; unemployment insurance; retirement, survivors, and disability insurance payments; nonrecurring income over \$60 per quarter unless earmarked and used for the purpose for which it is intended; retirement benefits; cash assistance benefits as defined by each program in Chapters 119B, 256D, 256I, and 256J; tribal per capita payments unless excluded by federal and state law; income from service and rehabilitation programs that meet or exceed the state’s minimum wage; income from members of the US armed forces unless excluded from income taxes according to federal or state law; all child support payments for programs under Chapters 119B, 256D, and 256I; the amount of child support received that exceeds the MFIP child support disregard; spousal support.

Sections 25 and 31: Adds Minn. Stat. §§ 256P.01, subd. 8; and 256P.06 subd. 3.

C. Child Care Program Applicability and Exemption

Requires child care programs to comply with new income calculation and reporting requirements in Chapter 256P; however, exempts child care programs from several requirements in 256P due to unique policies within child care, including different documentation requirements that authorize hours of care and activities, and the use of co-pays rather than income disregards.

Sections 26, 27, 28, and 30: Amends Minn. Stat. §§ 256P.03, subd. 1; 256P.04, subd. 1; 256P.05, subd. 1

D. Income Reporting and Verification

Simplifies and streamlines reporting and verification of income across programs; however, exempts MSA and GRH participants from the Chapter 256P reporting requirements.

Section 32: Adds Minn. Stat. § 256P.07, subd. 1

1. Available Income

Requires the county to evaluate income received by members of an assistance unit or by other persons whose income is considered available to the assistance unit. Provides that income is only “available” if the individual has legal access to the income. Within CCAP and MFIP, exempts the income of children under age six, caregivers under age 20 if enrolled at least half time in school; and minors enrolled in school full time.

Section 31: Adds Minn. Stat. § 256P.06, subds. 1 and 2

2. Change Reporting Across All Programs (with limited exception)

Simplifies categories of changes that must be reported within 10 days of the date they occur, at recertification, or within eight days of a reporting period – whichever occurs first. Requires participants to report: (1) a change in earned income of \$100 per month or greater; (2) a change in unearned income of \$50 per month or greater; (3) a change in employment status and hours; (4) a change of address or residence; (5) a change in household composition with the exception of GRH; (6) receipt of a lump sum payment; (7) an increase in assets if over \$9,000 with the exception of child care programs; (8) a change in citizenship or immigration status; (9) a change in family status with the exception of GRH; (10) a change in disability status of a unit member with the exception of child care programs; (11) a new rent subsidy or change in rent subsidy; and (12) a sale, purchase, or transfer of real property.

Section 31: Adds Minn. Stat. § 256P.06, subd. 3

3. Program Specific Change Reporting

Creates additional MFIP and DWP-specific reporting: (1) a pregnancy not resulting in birth where there are no other minor children, and (2) a change in school attendance of a parent under 20 years of age or of an employed child. For DWP only: (1) shelter expenses, and (2) utility expenses. For child care only: (1) a change in visitation schedule or custody arrangement for any child receiving child care assistance, and (2) a change in authorized activity status. For MSA only: (1) shelter expenses.

Section 31: Adds Minn. Stat. § 256P.06, subds. 4, 5, 6, and 7.

4. “Specific Purpose” Funds Verification

Requires the county to verify program applicants’ use of nonrecurring income that exceeds \$60 per quarter if the applicant says the funds are being used for a specific purpose for which they were received.

Section 29: Amends Minn. Stat. § 256P.04

III. LEGAL NONLICENSED CHILD CARE PROVIDERS

Regular Session, Chapter 78, Article 1, Sections 1 and 3 (HF 1535)
Health and Human Services Policy Bill
Amends Minn. Stat. §§ 119B.011, subd. 16 and 119B.09, subd. 9
Effective May 23, 2015

A. Definition of “Legal Nonlicensed Child Care

Amends definition of “legal nonlicensed child care provider” to include a person providing care in a child’s home, if the provider is only caring for (1) related children; (2) children from a single, unrelated family [unrelated to the provider]; or (3) both related children and children from a single, unrelated family. This change permits CCAP payments to legal nonlicensed providers who provide care in the child’s home.

Amends Minn. Stat. § 119B.011, subd. 16

B. CCAP Payment Clarification

Clarifies that child care providers, other than providers in child care centers, cannot receive CCAP payments for hours they are caring for their own children.

Amends Minn. Stat. § 119B.09, subd. 9

IV. ELIGIBILITY REDETERMINATION

Regular Session, Chapter 78, Article 1, Section 2 (HF 1535)
Health and Human Services Policy Bill
Amends Minn. Stat. §119B.025, subd. 1
Effective August 1, 2015

Clarifies that in CCAP eligibility redeterminations, when the 30th day after the redetermination form was due falls on a Saturday, Sunday or legal holiday, the 30-day deadline is extended to include the next succeeding day that is not a Saturday, Sunday or legal holiday.

V. CHILD CARE – ATTENDANCE REPORTING

Regular Session, Chapter 78, Article 4, Section 4 (HF 1535)
Adds Minn. Stat. §119B.25, subd. 9
Effective August 1, 2015

Requires child care providers to report when a child’s attendance falls to less than half of authorized hours over a four-week period.

Requires the provider to provide additional attendance documentation upon request from the county or DHS.

VI. PROVIDER OVERPAYMENTS

*Regular Session, Chapter 71, Article 1, Section 1 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Adds Minn. Stat. § 119B.125, subd. 7
Effective July 1, 2015*

A. Recoupment

Requires DHS and counties to seek recoupment from providers for overpayments. Limits recoupment claims for overpayments due for a provider’s failure to provide attendance records to six years after the county or DHS requested the attendance records. Requires recoupment or recovery, regardless of amount, when a provider has been convicted or disqualified due to fraud (Minn. Stat. §256.98), theft (Minn. Stat. §609.52) or a federal crime related to theft of state funds or fraudulent billing.

B. Periodic Audits

Permits periodic DHS audits for compliance with record keeping requirements. *(See Minn. Stat. §119B.125, subd. 6).*

C. Notice to Provider

Requires DHS or the county to provide notice to the provider when seeking recoupment for overpayments that must include: (1) the specific reason(s) for overpayment; (2) authority for making the overpayment claim; (3) the time period during which overpayment(s) occurred; (4) the amount of overpayment; and (5) the provider’s right to appeal.

VII. PROVIDER PAYMENTS

*Regular Session, Chapter 71, Article 1, Section 2 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 119B.13, subd. 6
Effective July 1, 2015*

Adds authority for DHS, in addition to the counties, to authorize CCAP payments and determine if false attendance records have been provided. Clarifies DHS authority to suspend a provider’s license or provide a conditional license for violation of CCAP program rules.

VIII. LICENSE-EXEMPT CENTERS

*Regular Session, Chapter 37 (HF 1193)
Amends Minn. Stat. § 245A.03, subd. 2
Adds Minn. Stat. § 245A.03, subd. 4a
Repeals Minn. Stat. § 245A.03, subd. 2c
Effective July 1, 2015*

Note: *This resolves a dispute between a group of small, non-profit after school program for arts and DHS. The programs have not accepted CCAP, and do not consider themselves as a “child care” center. DHS disagreed, and originally required licensure. In 2012, a moratorium on additional license exemptions was enacted while the impacted programs and DHS worked out a resolution. This legislation represents the resolution, which allows nonprofit-based programs to opt out of CCAP and be a license-exempt center under state law.*

A. New Category Created

Adds category for license-exempt school aged child care centers if the center:

1. Is operated by a nonprofit that serves school-aged youth (kindergarten-12th grade);
2. Provides structured, supervised youth development activities, and learning opportunities before or after school, weekends, during the summer or other seasonal breaks in the school calendar;
3. Does not accept Child Care Assistance (CCAP)
4. Has an on-site director or supervisor responsible for overseeing written policies of management and control of the program's activities, ensuring the health and safety of participating children, and supervising staff and volunteers; and
5. Has written participation consent from each child's parent or legal guardian; and
6. Has provided notice to each parent/guardian that the program isn't licensed and is not eligible to accept child care assistance payments.

B. Corollary Clarification of Existing Law

Clarifies existing law that would permit a license-exempt center from choosing to seek licensure or continue to operate as a license-exempt center.

C. Repeal

Repeals statute (*See Minn. Stat. §245A.03, subd. 2a*) that placed three-year moratorium on school age care licensing.

IX. WRONGFUL EMPLOYMENT AT A CHILD CARE CENTER

Regular Session, Chapter 78, Article 4, Sections 45, 46, and 59 (HF 1535)

Health and Human Services Policy Bill

Adds Minn. Stat. §§ 245E.02, subd. 3a; 245E.02, subd. 4(d); and 609.816

Various Effective Dates

A. Hiring Practices

Prohibits a child care center provider from hiring an employee for purpose of obtaining Child Care Assistance Program (CCAP) funds.

Adds Minn. Stat. §§ 245E.02, subd. 3

Effective August 1, 2015

B. Provider Sanctions for Violation

Directs DHS, upon a finding that a provider hired an employee for the purpose of obtaining CCAP funds, to: (1) suspend payments to the provider; and (2) immediately and permanently revoke the license of the child care center.

Adds Minn. Stat. § 245E.02, subd. 4(d)

Effective August 1, 2015

C. Criminal Penalties

Makes hiring an employee for purpose of obtaining CCAP funds a theft crime, subjecting the provider to imprisonment and fines depending on the amount obtained.

Adds Minn. Stat. § 609.816

Effective August 1, 2015, and applies to crimes committed on or after that date.

CONSUMER LAW

Prepared by:

Ron Elwood, Supervising Attorney
Legal Services Advocacy Project
651-842-6909
relwood@mnlsap.org

I. CONCILIATION COURT

Regular Session, Chapter 27 (HF 1770)

Amends Minn. Stat. § 491A.01, subd 3a

Adds Minn. Stat. § 491A.01, subd. 11

Effective August 1, 2015

A. Expanded Jurisdiction to Reach Out-of-County Residents

Permits a county to take an action against a defendant who is not a resident of the county for debts owed for “fees, services, overpayments, or similar obligations.”

Adds Minn. Stat. § 491A.01, subd. 11

B. Public Assistance Overpayments Excluded

Limits the conciliation court’s jurisdiction, providing its reach does not extend to alleged public assistance overpayments that are governed under procedures set forth in Minnesota Statutes, Chapter 256.

Adds Minn. Stat. § 491A.01, subd. 11

C. Prior Notice Required

Makes jurisdiction contingent upon the prior provision of notice to the non-resident of the overdue debt that: (1) is sent by first class mail to the defendant’s last known address; and (2) states that the county may commence an action against a non-resident for the amount allegedly owed.

Adds Minn. Stat. § 491A.01, subd. 11

II. CONSERVATORSHIP - BONDS

Regular Session, Chapter 11 (HF 239)

Amends Minn. Stat. §§ 524.5-413 and 524.5-416

Effective May 2, 2015, and applies to conservators appointed, or conservatorships reviewed by the court, on or after that date

Provides the court with discretion to establish a bond “necessary to reasonably protect” the assets of a vulnerable adult or minor. Allows joint conservators the option to: (1) unite in a bond; or (2) give separate bonds. Provides that, as an alternative to furnishing a bond, a conservator may request that certain assets be blocked, but requires that the conservator must post a bond in an amount determined by the court to reasonably protect the unblocked assets of a vulnerable adult or minor to the extent the value of those assets is expected to exceed \$10,000.

III. EQUITY STRIPPING LAW EXTENDED TO FAMILY FARMS/FARMERS

Regular Session, Chapter 50 (SF 1587)

Regular Session, Chapter 44, Sections 32 - 35 (HF 1554)

Amends Minn. Stat. §§ 325N.01; 325N.10, subs. 2 and 7; and 325N.17

Expands the class of consumers protected against under Chapter 325 – the Equity Stripping Law – to include family farms where the land owner occupies one of the parcels as the owner’s principal residence. Accomplishes the expansion of coverage by amending several definitions in sections of the law governing “foreclosure consultants” and “foreclosure purchasers.”

Amends Minn. Stat. § 325N.01 (“residence in foreclosure”)

Amends Minn. Stat. § 325N.10, subd. 2 (“foreclosed homeowner”)

Amends Minn. Stat. § 325N.10, subd. 7 (“residence in foreclosure”)

IV. FORECLOSURE LAW CHANGES

A. Postponement Rights of Homeowner

Regular Session, Chapter 13 (SF 1444)

Amends Minn. Stat. § 580.07, subd. 2

Effective May 2, 2015 and applies to mortgages executed before, on, or after that date.

Clarifies that a homeowner does not lose the statutory right to the six-month redemption period under Minn. Stat. § 580.23 following a foreclosure sale if the original sale does not occur and a subsequent foreclosure action is taken.

B. When Reinstatement Amounts Must Be Requested and Provided

Regular Session, Chapter 13 (SF 1444)

Amends Minn. Stat. § 580.07, subd. 2

Effective August 1, 2015

1. When Requested

Provides that a homeowner must make a request for the reinstatement three days or more before the sale; otherwise foreclosing parties have no obligation to postpone the sale.

2. When Provided

Requires a foreclosing party to inform the homeowner of the reinstatement amount within three days of a request.

3. Effective Period of the Amount Provided

Establishes that the reinstatement amount provided is effective for seven days from the date it was provided or until the date of the foreclosure sale, whichever comes first.

4. Safe Harbor Against Invalidation of the Sale

A foreclosure sale is not invalidated if the reinstatement amount is mailed to a borrower “at least three days prior to the date of the completed foreclosure sale.”

C. Publication of Sale

Regular Session, Chapter 14 (SF 1147)

Adds Minn. Stat. § 580.033

Effective July 1, 2015 and applies to foreclosures in which the notice of pendency under Minn. Stat. § 580.032 is recorded on or after that date

Provides that publication of the notice of a foreclosure sale, required under Minn. Stat. § 580.03, is sufficient if it is published: (1) in “a qualified newspaper” with “its known office of issue” in the county where some or all of the mortgaged property is located; or (2) in a qualified newspaper in an adjoining county if the publisher of the newspaper states in a sworn affidavit that a substantial portion of the newspaper’s circulation is in the county where some or all of the mortgaged property is located.

Note: “Qualified newspaper” is defined in Minn. Stat. § 331A.01, subd. 8, and “known office of issue” is defined in Minn. Stat. § 331A.01, subd. 2.

D. Validation of Mortgage Sales

Regular Session, Chapter 13 (SF 1444)

Regular Session, Chapter 14 (SF 1147)

Amends Minn. Stat. § 582.25

Various Effective Dates

1. Untimely Notice of Postponement

Adds the failure to mail or publish timely notice of a postponement of the sheriff's sale to the list of claims that will not invalidate a foreclosure if not brought within a year after the redemption period expires.

Regular Session, Chapter 13 (SF 1444)

Effective August 1, 2015

2. Ineffective Publication

Adds the failure to publish notice of the foreclosure sale in a qualified newspaper to the list of claims that will not invalidate a foreclosure if not brought within a year after the redemption period expires.

Regular Session, Chapter 14 (SF 1147)

Effective July 1, 2015 and applies to foreclosures in which the notice of pendency under Minn. Stat. § 580.032 is recorded on or after that date

V. GUARANTEED ASSET PROTECTION WAIVERS (GAP Insurance)

First Special Session, Chapter 1, Article 3, Sections 3 - 9 (HF 3)

Jobs and Energy Omnibus Appropriations Bill

Adds Chapter 59D (Minn. Stat. §§ 59D.01 – 59D.07)

Effective August 1, 2015

Permits the sale of "Guaranteed Asset Protection Waivers" (commonly known as "Gap Insurance") in compliance with the new chapter.

Note: *GAP Waivers (or GAP Insurance) typically are purchased by a consumer who is purchasing a new or used motor vehicle with a loan. The purpose of this product is to insulate the buyer from further liability in the event of loss of the vehicle where the amount owed to the creditor exceeds the value of the vehicle and the insurance settlement. This product has always been known as "GAP Insurance" but this new law renames it "Guaranteed Asset Protection (GAP) Waiver," and creates a new legal category for and chapter governing the product.*

- A. GAP Insurance Defined as “Guaranteed Asset Protection (GAP) Waiver”**
Defines “GAP Waiver” to mean a “a contractual agreement” where the creditor, in exchange for the purchase of the waiver with a charge separate from the vehicle purchase, agrees to waive any money still due after the automobile insurance company has compensated the vehicle owner for a total loss, either in an accident or by theft.
Adds Minn. Stat. § 59D.02, subd. 7
- B. Eligible Sellers of GAP Waivers**
Permits the sale of “GAP Waivers” by an enumerated list of creditors, including: (1) a lender; (2) a lessor; (3) a motor vehicle dealer or seller that offers credit for the purchase of motor vehicles; (4) the seller in commercial retail installment transactions; or (5) assignees of the credit.
Adds Minn. Stat. § 59D.02, subd. 4
- C. Defined as “Not Insurance”**
Expressly exempts: (1) GAP Waivers from regulation as insurance; and (2) sellers from regulation as insurance brokers.
Adds Minn. Stat. § 59D.01 (b)
- D. Limitation of and Restriction on Sale of GAP Waivers**
1. Value of the Vehicle
Prohibits the sale of GAP Waivers on vehicles worth less than \$5,000.
Adds Minn. Stat. § 59D.02, subd. 9
 2. Commercial vs. Consumer Transaction
Limits authority to sell GAP Waivers for “personal, family, or household purposes” only.
Adds Minn. Stat. § 59D.03
- E. Required Disclosures**
Requires multiple disclosures, including verbatim, bold, large type, written disclosure: (1) that the purchase of the GAP Waiver is optional; and (2) of the right to cancel.
Adds Minn. Stat. § 59D.06 (b)

F. Right to Cancel

Grants the consumer the right to cancel “without penalty, fee, or cost” and a refund of money paid within a period no shorter than 30 days (called a “free look period” in the statute) through a specified procedure, provided no benefits have been provided during the “free look period.” Establishes terms for refunds for cancellation after the “free look period.”

Adds Minn. Stat. § 59D.02, subd. 6 (right to cancel)

Adds Minn. Stat. § 59D.06 (a)(6) (procedure)

Adds Minn. Stat. § 59D.07 (cancellation after the “free look period”)

G. Enforcement

Gives the Department of Commerce enforcement authority over the new law.

Adds Minn. Stat. § 59D.01(c)

VI. MEDICAL DEBT CONSUMER PROTECTION

Regular Session, Chapter 20 (SF 1741)

Adds Minn. Stat. § 604.175

Effective January 1, 2016, and applies to a nonprofit hospital on and after the date in 2016 when its fiscal year begins

Provides a private right of action to enjoin “extraordinary collection actions” (as that term is defined under the Internal Revenue Service rules under the Code of Federal Regulations) if, as required by the rules, a nonprofit hospital fails to provide a plain language summary of the hospital’s financial assistance policy. Provides that a prevailing consumer is entitled to reasonable attorney fees and costs.

VII. MANDATORY REPORTING BY STATE OF CHILD SUPPORT ARREARS TO CREDIT BUREAUS

Regular Session, Chapter 71, Article 1, Section 86 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds Minn. Stat. § 518A.685

Effective July 1, 2016

A. Conditions for Reporting

Requires a “public authority” to report child support arrears to “consumer reporting agencies” if: (1) the person (“the obligor”) is behind in child support for the current month plus “any required arrearage payment for three months”; and (2) the public authority provides written notice to the last known mailing address at least 30 days before the public authority reports the arrears to the credit bureau.

Adds Minn. Stat. § 518A.685(a) and (b)

Notes: 1. A “public authority” is defined as “the local unit of government, acting on behalf of the state, that is responsible for child support enforcement or the Department of Human Services, Child Support Enforcement Division.” Minn. Stat. § 518A.26, subd. 18a.

2. “Consumer reporting agency” is defined by cross-referencing the existing definitions found in state and federal statutes. See 15 U.S.C. § 1681a(f); and Minn. Stat. § 13C.001, subd. 4.

- B. How Person (Obligor) Subject to Reporting Can Avoid an Adverse Report**
Permits the person behind in the arrears and subject to the reporting of the arrears to prevent the reporting by, within 21 days of receipt of the notice: (1) paying the full arrears; or (2) requesting an administrative hearing, provided: (i) the request is to resolve a claim of mistaken identity; (ii) there is a pending legal action involving the arrears; or (iii) the arrears balance is incorrect.
Adds Minn. Stat. § 518A.685(c)

- C. Correcting Inaccurate Reports**
Requires a public authority to report to the consumer reporting agency that the child support is current if the public authority, after the person is in arrears, determines that the person: (1) has paid the child support arrears in full; or (2) is paying the current monthly support payment plus any required arrearage payment.
Adds Minn. Stat. § 518A.685(d)

VIII. SELF-STORAGE INSURANCE

Regular Session, Chapter 34 (HF 177)

Adds Minn. Stat. § 60K.60

Effective August 1, 2015, and applies to self-service storage insurance sold on or after that date

- A. Authority to Sell Insurance**
Permits self-storage facility owners to offer insurance coverage to renters of storage units for the loss of or damage to stored personal property in that facility. Exempts the owners from regulation as insurance agents, but gives the Department of Commerce authority over the marketing and conduct of persons selling the insurance.
Adds Minn. Stat. § 60K.60, subd. 2
- B. Disclosures**
Requires: (1) a summary of the material terms of the insurance; (2) a verbatim written disclosure that the insurance offered may duplicate the renter's existing coverage; (3) a description of the process for filing a claim; and (4) disclosure of all costs related to the insurance.
Adds Minn. Stat. § 60K.60, subd. 2
- C. Servicing and Other Fees**
Requires written notice: (1) of any other services for which fees are charged; (2) disclosing the amount of the fees; (3) that the fees are charged in addition to premiums; and (4) that premiums include a commission. Prohibits rendering of any services incurring fees prior to the provision of the required written notices. Mandates that fees must be reasonable in relation to the services rendered.
Adds Minn. Stat. § 60K.60, subd. 3

IX. UNIFORM FRAUDULENT TRANSFER ACT CHANGES

(Renamed Uniform Voidable Transactions Act)

Regular Session, Chapter 17 (SF 1816)

Amends Minn. Stat. §§ 513.41; 513.42; 513.43; 513.44; 513.45; 513.46; 513.47; 513.48; and 513.51

Adds Minn. Stat. §§ 513.485; 513.49; and 513.495.

Effective for transfers made or obligations incurred on or after August 1, 2015, and does not apply to a right of action accrued before August 1, 2015

Updates and makes a variety of technical changes and some substantive changes, among them:

A. Act Name

Changes the name of the Uniform Fraudulent Transfer Act to the Uniform Voidable Transactions Act.

Amends Minn. Stat. § 513.51

B. Governing Law

Provides that jurisdiction is determined based on where the debtor is located. Specifies that: (1) a person is located at his/her principal residence; and (2) an organization is located at its sole business location, or, if there is more than one business location, at its chief executive office.

Adds Minn. Stat. § 513.485

C. Relation to Electronic Signatures in Global and National Commerce Act

Provides that this law modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, but does not affect the provisions of that federal law related to consumer disclosures through electronic means or the provisions that exempt certain transactions from the act, including court related matters.

Adds Minn. Stat. § 513.495

COURTS

Prepared by:
Melinda Hugdahl, Staff Attorney
Legal Services Advocacy Project
651-842-6907
mthugdahl@mnlsap.org

I. SAFE AT HOME

A. Address Protection in Legal Proceedings

*Regular Session, Chapter 65, Article 3, Sections 1 and 2, and Article 6, Section 1 (SF 878)
Public Safety Omnibus Appropriations Bill
Amends § 5B.11 and 5B.13; and
Adds Minn. Stat. §13.03, subd. 6
Various Effective Dates*

1. Standard

Prohibits court or tribunal from compelling disclosure of the actual address of a Safe at Home Participant as part of discovery or proceeding before a court or tribunal unless the court finds that: (1) there is a reasonable belief that the address is needed to obtain information or evidence without which the investigation, prosecution or litigation cannot proceed; and (2) there is no other practicable way of obtaining the information or evidence. Requires the court to also consider whether the potential harm to the Safe at Home participant is outweighed by the interest in disclosure; and in a criminal case, the court must consider whether withholding the information would violate the defendant's constitutional right to confront witnesses.

*Amends Minn. Stat. § 5B.11
Effective July 1, 2015*

2. Notice/Opportunity to Present Evidence

Requires courts to notify the Safe at Home participant that (1) the address is being sought; and (2) that the participant has the right to present evidence regarding the participant's potential harm from disclosure.

*Amends Minn. Stat. § 5B.11
Effective July 1, 2015*

3. Protective Orders

Clarifies that protective orders may still be issued to limit disclosure of information – except for disclosure of the participant's actual address. Actual address disclosure requests use the standard set forth above.

*Amends Minn. Stat. § 5B.11
Effective July 1, 2015*

4. Disclosure/Data Practices

Provides that: (1) if the actual address is disclosed, the court's order must limit disclosure to no wider than necessary for the investigation, prosecution or litigation; and (2) if a program participant has non-public data (including the actual address), the court in addressing whether the data can be disclosed must consider the provisions of the statute governing actual address disclosure/protective order (Minn. Stat. § 5B.11).

Amends Minn. Stat. § 13.03, subd. 6

Effective July 1, 2015

Note: *The non-public data can be the actual address, or other information that can be limited by a protective order.*

B. Violation of Protections

Creates misdemeanor penalty for commission of an act prohibited by Chapter 5B, unless another penalty is prescribed by law.

Adds Minn. Stat. § 5B.13

Effective August 1, 2015, and applies to acts committed on or after that date – for protections in place as of February 1, 2015.

II. CONCILIATION COURT

Regular Session, Chapter 27 (HF 1770)

Amends Minn. Stat. § 491A.01, subd. 3a

Adds Minn. Stat. § 491A.01, subd. 11

Effective August 1, 2015

A. Expanded Jurisdiction to Reach Out-of-County Residents

Permits a county to take an action against a defendant who is not a resident of the county for debts owed for "fees, services, overpayments, or similar obligations."

Adds Minn. Stat. § 491A.01, subd. 11

B. Public Assistance Overpayments Excluded

Does not extend the conciliation court's jurisdiction to alleged public assistance overpayments governed under procedures set forth in Chapter 256.

Adds Minn. Stat. § 491A.01, subd. 11

C. Prior Notice Required

Makes a prerequisite of jurisdiction the provision of notice to the non-resident of the overdue debt: (1) sent by first class mail to the defendant's last known address; and (2) stating that the county may commence an action against a non-resident for the amount allegedly owed.

Adds Minn. Stat. § 491A.01, subd. 11

III. **FILING FEES – DISCHARGE OF JUDGMENT**

Regular Session, Chapter 65, Article 1, Section 19 (SF 878)

Public Safety Omnibus Appropriations Bill

Amends Minn. Stat. § 357.021, subd. 2

Effective August 1, 2015, and applies to filings on or after that date

Exempts Applications for Discharge of Judgment from general civil filing fees and, instead, the \$5.00 per judgment filing fee applies. (See Minn. Stat. § 548.181)

IV. **COURT REPORTER CONTRACTS**

Regular Session, Chapter 65, Article 2, Sections 4 and 5 (SF 878)

Public Safety Omnibus Appropriations Bill

Amends Minn. Stat. § 486.10, subds. 2 and 3

Effective August 1, 2015, and applies to legal proceedings commenced on or after that date

A. Disclosure of Exclusive Agreement

Requires disclosure in deposition or notice of legal proceeding of any exclusive agreement with a court reporter or court reporter firm.

Amends Minn. Stat. § 486.10, subd. 2

B. Rate

Requires court reporters, including court reporter firms, to charge the same rate for transcript copies according to court rules. (See Minnesota Rules of Civil Procedure, rule 30.06)

Amends Minn. Stat. § 486.10, subd. 2

C. Requirements

Requires court reporter firms to adhere to same statutory requirements as freelance court reporters. (i.e. can't act as an advocate, same fee charging, etc.)

Amends Minn. Stat. § 486.10, subd. 2

D. Remedies

Provides remedies for failure to disclose an exclusive agreement with a court reporter or court reporting firm. Upon a party's objection and subsequent determination by a judicial officer that a violation occurred, the court may: (1) declare the record void and may order the proceeding be reconducted; or (2) Impose sanctions against the violating party, including: (i) Contempt of court; (ii) Costs; and (iii) Reasonable attorney fees resulting from the violation. Provides that, if the proceedings are reconducted, the violating parties are jointly and severally liable for the costs associated with reconducting the proceeding.

Amends Minn. Stat. § 486.10, subd, 3

Note: "Costs" of reconducting the hearing retains the current definition.

DHS LICENSING/BACKGROUND STUDIES

Prepared by:

Melinda Hugdahl, Staff Attorney

Legal Services Advocacy Project

651-842-6907

mthugdahl@mnlisap.org

I. "ACCESS TO PERSONS SERVED" DEFINITION

Regular Session, Chapter 78, Article 4, Section 33 (HF 1535)

Health and Human Services Omnibus Policy Bill

Amends Minn. Stat. § 245C.02, subd. 2

Effective August 1, 2015

Amends definition of "access to persons served by a program" to include a person with access to a person's personal, financial or health information.

Note: The practical implication here is that it expands who can be disqualified

II. TEMPORARY IMMEDIATE SUSPENSION

Regular Session, Chapter 78, Article 4, Sections 11 and 12 (HF 1535)

Health and Human Services Omnibus Policy Bill

Amends Minn. Stat. § 245A.07, subds. 2 and 2a

Effective August 1, 2015

Clarifies that DHS must immediately temporarily suspend a license if the person's actions present an imminent risk or when there are subsequent violations after a prior action and pending appeal.

Note: The current language was simply moved to clarify that it applied to both clauses.

Section 11

Clarifies the burden of proof in temporary immediate suspension hearings:

- For cases of an immediate suspension for action or inaction that poses an imminent risk under clause (1), the commissioner's burden of proof is the "reasonable cause" standard in current law.
- For expedited hearings in cases of an immediate suspension for subsequent violations under clause (2), adds that the commissioner's burden of proof is showing by a preponderance of evidence that since the license revocation, the license holder committed additional law or rule violations that may adversely affect the health or safety of persons served by the program.

Section 12

III. DHS SUBPOENAS

Regular Session, Chapter 78, Article 4, Section 49 (HF 1535)

Health and Human Services Policy Bill

Adds Minn. Stat. § 256.01, subd. 4(e)

Effective August 1, 2015

Provides that subpoenas issued by DHS must state that the person to whom the subpoena is issued may not disclose that subpoena has been: (1) issued; or (2) given to law enforcement or DHS agents. Makes exceptions: (1) where disclosure is necessary and is agreed to by DHS; or (2) pursuant to a court order.

IV. BACKGROUND STUDIES

Regular Session, Chapter 78, Article 4, Sections 34-41 (HF 1535)

Health and Human Services Omnibus Policy Bill

Amends Minn. Stat. §§ 245C.04, subds. 4-6, 245C.05, subd. 1, 245C.07, 245C.20, subd. 2

Adds Minn. Stat. §§ 245.10, subd. 1a and 245C.20, subd. 2a

Various Effective Dates

A. Annual Background Studies (Sections 34-36)

Eliminates requirement for annual background studies when the individual's background study was initiated by certain license holders using NETStudy 2.0 and the individual remains on the agency's or program's active roster.

Amends Minn. Stat. § 245C.04, subd. 4 (Supplemental Nursing Services Agencies)

Amends Minn. Stat. § 245C.04, subd. 5 (Personnel Agencies, Educational Programs, Professional Services Agencies)

Amends Minn. Stat. § 245C.04, subd. 6 (Unlicensed home and community-based waiver providers of service to seniors and persons with disabilities)

Effective May 23, 2015 (day following enactment)

B. Identification Required (Section 37)

Removes requirement for Minnesota driver's license or identification card as part of background study application. As a result, a driver's license or identification card from any state is acceptable.

Amends Minn. Stat. § 245C.05, subd. 1

Effective May 23, 2015 (day following enactment)

C. Transferability of Background Study (Section 38)

When a person is affiliated with multiple facilities that use the NETStudy 2.0 system, the person's background study is transferable when:

- (1) The background study subject is on and moving to a roster for which the designated person receiving sensitive background study information is the same; and
- (2) The same entity must own or legally control both rosters. If an entity that holds or controls multiple licenses, or unlicensed personal care provider organizations, there must be a common highest-level entity that has a legally identifiable structure that can be verified through the Secretary of State's records.

Amends Minn. Stat. § 245C.07

Effective May 23, 2015 (day following enactment)

D. Background Study Fees (Section 39)

Clarifies that general background study statute (*see Minn. Stat. § 181.645*) does not apply to background studies under Chapter 245C.

Adds Minn. Stat. § 245C.10, subd. 1a

Effective May 23, 2015 (day following enactment)

E. Educational Programs (Sections 40-41)

Moves background studies initiated by an educational program into its own subdivision – separating it from the general provision about background studies initiated by others. Adds supplemental nursing services agency to the general provision.

Amends Minn. Stat. § 245C.20, subd. 2

Effective August 1, 2015

Creates separate requirements for license holders who rely on a background study initiated by an educational program. When the person is on the educational program's active roster, the license holder is responsible for ensuring that a background study under Minn. Stat. §245C.03 was completed and that all background study requirements are met. The license holder may satisfy documentation requirements through a written agreement with the educational program that (1) verifying documentation of the completed study may be provided upon request; and (2) the educational program will inform the license holder if there is a change in the person's background study status.

Creates Minn. Stat. § 245C.20, subd. 2a

Effective August 1, 2015

V. CHILD CARE SANCTION APPEALS – TIMING

*Regular Session, Chapter 78, Article 4, Section 48 (HF 1535)
Health and Human Services Omnibus Policy Bill
Amends Minn. Stat. §245E.06, subd. 3
Effective August 1, 2015*

Clarifies that the existing 30-day appeal timeline (must be postmarked or received by DHS Appeals Division within 30 days of receiving the sanction notice) applies in DHS sanction appeals, notwithstanding the shorter timelines for discontinuing child care assistance payments for refusing access to records.

VI. CHILD CARE PROVIDER OVERPAYMENTS

*Regular Session, Chapter 71, Article 1, Section 1 and 2 (SF 1458);
Regular Session, Chapter 78, Article 4, Sections 2-4 (HF 1535)
Health and Human Services Omnibus Appropriations Bill and Health and Human Services Policy Bill
Amends Minn. Stat. § 119B.125, subd. 6
Adds Minn. Stat. § 119B.125, subds. 7, 8 and 9
Effective July 1, 2015 (Chapter 71); August 1, 2015 (Chapter 78)
Note: Multiple identical provisions were passed in two different bills with different effective dates.
For practical purposes, unless noted differently below, the effective date is August 1, 2015 as the HHS Policy bill passed later.*

A. Recoupment

Requires DHS and counties to seek recoupment from providers for overpayments. Limits recoupment claims for overpayments due for a provider's failure to provide attendance records to six years after the county or DHS requested the attendance records. Requires recoupment or recovery, regardless of amount, when a provider has been convicted or disqualified due to fraud (Minn. Stat. § 256.98), theft (Minn. Stat. § 609.52) or a federal crime related to theft of state funds or fraudulent billing.

Chapter 71, Article 1, Sections 1 and 2 and Chapter 78, Article 4, Sections 2-4; Effective August 1, 2015

B. Periodic Audits

Permits periodic DHS audits for compliance with record keeping requirements. (See Minn. Stat. § 119B.125, subd. 6).

Chapter 71, Article 1, Section 1; Effective July 1, 2015

C. Notice to Provider

Requires DHS or the county to provide notice to the provider when seeking recoupment for overpayments that must include: (1) the specific reason(s) for overpayment; (2) authority for making the overpayment claim; (3) the time period during which overpayment(s) occurred; (4) the amount of overpayment; and (5) the provider's right to appeal.

Chapter 71, Article 1, Section 1 and Chapter 78, Article 4, Section 3; Effective August 1, 2015

VII. CHILD CARE PROVIDER PAYMENTS

Regular Session, Chapter 71, Article 1, Section 2 (SF 1458)

Regular Session, Chapter 78, Article 4, Sections 2-4 (HF 1535)

Health and Human Services Omnibus Appropriations Bill and Health and Human Services Policy Bill

Amends Minn. Stat. § 119B.13, subd. 6

Effective August 1, 2015

Note: This provision was passed in two different bills with different effective dates. For practical purposes, the effective date is August 1, 2015 as the HHS Policy bill passed later.

Adds authority for DHS, in addition to the counties, to authorize CCAP payments and determine if false attendance records have been provided. Clarifies DHS authority to suspend a provider’s license or provide a conditional license for violation of CCAP program rules.

VIII. CHILD CARE – ATTENDANCE REPORTING

Regular Session, Chapter 78, Article 4, Section 4 (HF 1535)

Health and Human Services Omnibus Policy Bill

Adds Minn. Stat. § 119B.25, subd. 9

Effective August 1, 2015

Requires child care providers to report when a child’s attendance falls to less than half of authorized hours over a four-week period.

Requires the provider to provide additional attendance documentation upon request from the county or DHS.

IX. LIMITS ON RECEIVING PUBLIC FUNDS

Regular Session, Chapter 78, Article 4, Sections 5 and 16 (HF 1535)

Health and Human Services Omnibus Policy Bill

Adds Minn. Stat. § 245.095

Effective August 1, 2015

If an enrolled, licensed or grant-recipient provider, vendor or individual is excluded from any program administered by DHS, the provider, vendor or individual is prohibited from enrolling or becoming licensed in any other program administered by DHS.

Section 5

Defines “excluded” as disenrolled, subject to license revocation or suspension, disqualified or subject to vendor disbarment under Minnesota Rules, part 1230.1150.

Section 5

Defines “individual” as a natural person providing products or services as a provider or vendor.
Section 5

Defines “provider” as an owner, controlling individual, license holder, director or managerial official.
Section 5

Requires family child care providers who receive public funds to keep attendance records for each child.
Section 16

X. CHILD CARE – INITIAL LICENSING

Chapter 78, Article 4, Section 32 (HF 1535)
Omnibus Health and Human Services Omnibus Policy Bill
Amends Minn. Stat. § 245A.50, subd. 1
Effective August 1, 2015

Clarifies that initial licensing training applies to new providers and providers who have not held and active child care license for 12 months.

Clarifies that if a licensed child care provider lets a license lapse or moves to a different county before getting re-licensed within 12 months, the provider must only complete the annual, ongoing training requirements.

XI. WRONGFUL EMPLOYMENT AT A CHILD CARE CENTER

Regular Session, Chapter 78, Article 4, Sections 45, 46, and 59 (HF 1535)
Health and Human Services Omnibus Policy Bill
Adds Minn. Stat. §§ 245E.02, subd. 3a; 245E.02, subd. 4(d); and 609.816
Various Effective Dates

A. Hiring Practices

Prohibits a child care center provider from hiring an employee for purpose of obtaining Child Care Assistance Program (CCAP) funds.
Adds Minn. Stat. §§ 245E.02, subd. 3
Effective August 1, 2015

B. Provider Sanctions for Violation

Directs DHS, upon a finding that a provider hired an employee for the purpose of obtaining CCAP funds, to: (1) suspend payments to the provider; and (2) immediately and permanently revoke the license of the child care center.
Adds Minn. Stat. § 245E.02, subd. 4(d)
Effective August 1, 2015

- C. **Criminal Penalties**
Makes hiring an employee for purpose of obtaining CCAP funds a theft crime, subjecting the provider to imprisonment and fines depending on the amount obtained.
Adds Minn. Stat. § 609.816
Effective August 1, 2015, and applies to crimes committed on or after that date.

XII. GROUP RESIDENTIAL HOUSING (GRH) AND SUPPLEMENTARY SERVICES BACKGROUND STUDIES

Regular Session, Chapter 71, Article 1, Sections 17 and 28

Health and Human Services Omnibus Finance Bill

Amends Minn. Stat. § 256I.04, subd. 2c

Adds Minn. Stat. § 256I.03, subd. 9

Various effective dates

A. Definition of “Direct Contact”

Adds the following definition of “direct contact” for group residential housing:

“‘Direct contact’ means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to recipients of group residential housing.”

Adds Minn. Stat. § 256I.03, subd. 9

Effective July 1, 2015

B. Background Studies Required

Requires group residential housing and supplementary services providers to initiate background studies under Chapter 245C for all of the following:

- Controlling individuals as defined in Minn. Stat. § 245A.02;
- Managerial officials as defined in Minn. Stat. § 245A.02;
- All employees and volunteers who have direct contact with recipients, or unsupervised access to recipients, their personal property or their private data.

Requires provider to comply and maintain requirements for all entities initiating background studies under Chapter 245C.

Amends Minn. Stat. § 245I.04, subd. 2c

Effective July 1, 2016

Requires providers of group residential housing or supplementary services to demonstrate that all individuals who are required to have a background study have a notice that says either:

(1) The individual is not disqualified under Minn. Stat. §245C.14; or

(2) The individual is disqualified, but has a set aside under Minn. Stat. § 245C.22.

Amends Minn. Stat. § 245I.04, subd. 2c

Effective July 1, 2017

XIII. BACKGROUND STUDIES – CHILD PROTECTION WORKERS/LOCAL AGENCY STAFF

Chapter 71, Article 1, Sections 4,5,7 and 100 (HF 1638/SF 1458)

Health and Human Services Omnibus Finance Bill

*Adds Minn. Stat. § 245C.03, subd. 11; 245C.04, subd. 10; 245C.10, subd. 12; and 626.559, subd. 1b
Effective July 1, 2015*

Requires counties to initiate background studies on county child protection staff hired on or after July 1, 2015, or on existing county staff who are assigned to child protection duties on or after July 1, 2015. The county may complete the study through DHS, or by an alternate process defined by the county.

Requires completion of background studies for county or local agency staff prior to any direct contact with persons served. If the background study is completed by DHS, disqualification determinations are made by the county, not DHS.

Permits DHS to charge a background study fee not to exceed \$20.

DISABILITY LAW

Prepared by:

Anne L. Henry, Staff Attorney
Minnesota Disability Law Center
612-746-3754 or 1-800-292-4150, ext. 254
alhenry@mylegalaid.org

Acronyms Used in this Section

ABLE Act	=	Achieving a Better Life Experience Act (Federal Law)
ASD	=	Autism Spectrum Disorder
CADI	=	Community Alternatives for Disability Inclusion
CDCS	=	Consumer-Directed Community Supports
CFSS	=	Community First Services and Supports
DHS	=	Minnesota Department of Human Services
EW	=	Elderly Waiver
FPG	=	Federal Poverty Guidelines
HCBS	=	Home and Community-Based Services Waiver
LTSS	=	Long-Term Supports and Services
MA	=	Medical Assistance
MA-EPD	=	Medical Assistance for Employed Persons with Disabilities
MDH	=	Minnesota Department of Health
MSH	=	Minnesota Security Hospital
MSOP	=	Minnesota Sex Offender Program
NEMT	=	Non-Emergency Medical Transportation
NFLOC	=	Nursing Facility Level of Care
PCA	=	Personal Care Assistance Services
SFY	=	State Fiscal Year

Note: This section summarizes legislative changes affecting disability and mental health law, services and funding. Please also see the following other sections: Health Law, Continuing Care, and Public Benefits

HEALTH CARE

I. FETAL ALCOHOL SYNDROME GRANTS

*Regular Session, Chapter 71, Article 14, Section 2, subd. 5(o) (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Appropriations Rider
Effective July 1, 2015*

Authorizes a grant program to be administered by the Minnesota Organization on Fetal Alcohol Syndrome to provide comprehensive services to pregnant or parenting women suspected of or known to use or abuse alcohol or other drugs. Appropriates \$500,000 in the 2016-2017 biennium and \$500,000 in the 2018-2019 biennium.

II. MA-EPD PREMIUM REDUCTION

*Regular Session, Chapter 71, Article 7, Section 28 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256B.057, subd. 9
Effective September 1, 2015*

Reduces enrollee minimum premium payment from \$65 to \$35 per month and the unearned income charge from 5% to 0.5%. Saves 8,700 MA-EPD enrollees \$4.8 million in payments per year, twice the state cost because one-half of fees are paid to the federal government. Returns the premium payment amounts to the level charged prior to the 2011 increases which were delayed until October 2014. Appropriates \$4.8 million for the 2016-2017 biennium.

III. MA RATE INCREASE FOR GILLETTE HOSPITAL

*Regular Session, Chapter 71, Article 11, Sections 39, 43, 44 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stats. §§ 256B.76, subd. 1; 256B.766; 256B.767
Effective July 1, 2015*

Increases the payment rate by 90% from the rates in effect June 15, 2015, for the following: physical therapy, occupational therapy, speech pathology, and related services; outpatient hospital facility fees, medical supplies, and durable medical equipment not subject to a volume purchase contract; prosthetics, orthotics, and laboratory services when provided by Gillette Hospital. Exempts Gillette Hospital from statute which limits Medical Assistance rates to the Medicare payment limit for physical therapy, occupational therapy, speech language pathology and related services, or basic care services. Appropriates \$3.94 million in the 2016-2017 biennium and \$4.82 million in the 2018-2019 biennium.

IV. MA SPENDDOWN INCOME INCREASE

Regular Session, Chapter 71, Article 7, Section 27 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256B.056, subd. 5c
Effective July 1, 2016

Raises the excess income (medically needy spenddown) standard for persons with disabilities and seniors age 65 and older from 75% FPG to 80%, an increase of about \$50 per month beginning July 1, 2016, the second year of the biennium. Results in \$6.76 million in health care payments for this group of enrollees per year due to federal Medicaid matching funds. Appropriates \$3.38 million in state dollars SFY 2017.

V. MA 10% RATE INCREASE FOR PHYSICAL, OCCUPATIONAL, SPEECH THERAPIES HOME HEALTH SERVICES

Regular Session, Chapter 71, Article 11, Section 42 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256B.762
Effective July 1, 2015

Increases payment rates for physical, occupational, and speech therapies by 10% over the rates in effect on June 30, 2015 when these services are provided as home health services under Minn. Stat. § 256B.0625, subd. 6a. Appropriates \$347,000 for the 2016-2017 biennium and \$354,000 for the 2018-2019 biennium.

VI. MEDICARE COMPETITIVE BIDDING EXEMPTION FOR SPECIFIED DME PROVIDERS

Regular Session, Chapter 71, Article 11, Section 26 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256B.0625, subd. 31
Effective July 1, 2015

Repeals statute which allows the commissioner to set reimbursement rates for specified categories of medical supplies at levels below the Medicare payment rate. Appropriates \$5.61 million in the 2016-2017 biennium and \$7.19 million in the 2018-2019 biennium.

VII. NON-EMERGENCY MEDICAL TRANSPORTATION (NEMT)

*Regular Session, Chapter 71, Article 11, Sections 21 and 23 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256.0625, subs. 17 and 18a
Effective July 1, 2016*

A. New Rate Structure

Creates a new rate structure for NEMT which means that many NEMT changes adopted in 2014 will become effective July 1, 2016, including vehicle standards, training, background checks and modes of transportation. Includes implementation of the new seven modes of transportation: (1) client reimbursement; (2) volunteer transport; (3) unassisted transport; (4) assisted transport; (5) lift-equipped/ramp transport; (6) protected transport; and (7) stretcher transport, provided based on client assessment of need. Eliminates a past 4.5% rate reduction for NEMT providers. Appropriates \$3.7 million for 2016-17 biennium and \$14.6 million for 2018-19 biennium.

Amends Minn. Stat. § 256.0625, subs. 17(f) and 18a(c)

B. Client Reimbursement, Acquaintance-Drivers, Volunteer Transport

Raises client mileage reimbursement from 20 cents to 22 cents per mile and permits acquaintances of the client to receive client reimbursement for providing qualifying transportation. Increases volunteer rate to 100% of the IRS business deduction amount.

Adds Minn. Stat. § 256.0625, subd. 17, new paragraph (l)

C. Administration of NEMT Program

Provides that local agencies will assume responsibility for administering the NEMT program, after DHS develops and funds a single administrative structure and delivery system.

Amends Minn. Stat. § 256.0625, subd. 17(i)

D. Rate Adjustments for Rural and Super Rural Areas

Provides adjustments to the base rate for services provided in super rural areas and to the mileage rates for services provided in rural and super rural areas.

Amends Minn. Stat. § 256.0625, subd. 17(m)

VIII. PARENT FEE REDUCTIONS

*Regular Session, Chapter 71, Article 7, Section 24 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 252.27, subd. 2a
Effective July 1, 2015*

Reduces parental fees 10% for all families beginning July 1, 2015. Appropriates \$422,000 per year but saves families twice the state cost (\$844,000 annually) because one-half the Medicaid-related payments have to be paid to the federal government.

IX. TRISOMY DIAGNOSIS AWARENESS ACT

Regular Session, Chapter 28 (SF 462)

Adds Minn. Stat. § 145.471

Effective August 1, 2015

Requires the commissioner of Health to make available, in written and alternative formats, information on the condition, developmental and psychosocial outcomes, clinical course, treatment options and contacts for more information. Mandates that health practitioners who order prenatal tests for trisomy conditions provide this information to their patients if the test is positive.

HOME AND COMMUNITY-BASED SERVICES (HCBS) WAIVER-RELATED CHANGES

I. CONSUMER-DIRECTED COMMUNITY SUPPORTS (CDCS) EMPLOYMENT AND DAY SERVICES PILOT EXPANSION

Regular Session, Chapter 71, Article 7, Section 54 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Provision

Effective October 1, 2015 or upon federal approval, whichever is later

Expands the 2012 CDCS Employment and Day Services pilot to include two categories: (1) those high school graduates whose coordinated service and support plan identifies the need for more services either prior to graduation or in order to increase the amount of time the person works or improve their employment opportunities; and (2) those who are using licensed services for employment or day supports which cost more than the person would need under a CDCS plan for individualized employment or day supports. The exception which provides up to a 20% increase in the individual's budget is limited to persons who can demonstrate they will have to leave CDCS without the budget increase or they will move to CDCS and their services will cost less than is currently being used. Repeals existing budget exception pilot when this section becomes effective.

II. HCBS WAIVER EMPLOYEE SCHOLARSHIP

Regular Session, Chapter 71, Article 6, Section 1 and Article 14, Section 3, subd. 2 (HF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds Minn. Stat. § 144.1503 and Appropriations Rider

Effective July 1, 2015

Establishes an employee scholarship grant program for providers who primarily serve persons age 65 and older for education in nursing and other health fields. Appropriates \$1 million each year for the 2016-2017 biennium for the HCBS employee scholarships program.

III. HCBS WAIVER FISCAL MANAGEMENT AND WAIT LIST RESPONSIBILITY

Regular Session, Chapter 71, Article 7, Sections 30-34 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. §§ 256B.0916, subds. 2, 12; 256B.49, subds. 26 and 27

Effective May 23, 2015

A. DHS Required to Use Available Funds

Requires DHS to manage DD waiver allocations so as to fully use available state and federal appropriations.

Amends Minn. Stat. § 256B.0916, subd. 2

B. County and Tribal Agency Overspending and Recoupment Changes

Requires counties and tribal agencies which overspend the DD waiver allocation or over-authorize the CADI waiver allocation to submit a corrective action plan to the commissioner for approval to correct overspending within two years. Changes recoupment policy from recovery from each county which overspent to recovery from overspent counties or tribes only when the statewide appropriation has been exceeded. Changes the basis of accounting for allocated funds for the BI, CADI and CAC waivers from authorizations to spending (as currently done in the DD waiver) beginning July 1, 2018.

Amends Minn. Stat. §§ 256B.0916, subd. 11 and 256B.49, subd. 26

C. Underspending HCBS Waiver Allocations

Adds new requirements for counties which spend less than 97% of their allocated funds. Requires the commissioner to assure all HCBS waiver participants in an underperforming county receive appropriate services despite the county or tribe’s performance problems. Changes the basis for evaluating underutilizing of resources from authorizations to spending for BI, CAC and CADI, beginning July 1, 2018.

Adds Minn. Stat. §§ 256B.0916, subd. 12 and 256B.49, subd. 27

IV. HCBS WAIVER INCENTIVE POOL

Regular Session, Chapter 71, Article 7, Section 55 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds uncodified provisions

Effective July 1, 2016

Requires DHS to develop an initiative to provide incentives for achieving integration in employment, living, and other outcomes. Initial requests for proposals are due October 1, 2016. Appropriates \$1.43 million for the 2016-2017 biennium and \$3.57 million for the 2018-2019 biennium.

V. HCBS WAIVER SETTINGS TRANSITION PLAN

Regular Session, Chapter 78, Article 6, Section 29 (HF 1535)

Health and Human Services Policy Bill

Effective August 1, 2015

Requires DHS to: (1) take initial steps to come into compliance with the home and community-based settings transition plan when it is approved by the federal agency CMS; and (2) submit legislative reports on the HCBS transition process beginning January 15, 2016, and annually thereafter during the transition period.

VI. HCBS WAIVER TRANSITION POPULATION GRANTS

*Regular Session, Chapter 71, Article 14, Section 2, subd. 5(i) (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Effective July 1, 2015*

Provides \$3.3 million for the biennium for HCBS transition grants under Minn. Stat. § 256.478 to serve individuals who do not meet eligibility criteria for the Medical Assistance program, but who otherwise meet the institutional-level-of-care criteria for the disability HCBS waiver programs under Minn. Stat. § 256B.092, subd. 13, or Minn. Stat. § 256B.49, subd. 24.

VII. HCBS WAIVER FISCAL MANAGEMENT AND WAIT LIST RESPONSIBILITY

*Regular Session, Chapter 71, Article 7, Sections 30-34 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. §§ 256B.0916, subds. 2, 12; 256B.49, subds. 26 and 27
Effective May 23, 2015*

A. DHS Required to Use Available Funds

Requires DHS to manage DD waiver allocations so as to fully use available state and federal appropriations.

Amends Minn. Stat. § 256B.0916, subd. 2

B. County and Tribal Agency Overspending and Recoupment Changes

Requires counties and tribal agencies which overspend the DD waiver allocation or over-authorize the CADI waiver allocation to submit a corrective action plan to the commissioner for approval to correct overspending within two years. Changes recoupment policy from recovery from each county which overspent to recovery from overspent counties or tribes only when the statewide appropriation has been exceeded. Changes the basis of accounting for allocated funds for the BI, CADI and CAC waivers from authorizations to spending (as currently done in the DD waiver) beginning July 1, 2018.

Amends Minn. Stat. §§ 256B.0916, subd. 11 and 256B.49, subd. 26

C. Underspending HCBS Waiver Allocations

Adds new requirements for counties which spend less than 97% of their allocated funds.

Requires the commissioner to assure all HCBS waiver participants in an underperforming county receive appropriate services despite the county or tribe's performance problems.

Changes the basis for evaluating underutilizing of resources from authorizations to spending for BI, CAC and CADI, beginning July 1, 2018.

Adds Minn. Stat. §§ 256B.0916, subd. 12 and 256B.49, subd. 27

VIII. HCBS Waiver 245D Licensed Services Participant Protections

Regular Session, Chapter 78, Article 6, Sections 4-87 (HF 1535)

Health and Human Services Policy Bill

Amends Minn. Stat. §§ 245D.10, subd. 3; 256.01, subd. 4; and 256.045, subds. 3 and 6

Adds Minn. Stat. § 245D.10, subd. 3a

Effective August 1, 2015

A. Temporary Suspension from HCBS Waiver Services

1. Limitations on Service Suspension

Adds requirements for 245D license holders who temporarily suspend a participant's services. Limits conditions under which services may be temporarily suspended to those in which: (1) the individual's conduct poses an imminent risk of physical harm to self or others despite the use of positive supports strategies; (2) the person has new medical issues; or (3) the program has not been paid for services provided.

Amends Minn. Stat. § 245D.10, subd. 3(b)

2. Notice of Temporary Suspension

Provides that written notice be given to the person, person's legal representative, case manager and the commissioner of human services if suspension involves residential services. Requires that the notice of temporary suspension of services include: (1) the reason for the suspension; and (2) a summary of actions taken to minimize or eliminate the need for the suspension and the reasons the actions failed.

Amends Minn. Stat. § 245D.10, subd. 3(d)

3. Right to Return to Services

Gives the participant the right to return to services if, based on a review by and determination of the support team, the participant no longer poses an imminent risk of physical harm to herself or himself or to others.

Amends Minn. Stat. § 245D.10, subd. 3 by adding clause (f)

B. Service Termination

1. Limits on Service Termination

Limits service termination to reasons for allowing suspension (see # 1 above) plus three additional circumstances, including: (1) a person whose welfare cannot be maintained by the facility; (2) the program ceases to operate; or (3) the person's eligibility for HCBS waiver services has been terminated by the lead agency.

Adds Minn. Stat. § 245D.10, subd. 3a(b)

2. Notice Requirements for Service Termination

a. Recipients

Requires that written notice of intended termination must be provided to: (1) the consumer or the consumer's legal representative; (2) the case manager; (3) DHS, if termination is from residential supports and services.

Adds Minn. Stat. § 245D.10, subd. 3a(d)(1)

b. Content

Requires that the notice must include: (1) the reason for the action; (2) the person's right to appeal under Minn. Stat. § 256.045, subd. 3(a) and seek a temporary order staying the termination under Minn. Stat. § 256.045, subd. 4a or 6(c); and (3) except where the provider ceases operations, a summary of actions taken to minimize or eliminate the need for termination and why the actions failed.

Adds Minn. Stat. § 245D.10, subd. 3a(d)(2)

c. Advance Notice Required

Notice of the intended termination must be given: (1) at least 60 days prior to the termination when the patient is receiving intensive supports and services under Minn. Stat. § 245D.03, subd. 1(c); and (2) 30 days prior to termination in all other circumstances.

Adds Minn. Stat. § 245.10, subd. 3a(e)

d. Provider Responsibilities After Giving Notice

Requires the provider, during the service termination notice period, to: (1) work with the support team to develop reasonable alternatives to protect the patient and others; (2) support continuity of care; (3) provide information requested by the person or case manager; and (4) maintain information about the service termination in the service recipient's record.

Adds Minn. Stat. § 245D.10, subd. 3a(f)

C. DHS's Duty to Require Prompt Action from Case Manager

Requires DHS to assure that the case manager for a person terminated from 245D licensed residential services develop an action plan and promptly work to resolve the issues or arrange for a new residence for the individual.

Adds Minn. Stat. § 256.01, subd. 4(a)(8)

D. Appeal of Termination of 245D Licensed Residential Services

Provides the right to a DHS administrative appeal to: (1) persons issued a notice of service termination under residential supports and services; and (2) individual disability waiver recipients who are denied a rate exception under the disability waiver rates system, 256B.4914. Limits the scope of the appeal hearings to whether or not the proposed termination of residential supports and services was authorized under the governing statute and whether the requirements of the statute were met. Allows a request for a temporary stay of service termination to include whether the case management provider has finalized arrangements for a residential service program or facility that will meet the needs of the individual prior to the effective date of service termination.

Amends Minn. Stat. § 256.045, subd. 3

E. DHS's Authority to Issue a Temporary Stay of Residential Service Termination

Provides authority for a temporary order staying a proposed termination from residential services licensed under Chapter 245A for a period of time necessary for the case manager to implement an order by DHS or for appeals of residential service termination when an individual seeks a temporary stay to allow time to finalize alternative residential services. Limits such temporary stays of demission to no more than 30 calendar days.

Amends Minn. Stat. § 256.045, subd. 6

LONG-TERM SERVICES AND SUPPORTS (LTSS)

I. ABLE ACT

Regular Session, Chapter 71, Article 7, Sections 44-51 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 13.461

Adds Minn. Stat. §§ 256Q.01-256Q.08

Effective August 1, 2015

Authorizes Achieving a Better Life Experience (ABLE) accounts under a 2014 federal law which provides for tax-free savings accounts to cover qualified expenses for individuals with disabilities whose disability occurred before age 25. Provides that accounts are excluded in determining eligibility for other federal assistance programs. Establishes requirements for state residency, one account per beneficiary, and the balance and maximum contributions as required under federal law. Requires the State Board of Investment to invest money deposited in the accounts and collect fees from users to cover the cost of administering the accounts. Appropriates \$105,000 for the coming biennium after which fees paid by users will cover administrative expenses.

II. COMMUNITY FIRST SERVICES AND SUPPORTS (CFSS)

Regular Session, Chapter 78, Article 6, Section 22 (HF 1535)

Health and Human Services Policy Bill

Amends Minn. Stat. § 256B.85, subds. 1-18, 19-24

Adds Minn. Stat. § 256B.85, subds. 6a, 11a, 11b, 12a, 12b, 13a, 20a, 20b, 20c, 23a and 26

Repeals Minn. Stat. § 256B.85, subds. 19 and 25

Amendments and additions effective upon federal approval; CFSS services effective 90 days after federal approval*

**NOTE: DHS projects a July 1, 2016 implementation date for CFSS*

A. Definitions and Clarifications

Adds definitions, clarifies agency and budget models, modifies Financial Management Services (FMS) and Worker Training and Development (WTD) and moves behavior criteria from subd. 2(d) to subd. 2(r) and subd. 8(f)(3).

Amends Minn. Stat. § 256B.85, subds. 2, 8, 10, 13 and 18a

Adds Minn. Stat. § 256B.85, subds. 11a, 11b and 13a

B. Person-Centered Planning Process

Specifies that the person-centered planning process components must, among other things: (1) include people chosen by the participant; (2) provide information and support necessary to ensure that the participant directs the process to the maximum extent possible, and is enabled to make informed choices and decisions; (3) be timely and occur at times and locations convenient to the participant; (4) reflect cultural considerations of the participant; (5) include strategies for solving conflict or disagreement; (6) provide the participant choices of services and supports; and (7) include a method for the participant to request updates to the plan.

Adds Minn. Stat. § 256B.85, subd. 6a

C. Participant Protections

1. Notice of Rights

Requires CFFS agency-providers to: (1) provide notice to the participants and the participant's legal representative that identifies and explains participants' rights within five working days of service initiation; (2) "make reasonable accommodations" to provide the information in other formats and languages; and (3) "ensure the exercise and protection of the participant's rights."

Adds Minn. Stat. § 256B.85, subd. 20a

2. Enumerated Rights

Grants a participant the right to, among other things: (1) participate in and approve the initial development and ongoing modification and evaluation of CFSS services provided; (2) refuse or terminate services and be informed of the consequences; (3) a coordinated transfer of services when there will be a change in the agency-provider; (4) privacy of personal and medical information; (5) access records; (6) know the person responsible and the process for addressing complaints; (7) know the contact for the county agency, Ombudsman for Long-Term Care, and state protection and advocacy service to contact; (8) be treated with courtesy and respect and be free from maltreatment; and (9) before services are initiated be told: (i) the choices of and limits to the services available; and (ii) the charges for the services.

Adds Minn. Stat. § 256B.85, subds. 20b and 20c

3. Complaint Process

Requires the CFSS agency-provider to establish a simple complaint process for participants and their authorized representatives to bring a grievance that, among other things: (1) offers staff assistance with the process if requested by the participant; (2) allows grievance to be brought to the highest internal level if not related by other staff; (3) requires a prompt response; (4) requires notice and contact information for outside agencies which provide assistance with complaints; and (5) notice of the resolution to the participant.

Adds Minn. Stat. § 256B.85, subd. 12a(a)

4. Termination of Services

Requires a CFFS agency-provider to provide written notice of the intention to terminate services at least 10 calendar days before the proposed service termination is to become effective, except when: (1) the participant's conduct "significantly alters" the terms of the CFSS service delivery plan; (2) the participant "creates an imminent risk of harm to the workers or staff; (3) an emergency or a significant change in the participant's condition occurs within a 24-hour period that exceed the participant's identified needs and the CFFS agency-provider cannot safely meet the needs. Requires the CFFS agency-provider to "participate in a coordinated transfer of the participant to a new agency-provider to ensure continuity of care."

Adds Minn. Stat. § 256B.85, subd. 12b

5. Assuring Competency of Support Workers

Requires CFSS agency-providers to ensure that support workers are competent to meet the participant's assessed needs, goals, and additional requirements included in the CFSS service delivery plan. Requires the agency-provider to develop a worker training and development plan to ensure competency.

Adds Minn. Stat. § 256B.85, subd. 11b

6. Response to Incidents

Requires the CFSS agency-provider must: (1) establish policies and procedures for responding to incidents that occur while services are being provided; and (2) report to the participant's legal representative. Defines "incident" as "an occurrence that involves a participant and requires a response that is not a part of the ordinary provision of the services" and includes: (1) serious injury; (2) death of a participant; (3) a medical emergency, unexpected serious illness, or significant unexpected change in a participant's illness or medical condition that requires a call to 911, physician treatment, or hospitalization; (4) a mental health crisis that requires a call to 911 or a mental health crisis intervention team; (5) an act or situation involving a participant that requires a call to 911, law enforcement, or the Fire Department; (6) a participant's unexplained absence; (7) behavior that creates an imminent risk of harm to the participant or another; and (8) a report of alleged or suspected child or vulnerable adult maltreatment.

Adds Minn. Stat. § 256B.85, subd. 12a(b)

D. Participant Responsibilities

Specifies participant responsibilities for all CFSS participants, including verifying and submitting time sheets, reporting problems with the service provided, notifying the agency or FMS within 10 days of a change of circumstances, including residence and participating in evaluation of CFSS support workers. Adds numerous additional responsibilities for budget model participants.

Amends Minn. Stat. § 256B.85, subd. 14

E. Consultation Services

Defines consultation services and requires all CFSS participants to use consultation services when initiating CFSS and at reassessment. Modifies consultation service provider qualifications and requirements.

Amends Minn. Stat. § 256B.85, subds. 17, 17a and 20

III. PCA VERIFICATION REQUIREMENTS

Regular Session, Chapter 78, Article 5, Section 53 (HF 1535)

Health and Human Services Policy Bill

Adds Minn. Stat. § 256B.0705

Effective July 1, 2015

Requires PCA agencies to verify every 90 days using unscheduled phone calls or another method approved through a variance from DHS that PCA's are on duty as planned.

IV. SELF-DIRECTED WORK FORCE CONTRACT

Regular Session, Chapter 71, Article 7, Sections 52 and 53 and Article 14, Section 1, subd. 3(d) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds uncodified provisions

Effective July 1, 2015

Ratifies the union contract between the state of Minnesota and the Service Employees International Union Healthcare Minnesota. Authorizes a 1.53% rate increase July 1, 2015 and an additional 1.2% increase July 1, 2016 to cover a wage increase and 5 days of paid time off for direct support staff in PCA, Consumer Support Grant (CSG) and HCBS Consumer-Directed Community Supports programs. Provides \$250,000 beginning in Fiscal Year 2017 for training of individual providers of direct support services as defined in Minn. Stat. § 256B.0711, subd. 1. Appropriates \$16.22 million for the 2016-2017 biennium and \$21.51 million for the 2018-2019 biennium.

V. SENIOR LINKAGE LINE

Regular Session, Chapter 78, Article 6, Section 9 (HF 15350)

Health and Human Services Policy Bill

Amends Minn. Stat. § 256.975, subd. 7

Effective August 1, 2015

Authorizes nursing facilities to share resident contact information with the Senior Linkage Line (SLL) which will allow long-term care options counseling to be offered to former residents of nursing homes who were discharged to community settings.

VI. STATE QUALITY COUNCIL

*Regular Session, Chapter 71, Article 14, Section 2 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Appropriations Rider
Effective July 1, 2015*

Funds for the State Quality Council to monitor and provide technical assistance to achieve person-centered outcomes related to integrated community living and employment. Appropriates \$1.17 million for the 2016-2017 biennium and \$1.2 million for the 2018-2019 biennium.

VII. TREATMENT OF ASSETS CONVERTED TO INCOME

*Regular Session, Chapter 71, Article 7, Section 39 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256B.059, subd. 5
Effective July 1, 2015*

Removes language that prohibits under any circumstances a married couple from converting assets to income in order to avoid being subject to the asset limit for the purposes of determining an institutionalized spouse's eligibility for long-term care under MA.

Note: This change is required to bring Minnesota into compliance with Geston v. Anderson, in which the Eighth Circuit held that federal Medicaid law does not permit treating certain income streams as an asset for the purposes of determining Medicaid eligibility for long-term care. See Geston v. Anderson, 729 F.3d 1077 (8th Cir. 2013).

MENTAL HEALTH CHANGES

I. ASSERTIVE COMMUNITY TREATMENT (ACT) EXPANSION

Regular Session, Chapter 71, Article 2, Sections 23-31 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 256B.0622

Effective July 1, 2015

Expands ACT funding to add one Forensic Team for persons leaving prisons and changes eligibility to require a history of recurring or prolonged inpatient hospitalizations, additional teams and requirements for completion of functional assessments and individual treatment plans. Updates language. Appropriates \$1.32 million in the 2016-2017 biennium and \$1.51 million in the 2018-2019 biennium.

II. ASSERTIVE COMMUNITY TREATMENT (ACT) AND INTENSIVE RESIDENTIAL TREATMENT SERVICES (IRTS) SUSTAINABILITY GRANTS

Regular Session, Chapter 71, Article 2, Section 32 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds Minn. Stat. § 256B.0622, subd. 11 and an Appropriations Rider

Effective July 1, 2015

Establishes “sustainability grants” for ACT agencies and IRTS experiencing financial instability. Appropriates \$4.45 million for the 2016-17 biennium.

III. ADVERSE CHILDHOOD EXPERIENCE EARLY INTERVENTION TRAINING

Regular Session, Chapter 71, Article 14, Section 2 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Appropriations Rider

Effective July 1, 2017

Provides funds beginning in July 2017, for adverse childhood experiences (ACES) early intervention training for community partners, parents, and providers and for an interactive website to support ACES. Higher ACE scores increase the risk for future health problems such as alcohol and substance abuse, depression, anxiety, and smoking. Appropriates \$796,000 for the 2018-2019 biennium.

IV. BEHAVIORAL HEALTH HOMES

*Regular Session, Chapter 71, Article 11, Section 31 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256B.0757
Effective July 1, 2016*

Adds behavioral health homes for adults and children with qualifying mental illnesses to health home statute upon federal approval. Appropriates \$5.38 million for the latter half of the 2016-2017 biennium and \$23.81 million for the 2018-2019 biennium.

V. BELTRAMI COUNTY JAIL DIVERSION PROGRAM

*Regular Session, Chapter 71, Article 2, Section 41 and Article 14, Section 5(m) (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Uncodified provision
Effective July 1, 2015*

Provides one-time funding to Beltrami County to plan and develop a comprehensive mental health program to serve those under arrest and experiencing a mental health crisis, under a transport hold, or in immediate need of crisis services. Sets conditions for the receipt of funds, including a requirement to include an integrated care model for mental health and substance use disorder treatment services. Appropriates \$2 million for the 2016-2017 biennium.

VI. BRIDGES FUNDING

*First Special Session, Chapter 1, Article 1, Section 3, subd. 4 (HF 3)
Jobs and Energy Omnibus Appropriations Bill
Appropriations Rider
Effective July 1, 2015*

Authorized increased rental assistance for persons with mental illness who are eligible for Section 8 rental assistance by \$2.5 million per year. Preference given to those who want to move to more integrated settings.

VII. CHILDREN'S MENTAL HEALTH RESPITE CARE

*Regular Session, Chapter 71, Article 2, Section 14 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 245.4889, subd. 1(a)(3); adds uncodified provision
Effective July 1, 2015*

Increases children's mental health respite care grants to expand capacity to serve an additional 500 to 1,000 children and their families. Appropriates \$847,000 for the 2016-2017 biennium and \$1.00 million for the 2018-2019 biennium.

VIII. CHILDREN’S THERAPEUTIC SERVICES AND SUPPORTS

*Regular Session, Chapter 78, Article 2, Sections 4-12 (HF 1535)
Health and Human Services Policy Bill
Amends Minn. Stat. § 256B.0943, subds. 1-7, 9 and 11
Effective May 23, 2015*

Clarifies and adds definitions including for psychotherapy and rehabilitative services. Adds parent rights to be involved in assessment, planning and treatment, to approve treatment plan and observe treatment. Allows individual behavior plan to be incorporated into the treatment plan if it is separately communicated to the mental health behavioral aide. Adds to CTSS eligibility, provider certification, data, and outcomes reporting and day treatment requirements.

IX. CLUB HOUSE PROGRAMS

*Regular Session, Chapter 71, Article 2, Section 37 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256B.0625, subd. 64
Effective July 1, 2015*

Requires DHS to develop Medical Assistance service standards and a payment methodology for “clubhouse” services which are now state and local grant funded community support services which serve persons with serious mental illness by skill building, mental health management, and community supports. Provides limited administrative funding for development of standards and payment methodology only. Additional legislative action and funding will be necessary when federal approval is obtained.

X. CRISIS SERVICES

*Regular Session, Chapter 71, Article 2, Sections 3, 42 and 43 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 62Q.55, subd. 3
Adds uncodified provision
Effective July 1, 2015*

Adds mental health crisis services to the definition of emergency services for purposes of private insurance coverage. Requires the commissioner of human services to develop recommendations for funding children’s mental health crisis residential services without requiring county authorization or child welfare placement. Appropriates funds to increase access to mental health crisis services for both children and adults, including the development of a single state-wide phone number for crisis services; expansion of mobile crisis teams for children and adults; phone consultation for mobile teams serving people with traumatic brain injury or intellectual disabilities experiencing mental health crises; increased monitoring; and provision of grant funding to establish new mental health crisis residential services. Appropriates \$8.6 million for the 2016-2017 biennium and \$9.5 million for the 2018-2019 biennium.

XI. EMPLOYMENT SUPPORT SERVICES FUNDING

*First Special Session, Chapter 1, Article 1, Section 2, subd. 6(e) (HF 3)
Jobs and Energy Omnibus Appropriations Bill
Appropriations Rider
Effective July 1, 2015*

Provides \$1 million increase per year for supported employment services for persons with mental illness for the 2016-2017 biennium.

XII. EXCELLENCE IN MENTAL HEALTH DEMONSTRATION PROJECT, BEHAVIORAL HEALTH CLINICS

*Regular Session, Chapter 78, Article 2, Sections 16 and 38 (HF 1535)
Health and Human Services Policy Bill
Adds Minn. Stat. § 245.735
Effective July 1, 2015*

A. Establishment

Directs DHS to develop and execute projects to reform the mental health system by participating in the federal Excellence in Mental Health demonstration.

Adds Minn. Stat. § 245.735, subd. 1

B. Standards/Fees/Affordability of Services

Directs DHS to “establish standards for state certification of certified community behavioral health clinics.” Provides that the standards must include that: (1) clinic services are available and accessible; (2) crisis management services are available 24 hours a day; and (3) fees for clinic services are set on a sliding scale; and (4) services may not be denied due to a patient’s ability to pay.

Adds Minn. Stat. § 245.735, subd. 3

C. Services

Specifies that services provided by behavioral health clinics include: (1) crisis mental health services; (2) emergency crisis intervention services and stabilization services; (3) screening, assessment, and diagnosis services, including risk assessments and level of care determinations; (4) patient-centered treatment planning; (5) outpatient mental health and substance use services; (6) targeted case management; (7) psychiatric rehabilitation services; (8) peer support and counselor services and family support services; and (9) intensive community-based mental health services, including mental health services for members of the armed forces and veterans.

Adds Minn. Stat. § 245.735, subd. 3

D. Public Participation

Directs DHS to consult with: (1) mental health providers; (2) advocacy organizations; (3) licensed mental health professionals; (4) Minnesota public health care program enrollees who receive mental health services; and (5) families of enrollees.

Adds Minn. Stat. § 245.735, subd. 4

XIII. FIRST EPISODE PSYCHOSIS SERVICES AND SUPPORTS

Regular Session, Chapter 71, Article 14, Section 2, subd. 5(n) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Provision

Effective July 1, 2015

Provides funding to pilot evidence-based interventions for youth at risk of developing or experiencing a first episode of psychosis and for a public awareness campaign. Appropriates \$260,000 for the 2016-2017 biennium and \$537,000 for the 2018-2019 biennium.

XIV. HOUSING WITH SUPPORTS

Regular Session, Chapter 71, Article 2, Section 10 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds Minn. Stat. § 245.466, subd. 9

Effective July 1, 2015

Increases grant funding for housing with supports for 840 adults with serious mental illness to access stable housing, mental health and other supportive services. Appropriates \$4.65 million in the 2016-2017 biennium and \$6.15 million in the 2018-2019 biennium.

XV. MENTAL HEALTH DATA SHARING

Regular Session, Chapter 71, Article 2, Sections 1, 2, 4 and 40 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. §§ 13.46, subds. 2 and 7; 144.293, subd. 6; and 245.4876, subd. 7

Effective July 1, 2015

A. To Coordinate Services

Authorizes sharing of “welfare system data” with welfare system personnel specifically for the purpose of coordinating services for an individual or a family.

Amends Minn. Stat. § 13.46, subd. 2(a)

Note: “Welfare system” is defined to include: (1) the Department of Human Services; (2) local social services agencies; (3) county welfare agencies; (4) private licensing agencies; (5) the public authority responsible for child support enforcement; (6) human services boards; (7) community mental health center boards; (8) state hospitals; (9) state nursing homes; (10) the ombudsman for mental health and developmental disabilities; and (11) persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract. Minn. Stat. § 13.46, subd. 1(c)

B. Mental Health Data

Authorizes sharing of mental health data with welfare system personnel, providing the staff person is either: (1) working in the same program; or (2) providing services to the same individual or family consistent with Department of Health requirements under Minn. Stat. § 144.293.

Amends Minn. Stat. § 13.46, subd. 7(a)

C. Continued Consent for Release of Health Records to A Welfare Program

Provides that, like several other forms of consent, consent by a patient for a hospital to release the patient’s health records to a welfare program – but only to the extent necessary to coordinate services – does not expire after one year.

Amends Minn. Stat. § 144.293, subd. 6

XVI. PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES FOR PERSONS UNDER 21 YEARS OF AGE

Regular Session, Chapter 71, Article 2, Sections 5 and 34 (SF 1458), and Article 14, Section 2, subd. 5(n) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds Minn. Stat. § 256B.0625, subd. 45a

Effective July 1, 2017 or upon federal approval, whichever is later

Expands Medical Assistance coverage to include psychiatric residential treatment facility services for persons under 21 years of age. Requires the commissioner to develop admissions and discharge procedures as well as to establish rates. Authorizes DHS to select service providers for up to 150 certified PRTF beds at up to six sites. Establishes 20 new extended-stay children's psychiatric hospital beds in the Twin Cities metro, to serve children requiring a hospital level of care. Appropriates \$6.42 million in the 2016-2017 biennium and \$6.16 million in the 2018-2019 biennium.

XVII. SCHOOL-BASED DIVERSION FOR STUDENTS WITH CO-OCCURRING DISORDERS/JUVENILE JUSTICE DIVERSION

Regular Session, Chapter 71, Article 14, Section 2, subd. 5(n) (SF1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Provision

Effective July 1, 2016

Pilots a new model for school based mental services to help three schools provide better support to students with mental health and substance use disorders in order to reduce arrests, expulsions, and suspensions, while increasing referrals for treatment and services. Appropriates \$65,000 beginning July 1, 2106 and \$322,000 for the 2018-2019 biennium.

XVIII. SOUTHEAST ASIAN VETERANS MENTAL HEALTH PROJECT

Regular Session, Chapter 71, Article 14, Section 2, subd. 5(m) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Appropriations Rider

Effective July 1, 2015

Provides funding for grants to nonprofit organizations to offer culturally specific mental health services to Southeast Asian veterans who do not qualify for services available to formally discharged veterans because they were born before 1965. Appropriates \$100,000 for the 2016-2017 biennium.

XIX. SUICIDE PREVENTION

Regular Session, Chapter 71, Article 2, Section 6 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 145.56, subds. 2 and 4

Effective July 1, 2015

Adds community-based programs to the suicide prevent grant program to provide evidence-based suicide prevention and intervention to various professionals and community-based, evidence-based post-vention training to mental health professionals. Requires the Commissioner of Health to submit a detailed plan by February 1, 2016, to improve data collection with respect to suicide, to identify the focus of prevention efforts and monitor the effectiveness of programming. Appropriates \$449,000 for the 2016-2017 biennium and \$416,000 for the 2018-2019 biennium. Increases grant funding for Text for Life \$1 million per year for the 2016-2017 biennium.

DEAF, DEAFBLIND AND HARD OF HEARING

I. DEAF, DEAFBLIND, AND HARD-OF-HEARING GRANTS

Regular Session, Chapter 71, Article 14, Section 2, subd. 3(d) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Appropriations Rider

Effective July 1, 2015

Provides a one-time appropriation of \$850,000 for the biennium for deaf and hard-of-hearing grants to be used to increase the number of deafblind Minnesotans receiving services and to provide linguistically and culturally appropriate mental health services to children who are deaf, deafblind, and hard-of-hearing.

II. DEAF AND HARD-OF-HEARING SERVICES DIVISION

Regular Session, Chapter 71, Article 14, Section 2, subd.3(d) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Appropriations Rider

Effective July 1, 2015

Appropriates \$1.2 million for the Deaf and Hard-of-Hearing Services Division to be used for linguistically and culturally appropriate mental health services, quarterly regional advisory committee meetings, to increase the number of deafblind clients served, for administrative review, technology and analysis of deafblind service efficiency and effectiveness.

SPECIAL EDUCATION

I. COORDINATED INTERAGENCY SERVICES

First Special Session, Chapter 3, Article 5, Sections 9 - 11 (HF 1)

Education Omnibus Appropriations Bill

Amends Minn. Stat. §§ 125A.023, subds. 3 and 4; and 125A.027

Effective July 1, 2015

Transfers responsibility for the coordination of interagency services for children with disabilities – including making a request for "additional appropriate services" – from the Interagency Early Intervention Committees to: (1) the school board; or (2) the county board.

A. Threshold Eligibility Age

Raises threshold eligibility age from zero to three years old.

Amends Minn. Stat. § 125A.023, subd. 3

B. Appeal of Determination of Appropriate and Necessary Services

Expressly limits appeal rights to those currently existing in: (1) Minn. Stat.

§ 125A.091; (2) Minn. Stat. § 125A.025; and (3) Minn. Stat. § 256.045.

Amends Minn. Stat. § 125A.027, subd. 2

II. INDIVIDUALIZED EDUCATION PROGRAMS

First Special Session, Chapter 3, Article 5, Section 12 (HF 1)

Education Omnibus Appropriations Bill

Amends Minn. Stat. § 125A.08

Effective July 1, 2015

Expands requirement that the individualized education program team must consider positive behavioral interventions, strategies, and supports that address behavior needs for all children, not just children with attention deficit disorders or attention deficit hyperactivity disorders. Directs school boards to ensure that paraprofessionals hired: (1) have sufficient knowledge and skills to begin meeting the "disability-specific and behavioral needs" of students; and (2) obtain required training to "understand how the disability affects the student's education and behavior."

III. INDIVIDUALIZED FAMILY SERVICE PLANS

First Special Session, Chapter 3, Article 5, Section 12 (HF 1)
Education Omnibus Appropriations Bill
Amends Minn. Stat. § 125A.21, subd. 3
Effective July 1, 2015

A. Health Coverage

Provides that, as with an individualized education program, a school district may not require parents of children with disabilities, if they would incur a financial cost, to use private or public health coverage to pay for the services that must be provided under an individualized family service plan

B. District Obligation to Provide

Provides that, as with an individualized education program, a school district may not deny, withhold, or delay any service that must be provided under an individualized family service plan because a family has refused to provide informed consent to bill a health plan for services or a health plan company has refused to pay any, all, or a portion of the cost of services billed.

IV. STAKEHOLDER RECOMMENDATIONS FOR GOALS TO REDUCE RESTRICTIVE PROCEDURES

First Special Session, Chapter 3, Article 5, Section 15 (HF 1)
Education Omnibus Appropriations Bill
Amends Minn. Stat. § 125A.0942, subd. 3
Effective June 14, 2015

Amends the statute to allow "as necessary," rather than require, annual stakeholder recommendations to the Department of Education concerning specific and measurable implementation and outcome goals for reducing the use of restrictive procedures.

MISCELLANEOUS

I. ASSISTIVE TECHNOLOGY FOR CAREERS

First Special Session, Chapter 1, Article 1, Section 2, Subdivision 6 (HF 3)
Jobs and Energy Omnibus Appropriations Bill
Appropriations Rider
Effective July 1, 2015

Provides one-time funding of \$1 million to Assistive Technology of Minnesota to acquire assistive technology for persons to use to create career paths.

II. CIVIL COMMITMENT REVIEWS

Regular Session, Chapter 71, Article 2, Sections 18-19 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 253B.18, subds. 4c and 5
Effective January 1, 2016

Requires the Special Review Board to examine each denied petition for barriers preventing treatment progress and provide the commissioner an annual summary with recommendations for changes to improve treatment outcomes. Also requires the head of the treatment facility to schedule special review board hearings for each patient who has not had a hearing within the previous three years, and to schedule hearings at least every three years thereafter. Mandates that these hearings begin no later than February 1, 2016. Appropriates \$6.52 million for the 2016-2017 biennium and \$8.72 million for the 2018-2019 biennium.

III. COMMUNITY REHABILITATION PROVIDER CHANGES

First Special Session, Chapter 1, Article 1, Section 2, subd. 14-20 (HF 3)
Jobs and Energy Omnibus Appropriations Bill
Amends Minn. Stat. §268A.01 subd. 6, 10, §268A.03, .06, .07 and .085
Adds Minn.Stat. §268A.01 subd. 15
Effective July 1, 2015

Changes definitional terms for community rehabilitation facility and extended employment. Adds a definition of noncompetitive employment. Clarifies locations of and funding allowed for community rehabilitation programs.

IV. GROUP RESIDENTIAL HOUSING REFORM

*Regular Session, Chapter 71, Article 1, Sections 3, 6, 9, 16-40 and Article 14, Section 2 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256I
Effective July 1, 2015*

Provides quality assurance measures and makes some eligibility changes to the Group Residential Housing program under chapter 256I, including a requirement for background studies, notices and prospective budgeting. Saves \$868,000 in Fiscal Year 2016-2017.

V. JENSEN SETTLEMENT COSTS

*Regular Session, Chapter 71, Article 14, (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Appropriations Rider
Effective July 1, 2015*

Provides funds for technical assistance and training for lead agencies and providers to implement the new Positive Behaviors Supports Rule, eliminate aversive practices and the operation of the External Program Review committee as well as to operate the Jensen Implementation Office, responsible for assuring compliance with court-ordered requirements of the Jensen Settlement Agreement. Appropriates \$3.94 million for the 2016-2017 biennium and \$3.91 million for the 2018-2019 biennium.

VI. OLMSTEAD IMPLEMENTATION OFFICE

*First Special Session, Chapter 1, Article 1, Section 1, subd. 4(b) (HF 3)
Jobs and Energy Omnibus Appropriations Bill
Appropriate Rider
Effective July 1, 2015*

Appropriates \$1.3 million per year in 2016 and 2017 to operate the *Olmstead* Implementation Office. Establishes \$1,269,000 per year as the base appropriation for 2018 and 2019.

STATE-OPERATED SERVICES

I. ANOKA METRO REGIONAL TREATMENT CENTER (AMRTC) COST OF CARE INCREASES

Regular Session, Chapter 71, Article 4, Section 2 and Article 14, Section 2, subd. 6(a) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 246.54, subd. 1

Appropriations Rider

Effective July 1, 2015

A. County Share of Cost of Care

Increases the county payment share for clients in Anoka Metro Regional Treatment Center to 20% for days 31 and over if the stay is clinically appropriate and 100% for each day the client no longer clinically qualifies and is ready for discharge. Saves \$1.75 million in the 2016-2017 biennium and \$1 million in the 2018-2019 biennium.

Amends Minn. Stat. § 246.54, subd. 1

B. Additional Capacity

Provides funding to add 15 additional beds to Anoka Metro Regional Treatment Center. Appropriates \$4.1 million for each year of the 2016-2017 biennium.

Appropriations Rider

II. MINNESOTA SECURITY HOSPITAL FUNDING FOR CONSOLIDATED LICENSE CORRECTIONS

Regular Session, Chapter 71, Article 14, Section 2, subd. 7(b) and (c) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Appropriations Rider Provisions

Effective July 1, 2015

Appropriates \$11.2 million for 2016 and \$11.3 million for 2017 for changes at the Minnesota Security Hospital to correct problems identified in conditional license report.

III. MINNESOTA SEX OFFENDER PROGRAM

Regular Session, Chapter 71, Article 14, Section 2, subd. 7(c) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Appropriations Rider

Effective July 1, 2015

Provides spending authority for unspent 2014 funds appropriated for compliance with court orders in the *Karsjens v. Jesson* case. Allows any remaining funds to be used to offset past and future litigation expenses in *Karsjens* or other United States District Court orders.

TASK FORCES, STUDIES AND REPORTS

I. GROUP RESIDENTIAL HOUSING LEGISLATIVE REPORT

Regular Session, Chapter 71, Article 1, Section 120 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified provision

Effective July 1, 2015

Directs DHS, after consultation with stakeholders, to report by December 15, 2016 on the 2015 GRH reforms and proposals to restructure service rates, improve integrity, uniformity, assessment tools, and any other necessary modifications that will result in a more cost-effective program.

II. HEALTH CARE FINANCING TASK FORCE

Regular Session, Chapter 71, Article 11, Section 62 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Provision

Effective July 1, 2015

Establishes a task force to provide advice to the Governor and Legislature by January 15, 2016 on how to increase access and improve the quality of health care. Appropriates \$770,000 in Fiscal Year 2016 for administrative services and support to the Task Force on Health Care Financing. This is a onetime appropriation.

III. HCBS SETTINGS TRANSITION REPORT

Regular Session, Chapter 78, Article 6, Section 30 (HF1535)

Health and Human Services Policy Bill

Uncodified Provision

Effective July 1, 2015

Upon federal approval, directs DHS to take steps to comply with the HCBS settings plan transition plan and to report annually from January 15, 2016 to March 2019 on the HCBS Settings Transition process.

IV. HCBS WAIVER SPENDING REPORTS

Regular Session, Chapter 71, Article 7, Section 56 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Provision

Effective July 1, 2015

Requires DHS to report on the implementation of the 2015 changes to HCBS waiver spending provisions in Minn. Stat. § 256B.0916 and .49 by February 15, 2018 and February 15, 2019.

V. MENTAL HEALTH DATA SHARING FISCAL IMPACT REPORT

*Regular Session, Chapter 71, Article 2, Section 40 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Adds Uncodified Provision
Effective July 1, 2015*

Directs DHS, in consultation with Hennepin County, to report to the Legislature on January 1, 2017 on the fiscal impact, including estimated savings, resulting from the 2015 modifications to the data practices act permitting the sharing of public data to coordinate services and care for clients enrolled in public health care programs.

VI. MENTAL HEALTH DEMONSTRATION PROJECT REPORT

*Regular Session, Chapter 71, Article 2, Section 38 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Uncodified Provision
Effective July 1, 2015*

Requires DHS to: (1) report to the Legislature on the progress of the Excellence in Mental Health demonstration project by January 15, 2016; and (2) include any recommendations for legislation necessary.

VII. MENTAL HEALTH GRANT REPORT

*Regular Session, Chapter 71, Article 2, Sections 11 and 15 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Uncodified Provision
Effective July 1, 2015*

Requires DHS to report to the legislature on a biennial basis, beginning November 1, 2016, about the programs and services funded through the children and adult mental health grants, outcomes and information about how each regional adult mental health initiative is utilizing their grant funding to address the identified gaps in services.

VIII. MENTAL HEALTH PAYMENT STRUCTURE STABILIZATION

*Regular Session, Chapter 71, Article 2, Section 39 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256B.0622
Effective July 1, 2015*

Requires DHS to contract with stakeholders and outside experts to analyze possible changes to the current payment structure for mental health services and develop proposals for reforms, including Medicaid funding, to help ensure the long-term stability of Minnesota's mental health system. Specifies that the report is due January 1, 2017.

IX. NURSING HOME LEVEL OF CARE REPORT

*Regular Session, Chapter 78, Article 6, Section 29 (HF 1535)
Health and Human Services Omnibus Appropriations Bill
Amends Laws 2013, Chapter 108, Article 7, Section 58
Effective July 1, 2015*

Delays until October 1, 2015 and February 15, 2016 the due dates for two legislative reports because the implementation of the nursing home level of care was delayed from January 1, 2014 to January 1, 2015.

X. PCA DATA REPORT ON “CONSTANT SUPERVISION” CRITERIA

*Regular Session, Chapter 71, Article 7, Section 57 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Uncodified Provision
Effective July 1, 2015*

Requires the commissioner to report on the number of persons ineligible for CFSS because they do not require “constant” supervision.

XI. PEER SPECIALIST REPORT

*Regular Session, Chapter 78, Article 2, Section 15 (HF 1535)
Health and Human Services Policy Bill
Uncodified Provision
Effective July 1, 2015*

Requires DHS to study the use, duties, possible expansion, cost and reimbursement options for certified peer specialists in the mental health system, and report to the Legislature by January 15, 2016.

ELDER LAW

Prepared by:

Ron Elwood, Supervising Attorney

Legal Services Advocacy Project

651-842-6909

relwood@mnlsap.org

I. VULNERABLE ADULTS

Regular Session, Chapter 78, Article 6, Section 28 (HF 1535)

Health and Human Services Policy Bill

Amends Minn. Stat. § 626.5572, subd. 21

Effective August 1, 2015

Adds a recipient CFSS to the definition of “vulnerable adult.”

FAMILY LAW/DOMESTIC VIOLENCE

Prepared by:

Melinda Hugdahl, Staff Attorney

Legal Services Advocacy Project

651-842-6907

mthugdahl@mnlsap.org

II. BEST INTERESTS OF THE CHILD

Regular Session, Chapter 30, Article 1, Sections 1-3 and 13 (SF 1191)

Omnibus Family Law Policy Bill

Underlying Bills: HF 465 /SF 1191

Amends Minn. Stat. §§ 257.025; 518.167, subd. 2; and 518.17, subd. 1

Repeals Minn. Stat. § 518.17, subds. 1a and 2

Effective August 1, 2015

A. Revised Best Interests Factors

Revises best interests factors from 13 primary factors plus four joint custody factors to one set of 12 factors to be used in custody and parenting time cases. The revised factors add language to consider the child's relationship with both parents, and consider the impact to the child on proposed custody and parenting time arrangements.

Factors that must be considered include:

- (1) The child's physical, emotional, cultural, spiritual and other needs, and the effect of the proposed arrangements on the child's needs and development; (new)
- (2) The child's special medical, mental health, or educational needs that require special parenting arrangements or access to recommended services; (new)
- (3) The child's reasonable preference, if the court deems the child to be of sufficient ability, age and maturity to express an independent, reliable preference; (modified)

Note: Underlined phrases are new and underlined for emphasis here only.

- (4) Whether domestic abuse, as defined in section 518B.01, has occurred in the parents' or either parent's household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs; (modified)
Note: Underlined phrases are new and underlined for emphasis here only.
- (5) Any physical, mental or chemical health issue of a parent that affects the child's safety or developmental needs; (modified)
Note: Underlined phrases are new and underlined for emphasis here only
- (6) The history and nature of each parent's participation in providing care for the child; (new – but also modified from primary caretaker factor)
- (7) The willingness and ability of each parent to provide ongoing care for the child; to meet the child's ongoing developmental, emotional, spiritual, and cultural needs; and to maintain consistency and follow through with parenting time; (new)
- (8) The effect on the child's well-being and development of changes to home, school and community; (modified)
Note: Underlined phrases are new and underlined for emphasis here only
- (9) The effect of the proposed arrangements on the ongoing relationships between the child and each parent, siblings, and other significant persons in the child's life; (modified)
Note: Underlined phrases are new and underlined for emphasis here only
- (10) The benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time with either parent; (new)
- (11) Except in cases in which domestic abuse as described in clause (4) has occurred, the disposition of each parent to support the child's relationship with the other parent and to encourage and permit frequent and continuing contact between the child and the other parent; (modified)
Note: Underlined phrases are new and underlined for emphasis here only

- (12) The willingness and ability of the parents to cooperate in the rearing of their child; to maximize sharing information and minimize exposure of the child to parental conflict; and to utilize methods for resolving disputes regarding any major decision concerning the life of the child. (modified)

Note: Underlined phrases are new and underlined for emphasis here only

Note: Existing language is moved from joint custody factors that were repealed. See Minn. Stat. § 518.17, subd. 2(b)

B. Guiding Principles

Adds “guiding principles” for courts to consider when applying the revised best interests factors. Some principles are new, some are from the original custody factors or clauses in this statutory section prior to August 1, 2015, either in whole or in part. The principles include the following requirements:

- (1) Findings on each factor and how it led to the court’s conclusion;
- (2) Consideration that the best interests factors may be inter-related;
- (3) Consideration that promotion of a safe, stable, nurturing relationship between a child and both parents is in the child’s best interests;
- (4) Consideration that unless there are substantial reasons to believe otherwise, both parents have the capacity to develop and sustain nurturing relationships with their children.
Note: Parenting styles may differ, and how parents provide love guidance may vary, especially between parents and among cultures.
- (5) Prohibits consideration of conduct that doesn’t impact the party’s relationship with the child (current law);
- (6) Prohibits disability of a parent or the child alone, as defined in the Minnesota Human Rights Act (Minnesota Statutes, section 363A.03) from being determinative as to custody (similar to factor in current law);
- (7) Prohibits consideration of evidence of false reports of child abuse
Note: Current law provision, moved from Minn. Stat. §518.17, subd. 1a into subd. 1; subd. 1a was repealed
- (8) No presumption for or against joint physical custody, except where domestic violence has occurred (current law);

- (9) Joint physical custody doesn't require an absolutely equal division of parenting time.
Note: Given the long-standing difference between the statutory definition of "joint physical custody" in Minn. Stat. §518.003, subd. 3(d) – that parenting time is structured between the parties, and the "commonly-used" definition that suggests equal parenting time, this provision was borrowed in part from case law to try and harmonize those definitions. See *Hegerle v. Hegerle*, 355 N.W.2d 726 (Minn. App. 1984)
- (10) Retains existing presumption against joint physical custody in cases where domestic violence has occurred. Adds standard for rebutting presumption – must consider the nature and context of abuse, and its implications for parenting, and the impact on the child's safety, well-being and developmental needs. Retains existing language court can't determine that the parents can't cooperate solely on the basis that they disagree as to whether the court should grant sole or joint custody. Adds prohibition of solely considering a military parent's past or possible future deployments in determining the child's best interests.

C. Conforming Changes

1. Amends existing paternity statutes to align with best interests changes, so that the same factors will be used for both married and unmarried parents. See Minn. Stat. §257.025
2. Aligns existing custody evaluation statute to align with best interests changes, and require a custody evaluation report to include the wishes of the parents. See Minn. Stat. §518.167, subd. 2.
Note: This incorporates the "wishes of the parents" which was removed as a specific best interests factor.

II. NOTICES – ACCESS TO RECORDS

Regular Session, Chapter 30, Article 1, Sections 4 and 5 (SF 1124)

Omnibus Family Law Policy Bill

Underlying Bills: HF 464 /SF 1124

Amends Minn. Stat. § 518.17, subd. 3

Adds Minn. Stat. § 518.17, subd. 3a

Effective August 1, 2015

A. Parents Access to Records

Requires existing notice provisions in Appendix A related to a parent's access to records be included in the body of the order. The provisions that must be in the body of the order are in a new statutory subdivision, Minn. Stat. §518.17, subd. 3a.

B. Amendments

Amends the existing provisions as follows:

- Clarifies that each parent, regardless of custodial designation, has access to listed records, unless the court makes findings limiting access;
- Clarifies that schools are not required to hold separate conferences, unless a court order prohibits contact with a party; and
- Adds “or other electronic contact” to reasonable telephone contact.

III. DENIAL/INTERFERENCE WITH PARENTING TIME – ENFORCEMENT

Regular Session, Chapter 30, Article 1, Section 7 (SF 1191)

Omnibus Family Law Policy Bill

Underlying Bills: HF 518 /SF 1103

Amends Minn. Stat. § 518.175, subd. 6

Effective August 1, 2015

A. Denial of Parenting Time

Amends and expands existing provisions for enforcement for denial of parenting time and/or interference with parenting time.

B. Notice

Retains requirement that all parenting time orders contain notice of these provisions.

C. Parenting Time Eligible for Enforcement

Defines “parenting time” eligible for enforcement as time as: (1) under a court order; (2) established by a binding agreement; or (3) the decision of a parenting time expediter.

D. Progressive Enforcement

Creates progressive enforcement for denial of parenting time as follows:

- Making a significant amount of parenting time unavailable:
 - Court may order compensatory parenting time, unless doing so is not in the child’s best interests.

E. Repeated and Intentional Denial or Interference with Parenting Time

If there is repeated and intentional denial or interference with parenting time, the court: (1) must award compensatory time; and (2) may award a civil penalty under existing provisions of this section (Minn. Stat. §518.175, subd. 6 (d)), UNLESS the court finds that the denial was necessary to protect the child’s physical or emotional health.

If there is repeated and intentional denial or interference after a previous finding, the court must: (1) award compensatory time; AND (2) award civil penalty; UNLESS the court finds that the denial was necessary to protect the child’s physical or emotional health.

IV. INCOME TAX DEPENDENCY ALLOCATION AND PENALTY

Regular Session, Chapter 30, Article 1, Section 10 (SF 1191)

Omnibus Family Law Policy Bill

Underlying Bills: HF 446 / SF 848

Adds Minn. Stat. § 518.38, subd. 7

Effective August 1, 2015

A. Allocation

1. Codifies long-standing practice of court allocation of dependency exemptions, and ordering party to sign federal tax form releasing exemptions, as part of dissolution decree.
2. Requires court to consider the following factors in allocating exemptions:
 - Each party's financial resources;
 - If not awarding the exemption negatively impacts a parent's ability to provide for the needs of the child.
Note: See Rogers v. Rogers, 622 N.W.2d 813 (Minn. 2001)
 - If only one or both parties would receive a tax benefit from the exemption; and
 - The impact of the allocation on either party's ability to claim a premium tax credit or premium subsidy under the Affordable Care Act, Public Law 111-148, as amended by other law or federal guidance or regulation.
3. Permits court to place reasonable conditions on ability to claim exemption, including requirement to be in compliance with child support order.
4. Prohibits allocation of exemption to a party with less than ten percent parenting time, unless the parties agree.
5. Requires findings on allocation determinations if the issue is contested.
6. Permits modification of allocation, if there is a substantial change of circumstances in the four factors listed above.

B. Penalty

1. May be ordered when a party either (1) wrongfully claims exemption on tax return in violation of court order or applicable law; or (2) fails to execute the federal tax dependency release form as required by a court order.
2. Court may order compensation in amount of lost benefit, plus costs and reasonable attorney's fees, to party wrongfully deprived of tax dependency claim.
3. Claim for penalty must be brought within reasonable time, but in no event later than three years of when the dependency exemption was or could have been claimed.
4. Meritless motion for relief may be subject to payment of the other party's costs and reasonable attorney's fees.

V. INTEREST RATE – FAMILY COURT JUDGMENTS

Regular Session, Chapter 30, Article 1, Section 12 (SF 1191)

Omnibus Family Law Policy Bill

Underlying Bills: HF 464 /SF 1424

Amends Minn. Stat. § 549.09, subd. 1

Effective August 1, 2015

A. Exemption

Exempts all family court judgments from the 10% interest rate floor. As a result, they will all be subject to the simple interest rate.

B. Lowering or Waiving of Interest

Permits court to lower or waive interest if the court makes findings that the lowered or eliminated interest rate is necessary to avoid unfair hardship to the debtor. This provision does not apply to child support or spousal maintenance judgments subject to Minn. Stat. § 548.091, which includes both docketed judgments and judgments by operation of law.

VI. PRESUMPTIVE PARENTING TIME

Regular Session, Chapter 30, Article 1, Section 6 (SF 1191)

Omnibus Family Law Policy Bill

Underlying Bills: HF 518 /SF 1103

Amends Minn. Stat. § 518.175, subd. 1

Effective August 1, 2015

Clarifies existing presumption of “at least” 25% parenting time is intended to be “a minimum of” 25% parenting time.

VII. SAFE AT HOME

A. Address Protection in Legal Proceedings

Regular Session, Chapter 65, Article 3, Sections 1 and 2 (SF 878)

Public Safety Omnibus Appropriations Bill

Amends Minn. Stat. §§ 5B.11 and 13.03, subd. 6

Effective July 1, 2015

1. Standard

- a. Prohibits court or tribunal from compelling disclosure of the actual address of a Safe at Home Participant as part of discovery or proceeding before a court or tribunal unless the court finds that: (a) there is a reasonable belief that the address is needed to obtain information or evidence without which the investigation, prosecution or litigation cannot proceed; and (b) there is no other practicable way of obtaining the information or evidence.
- b. The court must also consider whether the potential harm to the Safe at Home participant is outweighed by the interest in disclosure; and in a criminal case, the court must consider whether withholding the information would violate the defendant's constitutional right to confront witnesses.

2. Notice/Opportunity to Present Evidence

Requires courts to notify the Safe at Home participant that (1) the address is being sought; and (2) that the participant has the right to present evidence regarding the participant's potential harm from disclosure.

3. Protective Orders

Clarifies that protective orders may still be issued to limit disclosure of information – except for disclosure of the participant's actual address. Actual address disclosure requests use the standard set forth above.

4. Disclosure/Data Practices

- a. If the actual address is disclosed, the court's order must limit disclosure to no wider than necessary for the investigation, prosecution or litigation.
- b. If a program participant has non-public data (including the actual address), the court in addressing whether the data can be disclosed must consider the provisions of Minn. Stat. §5B.11. (Section regarding actual address disclosure/protective order).

Note: The non-public data can be the actual address, or other information that can be limited by a protective order

B. Violation of Protections

Regular Session, Chapter 65, Article 6, Section 1 (SF 878)

Public Safety Omnibus Appropriations Bill

Adds Minn. Stat. § 5B.13

Effective August 1, 2015, and applies to acts committed on or after that date – for protections in place as of February 1, 2015.

Creates misdemeanor penalty for commission of an act prohibited by Minnesota Statutes, Chapter 5B, unless another penalty is prescribed by law.

VIII. CERTIFICATE OF DISSOLUTION

Regular Session, Chapter 57 (HF 1357)

Amends Minn. Stat. § 518.148

Effective August 1, 2015; except that provisions related to requesting a certificate where none has been issued apply to dissolutions prior to, on or after August 1, 2015

A. Separate Certificate

Amends current certificate of dissolution provisions to require the court to include a separate certificate of dissolution to be attached to the Judgment and Decree. The court may direct a party or the party's attorney to prepare the certificate and submit it to the court.

B. Contents

Amends contents of certificate as follows:

- Removes the names of any minor children;
- Removes the Social Security Numbers of the parties and any children;
- Adds both former and current name, if a name change was granted.

C. Nonissuance

If a certificate has not (or was not) issued, either party may request one, and the court must issue the certificate. The court may direct a party or the party's attorney to prepare the certificate and submit it to the court.

Note: This provision applies both retroactively and prospectively.

IX. SPOUSAL MAINTENANCE – MODIFICATION

Regular Session, Chapter 30, Article 1, Section 8 (HF 1191)

Omnibus Family Law Policy Bill

Underlying Bills: HF 518 /SF 1103

Amends Minn. Stat. § 518.552, subd. 5

Effective August 1, 2015

Permits post-decree modification of spousal maintenance – including awarding, modifying or precluding maintenance – if the parties reach a binding stipulation. The binding stipulation may also restore the court’s jurisdiction to award or modify maintenance.

X. CHILD SUPPORT/SPOUSAL MAINTENANCE

A. Modification

Regular Session, Chapter 30, Article 1, Section 11 (SF 1191)

Omnibus Family Law Policy Bill

Underlying Bills: HF 518 /SF 1103

Amends Minn. Stat. § 518A.39, subd. 2

Effective August 1, 2015

Permits modification of child support and/or spousal maintenance prior to the date of a modification motion if an alternative date is through the parties’ binding agreement. The court may approve and order modification to the earlier date. This modification is not considered a “retroactive modification” barred by federal regulation.

B. IV-D Services Application Fee

Regular Session, Chapter 78, Article 1, Sections 81 and 83 (HF 1535)

Health and Human Services Policy Bill

Amends Minn. Stat. §§ 518A.51 and 518A.53

Effective July 1, 2016

Eliminates IV-D application fee, which is currently \$25.

C. Definition of Obligor

Regular Session, Chapter 71, Article 1, Section 69 (SF1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 518A.26, subd. 14

Effective March 1, 2016

Amends the definition of “obligor” to remove presumption that a custodial parent can’t be an obligor for child support purposes.

XI. CHILD SUPPORT

A. Income Information Disclosure

Regular Session, Chapter 30, Article 1, Section 9 (SF 1191)

Omnibus Family Law Policy Bill

Underlying Bills: HF 518 /SF 1103

Amends Minn. Stat. § 518A.28

Effective August 1, 2015

1. Disclosure

Clarifies requirement of complete tax return for the preceding year. If a tax return is not filed, requires disclosure of any of the following forms: (1) 1099s; (2) W-2s; or (3) K-1s.

2. Penalty

- Adds ability of court to impose compensation, costs and reasonable attorney's fees for failure to initially provide income information required by court order or statute **or failure to disclose any changes to that information.**
- Adds three-year limit for court order finding failure to disclose and imposing penalty. The three-year period begins on the date the information should have been disclosed.
- Adds court authority to award costs and reasonable attorney's fees for meritless motion for relief for failure to disclose information.

B. Potential Income

Regular Session, Chapter 71, Article 1, Section 70 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 518A.32, subd. 2

Effective March 1, 2016

Amends the method for calculating potential income for a parent with no income history to 30 hours a week at 100% of current state or federal minimum wage, whichever is higher.

Note: Existing law imputes at 40 hours a week at 150% of minimum wage.

C. Medical Support/Health Care Coverage Determination and Contribution Obligation

Regular Session, Chapter 71, Article 1, Sections 74 and 75 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 518A.41, subds. 3 and 4

Various Effective Dates

1. Determining Comprehensive Coverage

Adds that health care coverage that meets the definition of “minimum essential coverage” under the Affordable Care Act presumptively meets the definition of “comprehensive” coverage for child support purposes. *See 26 U.S.C. §5000A(f). Effective July 1, 2015*

2. Noncustodial Parent Contribution to Cost of Public Coverage

Amends method for determining noncustodial parent’s medical support reimbursement for public coverage as applying the parent’s PICS to the MinnesotaCare premium schedule. The sliding scale copayment is the noncustodial parent’s obligation – unless the noncustodial parent’s PICS income meets eligibility for either Medical Assistance or public benefits. In that event, no contribution toward the cost of the child’s public coverage may be ordered. *Effective August 1, 2015*

D. Medical Support Obligation and Tax Dependency Exemption Modification

Regular Session, Chapter 71, Article 1, Sections 71-72, 76-77, and 80 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. §§ 518A.39, subd. 1; and 518A.41, subds. 14 and 15

Adds Minn. Stat. §§ 518A.39, subd. 8; and 518A.46, subd. 3a

Effective January 1, 2016

1. Motion to Modify Medical Support/Tax Dependency Exemption
(Sections 71 and 72)

Establishes ability to bring a motion to modify only medical support and the corresponding income tax dependency exemption if the entire child support order has been established or modified in the three years prior to the date of the motion AND at least one of the following has occurred:

- a. Change in availability of appropriate coverage or a substantial increase or decrease in cost of coverage;
- b. Change in eligibility for Medical Assistance
- c. Party’s failure to carry court-ordered coverage or provide other ordered medical support;
- d. Federal child dependency tax credit is not ordered for the parent who is carrying coverage; or
- e. The federal child dependency tax credit is not addressed in the order and the noncustodial parent is providing coverage.

2. PICS Percentage
(Sections 71 and 72)

- a. Clarifies that the PICS percentage used in the underlying order will determine the modified medical support obligation.
- b. Permits motions for medical support only modification to be retroactive to the date of service of the motion upon the other party and the county. (If public assistance or the county attorney is of record.)
- c. Clarifies that an evidentiary hearing is not required.
- d. Clarifies that awards of attorneys' fees under this section are governed by Minn. Stat. §§ 518.14 (fees and costs in dissolutions) and 518A.735 (fees for enforcement of child support).

3. Pleadings
(Section 80)

The initiating party's motion must include (if known):

- Parties' names, addresses and dates of birth;
- Social Security numbers of the parties and minor children;
 - Considered private information available only to parties, court and public authority;
- Names and addresses of parties' employers
- Each party's gross income as stated in the underlying order being modified;
- Health insurance coverage; and
- Any other information relevant to determining the medical support obligation. *See* Minn. Stat. §518A.41. For cases in the Expedited Process (IV-D cases), the county must serve on all parties and file with the court the following information:
 - Statement of monthly current and arrears being charged for child support, medical support, and child care (Minnesota cases only);
 - Statement of the amount of Medical Assistance received by the parties; and
 - Any other relevant information for determining medical support that is known to the public authority and hasn't been otherwise provided by the parties. This information must be filed with the court or magistrate at least five days prior to the hearing to modify medical support.

4. Requirement to Enforce
(Sections 76 and 77)

- a. Requires public authority to modify medical support orders, in addition to existing requirements to establish and enforce those orders.
- b. Establishes a basis for modification if a party fails to provide coverage, unless the presumptions for modifying support apply. *See Minn. Stat. § 518A.39, subd. 2.*

Note: *The intent is to use the failure to provide coverage as the basis to modify only medical support, any other changes should modify the entire order under Minn. Stat. § 518A.39, subd. 2.*

E. Removal of MinnesotaCare Terminology

*Regular Session, Chapter 71, Article 1, Sections 10-11, 73, 79, and 81 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. §§ 256.741, subds. 1 and 2; 518A.41, subd. 1; 518A.46, subd. 3; and 518A.51
Effective July 1, 2015*

Removes MinnesotaCare from the definition of “public coverage” for child support purposes. Through the transition under the Affordable Care Act, public coverage cases with children will be Medical Assistance cases.

F. Deviations

*Regular Session, Chapter 71 Article 1, Section 78 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Adds Minn. Stat. § 518A.43, subd. 1a
Effective March 1, 2016*

Adds deviation factor from child support guidelines to permit downward deviation for parent with parenting time between 10-45% when there is such a significant disparity of incomes that payment of basic child support would be detrimental to the parties’ joint child.

G. Disregard for MFIP

*Regular Session, Chapter 71, Article 1, Section 41 and 43 (SF1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. §§ 256J.21, subd. 2; and 256J.33, subd. 4
Effective October 1, 2015 (as amended by the Revisor’s Bill in Special Session Chapter 6, section 5)*

Creates a new MFIP income disregard for child support payments of up to \$100 for a family with one child and up to \$200 for a family with two or more children.

H. Arrears

Regular Session, Chapter 78, Article 1, Sections 82-85 (HF 1535)
Health and Human Services Policy Bill
Amends Minn. Stat. §§ 518A.53, subds. 1, 4 and 10; and 518A.60
Effective July 1, 2016

Aligns definition of “arrears” for income withholding with existing general definition of arrears for overall child support provision. See Minn. Stat. §518A.26, subd. 3.

Clarifies that if the court orders a specific monthly payback toward arrears, the monthly payback amount ordered is the only amount withheld -without the additional 20% of the underlying child support or maintenance obligation. The collection of an additional 20% of the underlying obligation toward child support or maintenance arrears is only used if there is no specific payment amount in the order.

I. Mandatory Reporting by State of Child Support Arrears to Credit Bureaus

Regular Session, Chapter 71, Article 1, Section 86 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Adds Minn. Stat. § 518A.685
Effective July 1, 2016

1. Conditions for Reporting

Requires a “public authority” to report child support arrears to “consumer reporting agencies” if: (1) the person (“the obligor”) is behind in child support for the current month plus “any required arrearage payment for three months”; and (2) the public authority provides written notice to the last known mailing address at least 30 days before the public authority reports the arrears to the credit bureau.

Notes:

- A “public authority” is defined as “the local unit of government, acting on behalf of the state, that is responsible for child support enforcement or the Department of Human Services, Child Support Enforcement Division.” Minn. Stat. § 518A.26, subd. 18a.
- “Consumer reporting agency” is defined by cross-referencing the existing definitions found in state and federal statutes. See 15 U.S.C. § 1681a(f); and Minn. Stat. § 13C.001, subd. 4.

2. How Person (Obligor) Subject to Reporting Can Avoid an Adverse Report

Permits the person behind in the arrears and subject to the reporting of the arrears to prevent the reporting by, within 21 days of receipt of the notice: (1) paying the full arrears; or (2) requesting an administrative hearing, provided: (i) the request is to resolve a claim of mistaken identity; (ii) there is a pending legal action involving the arrears; or (iii) the arrears balance is incorrect.

3. **Correcting Inaccurate Reports**
Requires a public authority to report to the consumer reporting agency that the child support is current if the public authority, after the person is in arrears, determines that the person: (1) has paid the child support arrears in full; or (2) is paying the current monthly support payment plus any required arrearage payment.

J. Automatic Income Withholding

Regular Session, Chapter 78, Article 1, Section 38 (HF 1535)

Health and Human Services Policy Bill

Reenacts and Revives Minn. Stat. §518.53, subd. 7

Effective May 23, 2015 (day following enactment); retroactive to August 1, 2014

Restores agency's authority for subsequent income withholding when withholding is not addressed in the court's order.

Note: *Statutory authority was inadvertently repealed in 2014. Any income withholding implemented after repeal and before enactment is ratified.*

K. Withholding from Unemployment Benefits

Regular Session, Chapter 78, Article 1, Section 38 (HF 1535)

Health and Human Services Policy Bill

Amends Minn. Stat. § 268.155, subd. 1

Effective October 15, 2015

Amends definition of "child support agency" to add federally-recognized tribal IV-D child support programs. As a result, Minnesota's Department of Employment and Economic Development (DEED) can withhold and forward child support payments from unemployment insurance benefits to tribal agencies. DEED currently sends payments to DHS for state court obligations.

L. Uniform Interstate Family Support Act (UIFSA)

Regular Session, Chapter 71, Article 1, Sections 87 and 101-119 (SF 1458)

Amends Minn. Stat. § 518C.802; and Laws 2014, Chapter 189, Sections 5,9-11, 16, 19, 23-24, 27-29, 31, 43, 50-52, and 73

Effective July 1, 2015 (2014 Act, as amended by this legislation)

Amends updated UIFSA provisions passed by the Legislature in 2014, which were to become effective when the United States ratified The Hague Convention, which has now occurred.

Note: *Full summaries of the 2014 provisions are included in the 2014 Family Law Session Summaries.*

Amendments include:

- Expansion of UIFSA to international child support cases, including proceedings under The Hague Convention;
- Narrows requirement to convert support obligations for foreign countries only upon the foreign country's request (such as foreign currency conversion for income withholding requests);
- Permits automatic redirection of payments to another state in UIFSA cases;
- Modifies timelines to contest registration of an order to generally 20 days, with longer time periods for foreign orders or when the contesting party who resides outside the United States; and
- Updates interstate process and requirements for issues such as allowing non-certified copies, electronic copies, and signatures under penalty of perjury in certain situations.

M. Interim Working Group

Regular Session, Chapter 71, Article 1, Section 121 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Section

Effective July 1, 2015

Expires January 16, 2016

A. Establishment

Establishes an interim child support working group to: (1) review the parenting expense adjustment in Minn. Stat. § 518.36; and (2) identify and recommend changes to the parenting expense adjustment (specifically the “cliff” that occurs at 45.1% parenting time).

B. Composition of the Interim Working Group

Provides that the interim working group members must include: (1) Legislators; (2) Legal Aid; (3) Minnesota State Bar Association Family Law Section; (4) parent advocacy groups, one each representing custodial and non-custodial parents; (5) DHS staff; (6) county attorneys; and (7) county child support staff.

C. Contract with Economist

Authorizes the retention of an economist to assist the group's work regarding the parenting expense adjustment.

D. Report

Requires the working group to submit a report to the Legislature by January 15, 2016 that contains recommendations: (1) for changes to the computation of child support; and (2) on the composition of a permanent child support task force.

XII. RECOGNITION OF PARENTAGE

Chapter 71, Article 1, Sections 52 and 53 (SF1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 257.75, subds. 3 and 5

Effective March 1, 2016

A. Clarification of Existing Case Law

Clarifies existing case law that the Recognition of Parentage (ROP) provides a basis for an action for custody and/or parenting time, but does not itself establish custody and/or parenting time.

B. DHS Requirements

Requires the Department of Human Services to update the ROP form and educational materials to specifically include notice of:

- Finality of the ROP, and the process to revoke it;
- Only a court order can establish custody and/or parenting time;
- When the court does award custody and/or parenting time, there is no presumption for or against joint physical custody, except when domestic violence has occurred;
- A basis for:
 - Court action for temporary or permanent custody and/or parenting time;
 - Establishing child support;
 - Determining the parental contribution for past support/reimbursement under Minn. Stat. § 256.87
 - Reimbursement for past pregnancy and confinement expenses; and
 - Reimbursement for costs of blood and/or genetic testing.

Domestic Violence

I. FIREARMS AND AMMUNITION RESTRICTIONS

Regular Session, Chapter 65, Article 3, Sections 16-18, 25-30, and 33 (SF 878)

Public Safety Omnibus Appropriations Bill

Amends Minn. Stat. §§ 609.165; 609.11, subd. 9; and 624.713, subds. 1, 1a, 2, 3 and 4;

Adds Minn. Stat. §§ 609.02, subd. 17; and 624.712, subd. 12

Effective August 1, 2015, and applies to crimes committed on or after that date

A. Expansion of Firearms Restrictions

Expands existing firearms restrictions for felons convicted of crimes of violence to include ammunition; except ammunition designed for a firearm that a person may legally possess under existing law. (See Minn. Stat §624.713, subd. 1)

Note: "Crime of violence" retains its existing definition under Minn. Stat. §624.712

B. Corresponding Statutory Changes

Makes corresponding changes to existing provisions regarding:

- Notice from courts to defendants regarding restrictions;
- Ineligibility to receive, ship or transport pistols or semiautomatic military style assault weapons;
- Penalties for violating restrictions;
- Mandatory minimum sentencing;
- Judicial restoration of right to possess firearms, including to civilly committed persons.

C. Definition of Ammunition

Adds definition of "ammunition" to mean ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm. Excludes ornaments, curiosities or souvenirs that resemble but are not operable as ammunition.

II. FIREARMS PURCHASES

Regular Session, Chapter 65, Article 3, Section 31 (SF 878)

Public Safety Omnibus Appropriations Bill

Adds Minn. Stat. § 624.7133

Effective August 1, 2015, and applies to crimes committed on or after that date

Creates gross misdemeanor offense for "straw" purchases or transfers on behalf of or to a person known to be ineligible to purchase or possess firearms under state or federal law.

III. **NECESSITY DEFENSE**

*Chapter 65, Article 6, Section 10 (SF 878)
Public Safety Omnibus Appropriations Bill
Amends Minn. Stat. § 169A.53, subd. 3
Effective July 1, 2015*

Creates an affirmative defense of necessity in implied consent hearings (license revocation for driving while impaired).

Note: The defense is not limited to domestic violence cases, but was in response to Axelberg v. Commissioner of Public Safety, 848 N.W.2d 206 (Minn. 2014). The Axelberg case involved a necessity defense claim based upon domestic violence.

IV. **WORKING GROUP ON VIOLENCE AGAINST ASIAN WOMEN AND CHILDREN**

*Regular Session, Chapter 71, Article 8, Section 58 (SF 1458)
Regular Session, Chapter 71, Article 14, Section 3, Subdivision 2 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Uncodified Section
Effective May 23, 2015
Expires the day following the submission of a required report (which must be submitted by February 15, 2017)*

Appropriates \$200,000 in the first year of the biennium and directs the Department of Health – in collaboration with the Department of Human Services, the Department of Public Safety, and the Council on Asian-Pacific Minnesotans – to establish a multi-disciplinary working group to address violence against Asian women and children. Specifies that the purpose of the working group is to study the nature, scope, and prevalence of violence against Asian women and children in Minnesota, including: (1) domestic violence; (2) trafficking; (3) international abusive marriage; (4) stalking; (5) sexual assault; and (6) other violence. Charges the working group with, among other things, identifying promising prevention and intervention strategies in addressing violence against Asian women and children. Requires that the working group submit recommendations and any draft legislation to the agencies by January 1, 2017 and submit a report to the Legislature on its findings by February 15, 2017.

GUARDIANSHIP AND CONSERVATORSHIP LAW

Prepared by:

Ron Elwood, Supervising Attorney
Legal Services Advocacy Project
651-842-6909
relwood@mnlisap.org

I. CONSERVATORSHIP – BOND REQUIREMENTS

Regular Session, Chapter 11 (HF 239)

Amends Minn. Stat. §§ 524.5-413 and 524.5-416

Effective May 2, 2015, and applies to conservators appointed, or conservatorships reviewed by the court, on or after that date

Provides the court with discretion to establish a bond “necessary to reasonably protect” the assets of a vulnerable adult or minor. Allows joint conservators to unite in a bond or give separate bonds. Allows an alternative to furnishing a bond, wherein a conservator may request that certain assets be blocked; but to assure protection of the remaining unprotected assets, requires the conservator to furnish a bond in an amount determined by the court to reasonably protect the unblocked assets.

Note: An estate must be valued at \$10,000 or more to trigger the bond requirement.

II. VETERANS AFFAIRS GUARDIANSHIP PROGRAM

Regular Session, Chapter 16 (SF 1455)

Repeals Minn. Stat. § 196.051

Effective August 1, 2015

Repeals Minnesota law permitting the district court may appoint the Commissioner of Veterans Affairs as guardian of the estate of a veteran or dependent for whom the appointment of a guardian is found by the court to be necessary.

HEALTH LAW

Prepared by:
Ron Elwood, Supervising Attorney
Legal Services Advocacy Project
651-842-6909
relwood@mnlsap.org

Acronyms Used in this Section

ACA	=	Affordable Care Act
ACT	=	Assertive Community Treatment
CFSS	=	Community First Services and Supports
DHS	=	Minnesota Department of Human Services
EPD	=	Employed Persons with Disabilities
FPG	=	Federal Poverty Guidelines
GRH	=	Group Residential Housing
HBCS	=	Home and Community-Based Services
IRTS	=	Intensive Residential Treatment Services
MA	=	Medical Assistance
MNCare	=	MinnesotaCare
NEMT	=	Non-Emergency Medical Transportation

PUBLIC PROGRAMS

I. ELIGIBILITY VERIFICATION

Regular Session, Chapter 71, Article 11, Section 17 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Adds Minn. Stat. § 256.0561
Effective July, 2015

A. Establishment

Directs DHS, beginning March 1, 2016, to conduct periodic data matching at least once during a recipient's 12-month period of eligibility to identify recipients, who, based on available electronic data, may not meet eligibility criteria for MA and MinnesotaCare.
Adds Minn. Stat. § 256.0561, subd. 2(a)

B. Notice

Requires notification to a recipient who appears to be ineligible and provides 30 days for the recipient to: (1) confirm the information obtained through the periodic data matching; or (2) provide a reasonable explanation for the discrepancy. Provides that all communications with recipients “affected by” the periodic data matching must contain contact information for the state or county agency and “consumer assistance partners” who can assist the recipient.

Adds Minn. Stat. § 256.0561, subd. 2(b) (notification)

Adds Minn. Stat. § 256.0561, subd. 3 (contents of notice)

C. Disenrollment

Requires disenrollment if, within the 30-day period, the recipient does not: (1) respond; or (2) provide a reasonable explanation. Prohibits disenrollment if the recipient is cooperating and needs additional time to provide information in response to the notice.

Adds Minn. Stat. § 256.0561, subd. 2(b) (disenrollment)

Adds Minn. Stat. § 256.0561, subd. 2(c) (additional time to provide information)

D. Appeals

Permits appeals to a determination of ineligibility under the procedures set forth in Minn. Stat. §§ 256.045 to 256.0451.

Adds Minn. Stat. § 256.0561, subd. 2(d)

E. Report

Directs DHS to report to the Legislature by September 1, 2017 and each September 1 thereafter on the number of: (1) cases affected by periodic data matching; (2) recipients identified as possibly ineligible; (3) recipients whose eligibility was terminated; and (4) cases were closed for a failure to cooperate.

Adds Minn. Stat. § 256.0561, subd. 4

F. Federal Compliance

Requires compliance with the ACA.

Adds Minn. Stat. § 256.0561, subd. 5

II. MEDICAL ASSISTANCE (MA)

A. COST SHARING

Regular Session, Chapter 71, Article 7, Section 29 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 256.0631

Various Effective Dates

1. Family Deductible

Provides for a \$2.75 per month per family cost share, adjusted annually by a specified formula.

Amends Minn. Stat. § 256.0631, subd. 1(4)

Effective retroactively from January 1, 2014

2. Exemptions

Adds to the list of person exempt from co-pays and deductibles: (1) American Indians who are enrolled in a federally recognized tribe; (2) individuals eligible for MA through the breast and cervical cancer control program; and (3) preventive health services recommended by the U.S. Preventive Services Task Force.

Amends Minn. Stat. § 256.0631, subd. 2 by adding paragraphs (11) – (13)

Effective July 1, 2015

3. Cap

Caps cost-sharing for all MA recipients at 5% of the family's income, eliminating the cap for only those under 100% FPG.

Amends Minn. Stat. § 256.0631, subd. 3

Effective July 1, 2015

B. MA-EPD

Regular Session, Chapter 71, Article 7, Section 28 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 256.057, subd. 9

Effective September 1, 2015

Reverses a premium increase for enrollees in MA-EPD that was implemented October 1, 2015, by reducing: (1) from \$65 to \$35 the amount of the minimum premium; and (2) from 5% of 0.5% the additional premium amount that enrollees must pay of any unearned income.

C. MA Spenddown

Regular Session, Chapter 71, Article 7, Section 27 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256.056, subd. 5c
Effective July 1, 2016

Increases the excess income standard (spenddown) to qualify from MA from 75% FPG to 80% of FPG for persons who: (1) are over age 64; (2) are blind; or (3) have a disability.

D. Children’s Therapeutic Services and Supports

Regular Session, Chapter 78, Article 2, Sections 4 and 5 (HF 1535)
Health and Human Services Policy Bill
Amends Minn. Stat. § 256B.0943, subds. 1 and 2
Effective May 23, 2015

Makes numerous amendments throughout the section’s subdivision, including: (1) making several definitional modifications, one of which clarifies that a diagnosed emotional disturbance or a diagnosed mental illness, as those terms are defined elsewhere in statute, qualify as "children's therapeutic services and supports"; and (2) adding the definitions of: (i) “mental illness”; (ii) “psychotherapy”; and (3) “rehabilitative services” (or "psychiatric rehabilitation services").

Amends Minn. Stat. § 256B.0943, subd. 1

E. Health Care Homes

Regular Session, Chapter 71, Article 7, Section 31 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256.0757
Effective July 1, 2016, or upon federal approval, whichever is later.

1. Establishment

Requires DHS to establish health care homes to serve individuals with serious mental illnesses. Requires that services focus on behavioral and the physical health of the participants.

Amends Minn. Stat. § 256.0757, subd. 1, by adding paragraph (c)

2. Eligibility

Makes a person eligible if the person has a current diagnostic assessment and is: (1) an adult with a mental illness as defined in Minn. Stat. § 245.462, subd. 20(a); or (2) a child with an emotional disturbance that seriously limits the capacity to function in primary aspects of daily living, as described in Minn. Stat. § 245.4871, subd. 15(2).

Amends Minn. Stat. § 256.0757, subd. 2, by adding clause 4

E. Coverage Changes

1. Group Residential Housing (GRH)

Regular Session, Chapter 71, Article 1, Sections 24 and 38 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. §§ 256I.04, subd. 1; and 256I.06, subd. 6

Various Effective Dates

a. *Eligibility*

Eliminates the eligibility of recipients of General Assistance for GRH services. Persons no longer eligible as of the effective date include those who are: (1) other household members whose presence is required because of illness, incapacity, or age of the principal GRH recipient; (2) residing in shelter; (3) children under the age of 18; (4) eligible for displaced homemaker services; (5) involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day; and (6) over age 18 whose primary language is not English and who is attending high school at least half time.

Amends Minn. Stat. § 256I.04, subd. 1

Effective September 1, 2015

b. *Reporting*

Changes the requirements for recipients to report changes in income, beginning on April 1, 2016, from every month to every six months.

Amends Minn. Stat. § 256I.06, subd. 6

Effective April 1, 2016

2. Intensive Treatment in Foster Care

Regular Session, Chapter 78, Article 2, Section 13 (HF 1535)

Health and Human Services Omnibus Bill

Amends Minn. Stat. § 256B.0946, subd. 1(a)

Effective May 23, 2015

Makes “medically necessary intensive treatment services to children placed in a foster home licensed by a federally recognized Minnesota tribe” services covered by MA.

3. Psychiatric Consultation
Regular Session, Chapter 71, Article 2, Section 35 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Adds Minn. Stat. § 256B.0625, subd. 48
July 1, 2015

Expands the categories of professionals with whom a patient may consult to the list that qualifies for MA coverage to include a licensed: (1) independent clinical social worker – as defined in Minn. Stat. § 245.462, sub. 18(2); or (2) marriage and family therapist – as defined in Minn. Stat. § 245.462, sub. 18(5)).

4. Psychiatric Residential Treatment Facility Services
Regular Session, Chapter 71, Article 2, Section 34 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Adds Minn. Stat. § 256B.0625, subd. 45a
Effective July 1, 2017, or upon federal approval, whichever is later

Makes psychiatric residential treatment facility services for persons 21 years of age services covered by MA.

5. Telemedicine
Regular Session, Chapter 71, Article 9, Sections 1-3, 13 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256B.0625, subd. 3b
Adds Minn. Stat. §§ 62A.67 - .672
July 1, 2015

Clarifies “medically necessary” services and consultations delivered via telemedicine in the same manner as if the service or consultation was delivered in person are covered by MA.

Amends Minn. Stat. § 256B.0625, subd. 3b

Note: *The “Minnesota Telemedicine Act” was enacted in 2015, codified at Minn. Stat. §§ 62A.67 - .672. “Telemedicine” is defined as “the delivery of health care services or consultations while the patient is at an originating site and the licensed health care provider is at a distant site.” The definition excludes as telemedicine “[a] communication between licensed health care providers that consists solely of a telephone conversation, e-mail, or facsimile transmission.”*
See Minn. Stat. § 62A.671, subd. 9.

6. Non-Emergency Medical Transportation (NEMT)
Regular Session, Chapter 71, Article 11, Section 21 and 23 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256.0625, subs. 17 and 18a
July 1, 2016
- a. *New Rate Structure*
Creates a new rate structure for NEMT. Replaces language governing direct mileage reimbursement rate found in subdivision 18a (“Access to Medical Services”) with language in the new rate structure section under subdivision 17 (“Transportation Costs”).
Amends Minn. Stat. § 256.0625, subs. 17(f) and 18a(c)
 - b. *Special Transportation Services*
Eliminates the rate structure for special transportation services provided to eligible persons who need a wheelchair accessible van.
Amends Minn. Stat. § 256.0625, subs. 17(f)
 - c. *Reimbursement for Acquaintance-Drivers*
Permits acquaintances of the client to receive client reimbursement for providing qualifying transportation.
Adds Minn. Stat. § 256.0625, subs. 17, new paragraph (h)
 - d. *Administration of NEMT Program*
Provides that local agencies will assume responsibility for administering the NEMT program, but only after DHS has developed and funded a single administrative structure and delivery system.
Amends Minn. Stat. § 256.0625, subs. 17(i)
7. Ambulance Services
Regular Session, Chapter 71, Article 11, Section 22 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256.0625, subd. 17a
July 1, 2016

Restores a rate cut made in 2011.

III. MINNESOTACARE

A. Definitional Changes

Regular Session, Chapter 71, Article 11, Sections 46 and 47 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 256L.01, subds. 3a and 5

May 23, 2015

1. *“Family”*

Modifies the definition of families to mean: (1) for an individual who does not expect to file a federal tax return and does not expect to be claimed as a dependent for the applicable tax year, the meaning under 42 C.F.R. § 435.603(f)(3); and (2) for a married couple, the meaning under 42 C.F.R. § 435.603(f)(4).

Amends Minn. Stat. § 256L.01, subds. 3a

2. *“Income”*

Adds that, in addition to the meaning under 26 C.F.R. 1.36B-1, income means “a household's projected annual income for the applicable tax year.”

Amends Minn. Stat. § 256L.01, subds. 5

B. Cost Sharing

Regular Session, Chapter 71, Article 11, Section 48 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 256L.03, subd. 5

Various Effective Dates

1. Family Deductible

Provides for a \$2.75 per month per family cost share, adjusted annually by a specified formula.

Amends Minn. Stat. § 256L.03, subd. 5(a)(5)

Effective retroactively from January 1, 2014

2. Exemptions

Adds to the list of person exempt from co-pays and deductibles American Indians who are enrolled in a federally recognized tribe.

Amends Minn. Stat. § 256L.03, subd. 5(b)

Effective March 23, 2015

3. Actuarial Value
Requires DHS to increase co-payments sufficient to reduce the actuarial value of the MinnesotaCare benefit to 94%, except that the cost-sharing changes do not apply to: (1) eligible recipients; or (2) services exempt from cost-sharing under state law. Provides that the changes may not be implemented before January 1, 2016.
Amends Minn. Stat. § 256L.03, subd. 5 by adding paragraph (f)
Effective July 1, 2015

4. Federal Compliance
Requires the cost sharing changes authorized to satisfy the requirements for cost-sharing under the Basic Health Program of under the ACA.
Amends Minn. Stat. § 256L.03, subd. 5 by adding paragraph (g)
Effective July 1, 2015

C. Income Limits

Regular Session, Chapter 71, Article 11, Section 50 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256L.04, subd. 7b
Effective July 1, 2015

Requires DHS to adjust the income limits annually on January 1 as provided in federal regulations.

D. Eligibility/Coverage

Regular Session, Chapter 71, Article 11, Sections 51 - 55 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. §§ 256L.05, subds. 3, 3a, and 4; and 256L.06, subd. 3
Adds Minn. Stat. § 256L.05, subd. 2a
Various Effective Dates

1. Timeframe Within Which DHS Must Determine Eligibility
Requires DHS to determine eligibility for MinnesotaCare no more than 45 days from the date DHS receives the application.
Amends Minn. Stat. § 256L.05, subd. 4
Effective March 23, 2015

2. Eligibility for Individuals Where Premiums Are Required
Requires DHS to determine eligibility for each applicable period of eligibility. Limits the availability of coverage, where premiums are required, to only months for which a premium has been paid.
Adds Minn. Stat. § 256L.05, subd. 2a
Effective March 23, 2015

3. Redetermination of Eligibility
Clarifies that: (1) eligibility must be redetermined annually; and (2) the period of eligibility is the entire calendar year following the year in which eligibility is redetermined. Requires, beginning in calendar year 2015, eligibility redeterminations must occur during open enrollment periods for qualified health plans.
Amends Minn. Stat. § 256L.05, subds. 3a
Effective March 23, 2015

4. Coverage for American Indians
Clarifies that coverage for American Indians begins the first day of the month following the month in which eligibility is approved.
Amends Minn. Stat. § 256L.05, subd. 3
Effective July 1, 2015

5. Disenrollment
Provides that disenrollment for nonpayment of the premium is effective for the calendar month following the months the premium was due. Prohibits a person who was disenrolled from reenrolling prior to the first day of the month following payment of an amount equal to two months' premiums.
Amends Minn. Stat. § 256L.06, subd. 3
Effective March 23, 2015

E. Premiums

Regular Session, Chapter 71, Article 11, Sections 57 and 58 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256L.15, subds. 1 and 2
Effective July 1, 2015 and applies to premiums paid on or after August 1, 2015.

1. Increases
Increases MinnesotaCare premiums for recipients sufficient to save \$27.8 million over the biennium. Excludes enrollees who are excluded from paying premiums under state or federal law.
Amends Minn. Stat. § 256L.15, subd. 1

Note: *The premium increases to take effect August 1, 2015 are as follows:*

Enrollee FPG	Old Premium	New Premium
150% - 159%	\$29	\$37
160% - 169%	\$33	\$44
170% - 179%	\$38	\$52
180% - 189%	\$43	\$61
190% - 199%	\$50	\$71
200%	\$50	\$80

2. Federal Compliance

Complies with federal law by exempts from the payment of premiums: (1) children under the age of 21; and (2) individuals with household incomes below 35% FPG.

Amends Minn. Stat. § 256L.15, subd. 2

F. Conforming Changes

Regular Session, Chapter 71, Article 11, Section 65 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Repeals Minn. Stat. §§ 256L.02, subd. 3; and 256L.05, subds. 1b, 1c, 3c, and 5

Effective March 23, 2015.

Repeals certain subdivisions of certain sections of the MinnesotaCare statute to conform to substantive changes made during the 2015 session.

V. MNsure APPEALS

Regular Session, Chapter 71, Article 12, Section 3 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 62V.05, subd. 6

Effective July 1, 2015

A. Venue

Empowers an “appellant aggrieved by an order of MNsure issued in an eligibility appeal” to appeal to the District Court of the appellant's county of residence. Sets forth procedures.

Amends Minn. Stat. § 62V.05, subd. 6 by adding paragraph (e)

B. Compelling Performance

Grants “any party aggrieved by the failure of an adverse party to obey an order issued by MNsure” the power to compel performance through a mandamus proceeding, as provided under Minnesota Statutes, Chapter 586.

Amends Minn. Stat. § 62V.05, subd. 6 by adding paragraph (f)

C. Appeals to the Minnesota Court of Appeals or Minnesota Supreme Court

Empowers “any party aggrieved by the order of the district court” to appeal the decision as in any other civil case. Provides that “no costs or disbursements shall be taxed against any party nor shall any filing fee or bond be required of any party.”

Amends Minn. Stat. § 62V.05, subd. 6 by adding paragraph (h)

D. Appellant’s Obligations

Requires the appellant to pay or provide premiums pending appeal if found by MNsure or the court to be eligible for QHP coverage or tax subsidies contingent upon full payment of premiums.

Amends Minn. Stat. § 62V.05, subd. 6 by adding paragraph (i)

E. Legal Effect of Finding of Eligibility

Provides the granting eligibility pending appeal “does not render moot MNsure's position in a court of law.”

Amends Minn. Stat. § 62V.05, subd. 6 by adding paragraph (i)

V. CONCILIATION COURT JURISDICTION LIMITED FOR COLLECTION OF BENEFIT OVERPAYMENTS

Regular Session, Chapter 27 (HF 1770)

Amends Minn. Stat. § 491A.01, subd. 3a

Adds Minn. Stat. § 491A.01, subd. 11

Effective August 1, 2015

Excludes the collection of any public assistance overpayments governed under procedures set forth in Chapter 256 from newly expanded conciliation court jurisdiction to hear actions brought by a county against a defendant who is not a resident of the county for debts owed for “fees, services, overpayments, or similar obligations.”

MENTAL AND CHEMICAL HEALTH

I. ASSAULTS ON EMPLOYEES AT SECURE FACILITIES

Regular Session, Chapter 23 (SF 1120)

Amends Minn. Stat. § 609.2231, subd. 3a

Effective August 1, 2015, and applies to crimes committed on or after that date

Makes an assault by on any employee supervising and working directly with mentally ill and dangerous patients at the Minnesota Security Hospital a fourth-degree felony assault.

Note: *Currently, only assaults by persons on employees in the Minnesota Sex Offender Program at Moose Lake or the Minnesota Security Hospital are considered fourth-degree assaults.*

A. Employees Covered

Expands employees covered to include any employee supervising and working directly with patients at a “secure treatment facility” as defined under Minn. Stat. § 253B.18, subd. 18a to include: “a hospital, community mental health center, or other treatment provider qualified to provide care and treatment for persons who are mentally ill, developmentally disabled, or chemically dependent.”

Amends Minn. Stat. § 609.2231, subd. 3a(a)

B. Persons/Patients Subject to Fourth-Degree Felony Assault Charge

Applies to: (1) persons committed as mentally ill and dangerous under Minn. Stat. § 253B.18; or (2) patients admitted from jail or prison who are ordered confined for a competency examination under § 253B.10.

Amends Minn. Stat. § 609.2231, subd. 3a(c)

C. Acts Constituting Crime

Delineates two acts that constitute the fourth-degree assault: (1) an assault that “inflicts demonstrable bodily harm”; or (2) intentionally throwing or transferring bodily fluids or feces onto the person.

Amends Minn. Stat. § 609.2231, subd. 3a(c)

D. Penalty

Establishes a penalty either or both of: (1) a prison term of not more than two years; (2) a fine of not more than \$4,000.

II. ASSERTIVE COMMUNITY TREATMENT (ACT) AND INTENSIVE RESIDENTIAL TREATMENT SERVICES (IRTS)

Regular Session, Chapter 71, Article 2, Sections 22 – 33 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. §§ 256B.0615, subd. 3; 256B.0622, subs. 1 – 5, and 7 - 10

Adds Minn. Stat. § 256B.0622, subd. 11

Effective July 1, 2015

Updates terminology and makes technical changes in addition to the following substantive changes.

A. IRTS Eligibility

Modifies eligibility for ACT and IRTS by changing the reference to “two or more” inpatient hospitalizations in the past year, to “recurring or prolonged” inpatient hospitalizations in the past year.

Amends Minn. Stat. § 256B.0622, subd. 3

B. Functional Assessment Updates and Initial Individual Treatment Plans for ACT and IRTS Patients

1. Functional Assessments Updates

Changes the frequency of updates to functional assessments from every three months to: (1) 30 days for IRTS patients; and (2) every six months for ACT patients.

Amends Minn. Stat. § 256B.0622, subd. 5(d)

2. Initial Individual Treatment Plans

Clarifies that the initial individual treatment plan for ACT patients must be completed within 10 days of intake. Adds that, for IRTS patients, initial individual treatment plans must be: (1) completed within 24 hours of admission; and (2) refined and further development within 10 days of admission.

Amends Minn. Stat. § 256B.0622, subd. 5(e)

III. CHILDREN'S THERAPEUTIC SERVICES AND SUPPORTS

Regular Session, Chapter 78, Article 2, Sections 4 - 12 (HF 1535)

Health and Human Services Policy Bill

Amends Minn. Stat. § 256B.0943, subds. 1 – 7, 9, and 11

Effective May 23, 2015

Makes numerous amendments throughout the section's subdivision, including: (1) making several definitional modifications, one of which clarifies that a diagnosed emotional disturbance or a diagnosed mental illness, as those terms are defined elsewhere in statute, qualify as "children's therapeutic services and supports"; and (2) adding the definitions of: (i) "mental illness"; (ii) "psychotherapy"; and (3) "rehabilitative services" (or "psychiatric rehabilitation services").

Amends Minn. Stat. § 256B.0943, subd. 1

IV. CIVIL COMMITMENT

A. Of Tribal Members

Regular Session, Chapter 78, Article 3, Section 1 (HF 1535)

Health and Human Services Policy Bill

Adds Minn. Stat. § 253B.212, subd. 1b

Effective August 1, 2015

1. Contracts

For the care and treatment of members of recognized tribes who have been committed by tribal court order to the Indian Health Service for treatment of mental illness, developmental disability, or chemical dependency, authorizes: (1) DHS to contract with the U.S. Indian Health Service of the U.S. Department of Health and Human Services to receive payment for the care and treatment; and (2) the tribe to contract directly with DHS.

2. Due Process Protections

Requires the tribal court commitment process to include all required due process protections afforded by Minnesota Statutes under sections 253B.05 to 253B.10.

B. Special Review Board

Regular Session, Chapter 71, Article 2, Sections 18 and 19 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 253B.18, subd. 5

Adds Minn. Stat. § 253B.18, subd. 4c

Various Effective Dates

1. Annual Review of Petitions Denied

Requires the civil commitment special review board to: (1) review each denied petition for a reduction in custody for barriers and obstacles preventing a patient from progressing in treatment; and (2) provide an annual summation of the barriers to treatment progress to DHS with recommendations to achieve progress in treatment.

Adds Minn. Stat. § 253B.18, subd. 4c

Effective January 1, 2016

2. Periodic Hearings for Certain Patients

Directs the head of the treatment facility to: (1) schedule a hearing before the special review board for any patient who has not appeared before the special review board in the previous three years; and (2) schedule a hearing at least every three years thereafter.

Amends Minn. Stat. § 253B.18, subd. 5

Effective January 1, 2016, with hearings starting no later than February 1, 2016

V. COMMUNITY-BASED PROGRAMS GRANTS

Regular Session, Chapter 71, Article 2, Section 6 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 145.56, subd. 2

Effective July 1, 2015

Adds to the grants DHS must make, to the extent funds are available, to include funding for community-based programs that provide evidence-based: (1) suicide prevention and intervention to: (i) public school nurses; (ii) teachers; (iii) administrators; (iv) coaches; (v) school social workers; (vi) peace officers; (vii) firefighters; (viii) emergency and advanced emergency medical technicians; (ix) paramedics; (x) primary care providers; and (xi) others; and (2) training to mental health professionals and practitioners in order to provide technical assistance to communities after a suicide and to prevent suicide clusters and contagion.

VI. DEAF AND HARD-OF-HEARING SERVICES

Regular Session, Chapter 71, Article 14, Section 2, Subdivision 3(d) and 5(k) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Sections

Effective July 1, 2015

Appropriates: (1) \$650,000 in the first year of the biennium and \$500,000 in the second year of the biennium to, among other things, “to provide linguistically and culturally appropriate mental health services”; and (2) \$350,000 in the first year of the biennium and \$500,000 in the second year of the biennium to, among other things, “provide linguistically and culturally appropriate mental health services to children who are deaf, deafblind, and hard-of-hearing.”

VII. EXCELLENCE IN MENTAL HEALTH DEMONSTRATION PROJECT

Regular Session, Chapter 78, Article 2, Sections 16 and 38 (HF 1535)

Health and Human Services Policy Bill

Adds Minn. Stat. § 245.735

Effective July 1, 2015

A. Establishment

Directs DHS to develop and execute projects to reform the mental health system by participating in the federal Excellence in Mental Health demonstration.

Adds Minn. Stat. § 245.735, subd. 1

B. Standards/Fees/Affordability of Services

Directs DHS to “establish standards for state certification of certified community behavioral health clinics.” Provides that the standards must include that: (1) clinic services are available and accessible; (2) crisis management services are available 24 hours a day; and (3) fees for clinic services are set on a sliding scale; and (4) services may not be denied due to a patient’s ability to pay.

Adds Minn. Stat. § 245.735, subd. 3

C. Services

Specifies that services provided by clinics include: (1) crisis mental health services; (2) emergency crisis intervention services and stabilization services; (3) screening, assessment, and diagnosis services, including risk assessments and level of care determinations; (4) patient-centered treatment planning; (5) outpatient mental health and substance use services; (6) targeted case management; (7) psychiatric rehabilitation services; (8) peer support and counselor services and family support services; and (9) intensive community-based mental health services, including mental health services for members of the armed forces and veterans.

Adds Minn. Stat. § 245.735, subd. 3

D. Public Participation

Directs DHS to consult with: (1) mental health providers; (2) advocacy organizations; (3) licensed mental health professionals; (4) Minnesota public health care program enrollees who receive mental health services; and (5) families of enrollees.

Adds Minn. Stat. § 245.735, subd. 4

E. Report to the Legislature

Requires DHS to: (1) report to the Legislature on the progress of the Excellence in Mental Health demonstration project; and (2) include any recommendations for legislation necessary to implement the reform projects.

Uncodified Section

VIII. HEALTH CARE HOMES

Regular Session, Chapter 71, Article 7, Section 31 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 256.0757

Effective July 1, 2016, or upon federal approval, whichever is later.

A. Establishment

Requires DHS to establish health care homes to serve individuals with serious mental illnesses. Requires that services focus on behavioral and the physical health of the participants.

Amends Minn. Stat. § 256.0757, subd. 1, by adding paragraph (c)

B. Eligibility

Makes a person eligible if the person has a current diagnostic assessment and is: (1) an adult with a mental illness as defined in Minn. Stat. § 245.462, subd. 20(a); or (2) a child with an emotional disturbance that seriously limits the capacity to function in primary aspects of daily living, as described in Minn. Stat. § 245.4871, subd. 15(2).

Amends Minn. Stat. § 256.0757, subd. 2, by adding clause 4

IX. MEDICAL ASSISTANCE COVERAGE FOR PSYCHIATRIC SERVICES

Regular Session, Chapter 71, Article 2, Sections 34 and 35 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 256B.0625, subd. 48

Adds Minn. Stat. § 256B.0625, subd. 45a

Various Effective Dates

A. Psychiatric Residential Treatment Facility Services

Makes psychiatric residential treatment facility services for persons 21 years of age services covered by MA.

Adds Minn. Stat. § 256B.0625, subd. 45a

Effective July 1, 2017, or upon federal approval, whichever is later

B. Psychiatric Consultation

Expands the categories of professionals with whom a patient may consult to the list that qualifies for MA coverage to include a licensed: (1) independent clinical social worker – as defined in Minn. Stat. § 245.462, sub. 18(2); or (2) marriage and family therapist – as defined in Minn. Stat. § 245.462, sub. 18(5)).

Amends Minn. Stat. § 256B.0625, subd. 48

July 1, 2015

X. MENTAL HEALTH CRISIS SERVICES

Regular Session, Chapter 71, Article 2, Section 42 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Section

Effective July 1, 2015

Directs DHS to increase access to mental health crisis services for children and adults by, among other things: (1) developing a central phone number where calls can be routed to the appropriate crisis services; (2) providing telephone consultation 24 hours a day to mobile crisis teams who are serving people with traumatic brain injury or intellectual disabilities who are experiencing a mental health crisis; (3) expanding crisis services across the state, including rural areas of the state; and (4) providing grants to establish new mental health crisis residential service capacity to be distributed to: (i) adult mental health initiatives; (ii) counties; (iii) tribes; or (iv) community mental health providers. Requires prioritization of regions that: (1) do not have a mental health crisis residential services program; (2) do not have an inpatient psychiatric unit within the region; (3) do not have an inpatient psychiatric unit within 90 miles; or (4) have a demonstrated need based on the number of crisis residential or intensive residential treatment beds available to meet the needs of the residents in the region. Requires at least 50% of the funds to be distributed to programs in rural Minnesota. Requires demonstrated collaboration with: (1) crisis teams; (2) other mental health providers; (3) hospitals; and (4) police.

XI. MENTAL HEALTH GRANTS

A. Adult Mental Health Pilot Project Grants

*Regular Session, Chapter 71, Article 2, Section 10 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Adds Minn. Stat. § 245.4661, subd. 9
Effective July 1, 2015*

1. Funded Programs

Specifies the following three programs that are funded: (1) mental health crisis services; (2) housing with supports for adults with serious mental illness; and (3) projects for assistance in transitioning from homelessness (PATH program).

2. Programs Eligible for Funding

Enumerates the following programs that are eligible for grant funds: (1) community education and prevention; (2) client outreach; (3) early identification and intervention; (4) adult outpatient diagnostic assessment and psychological testing; (5) peer support services; (6) community support program services (CSP); (7) adult residential crisis stabilization; (8) supported employment; (9) assertive community treatment (ACT); (10) housing subsidies; (11) basic living, social skills, and community intervention; (12) emergency response services; (13) adult outpatient psychotherapy; (14) adult outpatient medication management; (15) adult mobile crisis services; (16) adult day treatment; (17) partial hospitalization; (18) adult residential treatment; (19) adult mental health targeted case management; (20) intensive community residential services (IRCS); and (21) transportation.

B. Children's Mental Health Grants

*Regular Session, Chapter 71, Article 2, Section 14 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Adds Minn. Stat. § 245.4889, subd. 1
Effective July 1, 2015*

Enumerates the programs for which children's mental grants are available to include: (1) services to children with emotional disturbances and their families; (2) transition services for young adults under age 21 and their families; (3) respite care services for children with severe emotional disturbances who are at risk of out-of-home placement; (4) children's mental health crisis services; (5) mental health services for people from cultural and ethnic minorities; (6) children's mental health screening and follow-up diagnostic assessment and treatment; (7) services to promote and develop the capacity of providers to use evidence-based practices in providing children's mental health services; (8) school-linked mental health services; (9) building evidence-based mental health intervention capacity for children birth to age five; (10) suicide prevention and counseling services that use text messaging statewide; (11) mental health first aid training; (12) training for parents, collaborative partners, and mental health providers on the impact of adverse childhood experiences and trauma and development of an

interactive Web site to share information and strategies to promote resilience and prevent trauma; (13) transition age services to develop or expand mental health treatment and supports for adolescents and young adults 26 years of age or younger; (14) early childhood mental health consultation; (15) evidence-based interventions for youth at risk of developing or experiencing a first episode of psychosis, and a public awareness campaign on the signs and symptoms of psychosis; and (16) psychiatric consultation for primary care practitioners.

C. Southeast Asian Veterans

Regular Session, Chapter 71, Article 2, Section 2, subd. 5(m) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Section

Effective July 1, 2015

Appropriates \$100,000 in the first year of the biennium for grants to nonprofit organizations to provide resources and referrals for culturally specific mental health services to Southeast Asian veterans born before 1965 who do not qualify for services available to veterans formally discharged from the United States armed forces.

XII. MENTAL HEALTH JAIL DIVERSION PILOT IN BELTRAMI COUNTY

Regular Session, Chapter 71, Article 2, Section 41 (SF 1458)

Regular Session, Chapter 71, Article 14, Section 5(m) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Section

Effective July 1, 2015

Appropriates \$2 million over the biennium to DHS to award to Beltrami County to plan and develop a mental health integrated care model pilot program aimed primarily at diverting persons with mental health issues from jails to treatment services. Makes the appropriation contingent upon the county's "formal commitment" to fund, operate, and sustain the program and services after the onetime state grant is expended." Specifies that the comprehensive mental health program must serve individuals who are: (1) under arrest or subject to arrest who are experiencing a mental health crisis; (2) under a transport hold; or (3) in immediate need of mental health crisis services. Encourages cooperation with the Department of Corrections and the Minnesota Housing Finance Agency to, among other things, find short-term and long-term housing resources.

XIII. SHARING WELFARE SYSTEM DATA

Regular Session, Chapter 71, Article 2, Sections 1, 2, 4, and 40 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. §§ 13.46, subds. 2 and 7; 144.293, subd. 6; and 245.4876, subd. 7

Effective July 1, 2015

A. To Coordinate Services

Authorizes sharing of “welfare system data” with welfare system personnel specifically for the purpose of coordinating services for an individual or a family.

Amends Minn. Stat. § 13.46, subd. 2(a)

Note: “Welfare system” is defined to include: (1) the Department of Human Services; (2) local social services agencies; (3) county welfare agencies; (4) private licensing agencies; (5) the public authority responsible for child support enforcement; (6) human services boards; (7) community mental health center boards; (8) state hospitals; (9) state nursing homes; (10) the ombudsman for mental health and developmental disabilities; and (11) persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract. Minn. Stat. § 13.46, subd. 1(c)

B. Mental Health Data

Authorizes sharing of mental health data with welfare system personnel, providing the staff person is either: (1) working in the same program; or (2) providing services to the same individual or family consistent with Department of Health requirements under Minn. Stat. § 144.293.

Amends Minn. Stat. § 13.46, subd. 7(a)

C. Continued Consent for Release of Health Records to a Welfare Program

Provides that, like several other forms of consent, consent by a patient for a hospital to release the patient’s health records to a welfare program – but only to the extent necessary to coordinate services – does not expire after one year.

Amends Minn. Stat. § 144.293, subd. 6

D. Report on Fiscal Impact

Directs DHS to report to the Legislature on January 1, 2017 on the fiscal impact, including estimated savings, resulting from the modifications to the data practices act permitting the sharing of public data to coordinate care.

Uncodified Section

XIV. STUDY ON THE USE OF CERTIFIED PEER SPECIALISTS

Regular Session, Chapter 78, Article 2, Section 15 (HF 1535)

Health and Human Services Policy Bill

Uncodified Section

Effective May 23, 2015

Directs DHS to study and obtain stakeholder input on the use of certified peer specialists in the mental health system. Requires DHS to provide to Legislature by February 1, 2016 a report with any legislative recommendations.

CONTINUING CARE

I. ALTERNATIVE CARE PROGRAM

Regular Session, Chapter 78, Article 6, Sections 14 - 21 (HF 1535)

Health and Human Services Policy Bill

Amends Minn. Stat. § 256B.0913, subds. 4, 5, 5a, 6, 10, 11, and 12

Adds Minn. Stat. § 256B.0913, subd. 17

Effective August 1, 2015

A. Eligibility

Requires a person receiving funding under the Alternative Care Program to be either a: (1) United States citizen; or (2) United States national.

Amends Minn. Stat. § 256B.0913, subd. 4

B. Services

Adds coverage of sign language and spoken language interpreter services if the services are: (1) necessary of obtain Alternative Care Program services; and (2) provided by a person listed in the state registry or roster under Minn. Stat. § 144.058.

Amends Minn. Stat. § 256B.0913, subd. 5a

C. Client Fees

Eliminates the fees for all Alternative Care Program participants that: (1) use consumer-directed community supports; and (2) receive temporary Alternative Care Program services

Amends Minn. Stat. § 256B.0913, subd. 12

III. COMMUNITY FIRST SERVICES AND SUPPORTS (CFSS)

Regular Session, Chapter 78, Article 6, Sections 10 – 13, 22, and 28 (HF 1535)

Health and Human Services Policy Bill

Amends Minn. Stat. § 256B.0911, subds. 1a, 2b, 3, and 3a; 256B.85, subds. 1 – 18, 19 – 24; and 626.5572, subd. 21

Adds Minn. Stat. § 256B.85, subds. 6a, 11a, 11b, 12a, 12b, 13a, 20a, 20b, 20c, 23a, and 26

Repeals Minn. Stat. § 256B.85, subds. 19 and 25

Amendments and additions effective upon federal approval; CFSS services effective 90 days after federal approval

Makes a variety of technical changes in addition to the substantive changes summarized below.

A. Definitions

1. Long-Term Care Consultation Services
Adds CFSS to the definition of “long-term care consultation services.”
Amends Minn. Stat. § 256B.0911, subd. 1a(b)
2. Vulnerable Adult
Adds a recipient CFSS to the definition of “vulnerable adult.”
Amends Minn. Stat. § 626.5572, subd. 21

B. Eligibility Based on Behaviors

Removes the requirement that certain behaviors must trigger eligibility.
Amends Minn. Stat. § 256B.85, subd. 7

C. Assessment

Clarifies that a community support plan is provided to every person who receives a MnCHOICES assessment, regardless of what service option the person chooses.
Amends Minn. Stat. § 256B.0911, subd. 3a

D. Person-Centered Planning Process

Specifies that the person-centered planning process must, among other things: (1) include people chosen by the participant; (2) provide information and support necessary to ensure that the participant directs the process to the maximum extent possible, and is enabled to make informed choices and decisions; (3) be timely and occur at times and locations convenient to the participant; (4) reflect cultural considerations of the participant; (5) include strategies for solving conflict or disagreement; (6) provide the participant choices of services and supports; and (7) include a method for the participant to request updates to the plan.
Adds Minn. Stat. § 256B.85, subd. 6a

E. Participant Protections

1. Generally
Clarifies that all CFSS participants have the protections identified in the section.
Amends Minn. Stat. § 256B.85, subd. 20
2. Notice of Rights
Requires CFFS agency-providers to: (1) provide notice to the participants and the participant’s legal representative that identifies and explains participants’ rights within five working days of service initiation; (2) “make reasonable accommodations” to provide the information in other formats and languages; and (3) “ensure the exercise and protection of the participant’s rights.”
Adds Minn. Stat. § 256B.85, subd. 20a

3. Enumerated Rights

Grants a participant the right to, among other things: (1) participate in and approve the initial development and ongoing modification and evaluation of CFSS services provided; (2) refuse or terminate services and be informed of the consequences; (3) a coordinated transfer of services when there will be a change in the agency-provider; (4) privacy of personal and medical information; (5) access records; (6) know the person responsible and the process for addressing complaints; (7) know the contact for the county agency, Ombudsman for Long-Term Care, and state protection and advocacy service to contact; (8) be treated with courtesy and respect and be free from maltreatment; and (9) before services are initiated be told: (i) the choices of and limits to the services available; and (ii) the charges for the services.

Adds Minn. Stat. § 256B.85, subds. 20b and 20c

F. Complaint Process

Requires the CFSS agency-provider to establish a simple complaint process for participants and their authorized representatives to bring a grievance that, among other things: (1) offers staff assistance with the process if requested by the participant; (2) provides for elevation of the grievance to the highest internal level; (3) requires a prompt response; (4) provides referrals to outside agencies; and (5) notice of the resolution to the participant.

Adds Minn. Stat. § 256B.85, subd. 12a(a)

G. Termination of Services

Requires a CFFS agency-provider to provide written notice of the intention to terminate services at least 10 calendar days before the proposed service termination is to become effective, except when: (1) the participant's conduct "significantly alters" the terms of the CFSS service delivery plan; (2) the participant "creates an imminent risk of harm to the workers or staff; (3) an emergency or a significant change in the participant's condition occurs within a 24-hour period that exceed the participant's identified needs and the CFFS agency-provider cannot safely meet the needs. Requires the CFFS agency-provider to "participate in a coordinated transfer of the participant to a new agency-provider to ensure continuity of care."

Adds Minn. Stat. § 256B.85, subd. 12b

H. Assuring Competency of Support Workers

Requires CFSS agency-providers to ensure that support workers are competent to meet the participant's assessed needs, goals, and additional requirements included in the CFSS service delivery plan. Requires the agency-provider to develop a worker training and development plan to ensure competency.

Adds Minn. Stat. § 256B.85, subd. 11b

I. Response to Incidents

Requires the CFSS agency-provider must: (1) establish policies and procedures for responding to incidents that occur while services are being provided; and (2) report to the participant's legal representative. Defines "incident" as "an occurrence that involves a participant and requires a response that is not a part of the ordinary provision of the services" and includes: (1) serious injury to or death of a participant (2) a medical emergency, unexpected serious illness, or significant unexpected change in a participant's illness or medical condition that requires a call to 911, physician treatment, or hospitalization; (3) a mental health crisis that requires a call to 911 or a mental health crisis intervention team; (4) an act or situation involving a participant that requires a call to 911, law enforcement, or the Fire Department; (5) a participant's unexplained absence; (7) behavior that creates an imminent risk of harm to the participant or another; and (8) a report of alleged or suspected child or vulnerable adult maltreatment.

Adds Minn. Stat. § 256B.85, subd. 12a(b)

J. Participant Responsibilities

Makes several modifications to participant responsibilities.

Amends Minn. Stat. § 256B.85, subd. 14

K. Long-Term Care Consultation Team

Requires each lead agency to establish and maintain a team of certified assessors.

Requires each team of certified assessors to include a: (1) social worker; and (2) public health nurse or registered nurse.

Amends Minn. Stat. § 256B.0911, subd. 3

L. Consultation Services

Enumerates consultation services and makes them mandatory. Modifies consultation service provider qualifications and requirements.

Amends Minn. Stat. § 256B.85, subds. 17 and 17a.

M. MnCHOICES

Clarifies that certified assessors are certified to complete the MnCHOICES assessment.

Amends Minn. Stat. § 256B.0911, subd. 2b

IV. HOME AND COMMUNITY-BASED SERVICES (HCBS) STANDARDS

Regular Session, Chapter 78, Article 6, Sections 4 – 7 (HF 1535)

Health and Human Services Policy Bill

Amends Minn. Stat. §§ 245D.10, subd. 3; 256.01, subd. 4; and 256.045, subd. 3; and

Adds Minn. Stat. § 245D.10, subd. 3a

Effective August 1, 2015

A. Temporary Suspension of HCBS Services

1. Basis for Suspension

Adds as reasons for a mandatory temporary suspension of HCBS services to the situation where the consumer poses an imminent risk of physical harm to herself or himself or to others: (1) the consumer has an “emergent medical issue” that is beyond the provider’s ability to address; or (2) the provider has not been paid for the services.

Amends Minn. Stat. § 245D.10, subd. 3(b)

Effective August 1, 2015

2. Notice of Temporary of Suspension

Requires that the notice of temporary suspension of services include: (1) the reason for the suspension; and (2) a summary of actions taken to minimize or eliminate the need for the suspension and the reasons the actions failed.

Amends Minn. Stat. § 245D.10, subd. 3(d)

Effective August 1, 2015

3. Right to Restoration of Services

Gives the consumer the right to have services restored if, based on a review by and determination of the patient's support team, the consumer no longer poses an imminent risk of physical harm to herself or himself or to others.

Amends Minn. Stat. § 245D.10, subd. 3 by adding clause (f)

Effective August 1, 2015

B. Termination of HCBS Services

1. Policy

Requires the provider to establish policies and procedures for service termination that promote continuity of care and service coordination with the consumer and the case manager and with other licensed caregivers.

Adds Minn. Stat. § 245D.10, subd. 3a(a)

Effective August 1, 2015

2. Limitation on Termination

Prohibits termination of services unless: (1) termination is necessary for the consumer's welfare and the consumer's needs cannot be met in the facility; (2) the safety of the consumer or others is endangered and positive support strategies are unsuccessful; (3) the health of the consumer or others is endangered; (4) the provider has not been paid for the services; (5) the provider ceases operations; or (6) the consumer has been terminated by the lead agency from waiver eligibility.

Adds Minn. Stat. § 245D.10, subd. 3a(b)

Effective August 1, 2015

3. Notice of Termination

a. *Recipients*

Requires that written notice of intended termination must be provided to: (1) the consumer or the consumer's legal representative; (2) the case manager; (3) DHS, if termination is from residential supports and services.

Adds Minn. Stat. § 245D.10, subd. 3a(d)(1)

Effective August 1, 2015

b. *Content*

Requires that the notice must include: (1) the reason for the action; (2) the patient's right to appeal under Minn. Stat. § 256.045, subd. 3(a) and seek a temporary order staying the termination under Minn. Stat. § 256.045, subd. 4a or 6(c); and (3) except where the provider ceases operations, a summary of actions taken to minimize or eliminate the need for termination and why the actions failed.

Adds Minn. Stat. § 245D.10, subd. 3a(d)(2)

Effective August 1, 2015

c. *Timing*

Notice of the intended termination must be given: (1) at least 60 days prior to the termination when the patient is receiving intensive supports and services under Minn. Stat. § 245D.03, subd. 1(c); and (2) 30 days prior to termination in all other circumstances.

Adds Minn. Stat. § 245.10, subd. 3a(e)

Effective August 1, 2015

d. *Provider Responsibilities After Giving Notice*

Requires the provider, during the service termination notice period, to: (1) work with the support team to develop reasonable alternatives to protect the patient and others; (2) support continuity of care; (3) provide information requested by the patient or case manager; and (4) maintain information about the service termination in the service recipient record.

Adds Minn. Stat. § 245D.10, subd. 3a(f)

Effective August 1, 2015

4. Right to Hearing

a. *Availability of Hearing*

Provides that a person issued a notice of service termination under from residential supports and services who is not otherwise subject to a case management appeal under Minn. Stat. § 256.045, subd. 4a has the right to a DHS hearing.

Amends Minn. Stat. § 256.045, subd. 3(a)

Effective August 1, 2015

b. *Limitation of Scope of Hearing*

Limits the scope of hearing to: (1) whether the proposed termination of services is authorized; and (2) whether the provider documentation requirements – found at Minn. Stat. § 245D.10, subd. 3a(c) – were met. Provides that, if the appeal includes a request for a temporary stay of termination, the scope of the hearing must also include whether the case management provider has finalized arrangements for a residential facility, a program, or services that will meet the assessed needs of the recipient by the effective date of the service termination.

Amends Minn. Stat. § 256.045, subd. 3(e)

Effective August 1, 2015

5. Provider Documentation

Requires a provider to document actions taken to minimize or eliminate the need for termination and the reasons why the provider was unable to take such actions prior to giving notice to the patient of the intended termination.

Adds Minn. Stat. § 245.10, subd. 3a(c)

Effective August 1, 2015

6. DHS Responsibilities

Requires the county or tribal case manager for a patient issued a notice of termination to: (1) develop an initial action plan within five business days of being notified of the termination; (2) request technical assistance from the state agency; and (3) promptly work to resolve the issues that led to the termination or arrange for alternative services as expeditiously as possible within the 60-day notice period.

Adds Minn. Stat. § 256.01, subd. 4

Effective August 1, 2015

V. SENIOR LINKAGE LINE

*Regular Session, Chapter 78, Article 6, Section 9 (HF 1535)
Health and Human Services Policy Bill
Amends Minn. Stat. § 256.975, subd. 7
Effective August 1, 2015*

Requires long-term care options counseling to be provided to former residents of nursing homes who were discharged to community settings. Requires nursing homes to provide contact information to the Senior LinkAge Line for certain residents.

LONG-TERM CARE

I. TREATMENT OF ASSETS

*Regular Session, Chapter 71, Article 7, Section 39 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 256B.059, subd. 5
Effective July 1, 2015*

Removes language that prohibits under any circumstances a married couple from converting assets to income in order to avoid being subject to the asset limit for the purposes of determining an institutionalized spouse's eligibility for long-term care under MA.

Note: *This change is required to bring Minnesota into compliance with Geston v. Anderson, in which the Eighth Circuit held that federal Medicaid law does not permit treating certain income streams as an asset for the purposes of determining Medicaid eligibility for long-term care. See Geston v. Anderson, 729 F.3d 1077 (8th Cir. 2013).*

MISCELLANEOUS

I. DENTAL SERVICES

Regular Session, Chapter 71, Article 8, Sections 23 and 41 (SF 1458)

Regular Session, Chapter 71, Article 14, Section 3, Subdivision 2 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 256B.76, subd. 4, as amended by Minn. Laws 2015, Chapter 21 (SF 1218), Article 1, Section 58 (Revisor's Bill)

Adds Minn. Stat. § 144.3875

Effective July 1, 2015

A. Critical Access Dental Providers

Eliminates the restriction that critical access dental providers may not restrict access or services because of a patient's financial limitations or public assistance status.

Amends Minn. Stat. § 256B.76, subd. 4, as amended by Minn. Laws 2015, Chapter 21 (SF 1218), Article 1, Section 58

B. Early Preventative Dental Intervention Awareness in Communities of Color

Directs the Department of Health, in collaboration with the Department of Human Services, to implement a statewide initiative to increase awareness among communities of color and recent immigrants on the importance of early preventive dental intervention for infants and toddlers before and after primary teeth appear. Requires collaboration with: (1) members of the targeted communities; (2) dental providers; (3) pediatricians; (4) child care providers; and (5) home visiting nurses. Appropriates \$172,000 in the first year, and \$140,000 in the second year, of the biennium for the initiative.

Adds Minn. Stat. § 144.3875

Uncodified Section (Appropriation)

II. HEALTH DISPARITIES

Regular Session, Chapter 71, Article 8, Section 45 and 46 and Article 11, Section 63 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds Minn. Stat. § 145.928, subds. 13(b) and 15

Uncodified Section

Effective July 1, 2015

A. Criteria

Requires the Department of Health to consider and give equal weight to applicants who present evidence of a promising strategy to reduce disparities.

Adds Minn. Stat. § 145.928, subd. 15

B. Report

Directs the Department of Health to report annually (beginning January 1, 2016) to the Legislature on the grants made under the Community Grant Program established in 2001 under Minn. Stat. § 145.928, subd. 7, to decrease racial and ethnic disparities in infant mortality rates.

Adds Minn. Stat. § 145.928, subd. 13(b)

C. Payment Enhancement for Providers Serving Patients with Health Disparities

Directs DHS to develop a methodology to pay a higher rate for health care providers and services (both fee-for-service and managed care providers) that takes into consideration the higher cost, complexity, and resources needed to serve patients and populations who experience the greatest health disparities in order to achieve the same health and quality outcomes that are achieved for other patients and populations. Requires DHS to develop the methodology in consultation with affected stakeholders, including communities impacted by health disparities, using culturally appropriate methods of community engagement. Requires DHS to submit a report to the Legislature by February 1, 2016 on the analysis it has conducted, with options for new payment methodologies that incorporate health disparities.

III. HEALTH EQUITY GRANTS

Regular Session, Chapter 71, Article 8, Section 59 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Section

Effective May 23, 2015

Requires the Department of Health to consider and give equal weight to applicants grant funds appropriated in 2014 for activities to address health equity issues, with an emphasis on refugee populations, who present evidence of a promising strategy to reduce disparities.

Note: See Minn. Laws 2014, Chapter 312, Article 30, Section 3, subd. 2.

IV. HEALTH CARE QUALITY

Regular Session, Chapter 71, Article 9, Section 4 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 62U.02, subds. 1 - 4

Effective July 1, 2015

A. Measurement

Directs the Department of Health to stratify health quality measures it is required to develop by: (1) race; (2) ethnicity; (3) preferred language; and (4) country of origin. Requires the stratification of other measures by other sociodemographic factors on or after January 1, 2018. Requires consultation with the communities impacted by health disparities through culturally appropriate community engagement principles and methods.

Amends Minn. Stat. § 62U.02, subd. 1

B. Quality Incentive Payments

Requires that the quality incentive payment system adjust for variations in patient population to reduce incentives for providers to avoid patients with risk factors related to race, ethnicity, language, country of origin, and socio-demographic factors.

Amends Minn. Stat. § 62U.02, subd. 2

C. Risk Adjustment

Requires, effective July 1, 2017, that the risk adjustment system that the Department of Health is developing for the quality incentive payments take into account patient characteristics that are correlated with health disparities and have an impact on performance, cost, and quality measures.

Amends Minn. Stat. § 62U.02, subd. 3

D. Contracting Requirements

Requires that any private entity with which the Department of Health contracts to fulfill the requirements of the quality incentive payment system has a governance structure that includes representatives of providers serving high concentration of patients and communities impacted by health disparities, and consumers who represent groups who experience health disparities.

Amends Minn. Stat. § 62U.02, subd. 4

V. HOSPITAL DISCHARGE NOTICES

Regular Session, Chapter 71, Article 8, Section 26 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds Minn. Stat. § 144.586

Effective July 1, 2015

Requires hospitals to provide oral and written notice to each patient within 24 hours of placement in observation status that: (1) the patient is not admitted to the hospital but is under observation status; (2) observation status may affect the patient's MA coverage for hospital services or HCBS or skilled nursing facility care.

VI. INTEGRATED CARE PILOT GRANT PROGRAM FOR HIGH-RISK PREGNANT WOMEN

Regular Session, Chapter 71, Article 11, Section 45 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds Minn. Stat. § 256B.79

Effective July 1, 2015

Expires June 30, 2019

A. Establishment

Directs DHS to establish a pilot program “to improve birth outcomes and strengthen early parental resilience” for pregnant women who are: (1) MA recipients; and (2) in “target populations” that are at “a significantly elevated risk for adverse outcomes of pregnancy.”

Adds Minn. Stat. § 256B.79, subd. 2

B. Eligibility for Grants

Provides that grant applicants must be or be in the process of becoming a “qualified integrated perinatal care collaborative.” Defines a “qualified integrated perinatal care collaborative” as combining: (1) members of community-based organizations that represent communities within the identified targeted populations, and (2) local or tribally based service entities determined by DHS to meet the criteria for the provision of integrated care and enhanced services for enrollees within targeted populations.

Adds Minn. Stat. § 256B.79, subd. 4 (eligibility)

Adds Minn. Stat. § 256B.79, subd. 1(c) (definition)

C. Use of Grant Funds

Limits use of grant funds to the support of “interdisciplinary, team-based needs assessments, planning, and implementation of integrated care and enhanced services for targeted populations.”

Adds Minn. Stat. § 256B.79, subd. 3

D. Report to the Legislature

Requires DHS to submit a report to the Legislature, by January 31, 2019, specifying outcomes and making recommendations for continuing the program or sustaining improvements through other means beyond the expiration date.

Adds Minn. Stat. § 256B.79, subd. 6

VII. LEGAL REFERRAL GRANTS

Regular Session, Chapter 71, Article 11, Section 18 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds Minn. Stat. § 256B.06, subd. 6

Effective July 1, 2015

Makes permanent the grant program, funded at \$200,000 for the biennium, DHS operated in 2014 to provide legal services based on indigency to individuals with emergency medical conditions or chronic health conditions who are not currently eligible for public health care programs based on their legal status, but who may meet eligibility requirements with legal assistance.

VIII. RIGHT TO TRY ACT

Regular Session, Chapter 15 (SF 100)

Adds Minn. Stat. §§ 151.375; and 256B.0625, subd. 64

Effective August 1, 2015

Authorizes eligible patients to access investigational drugs, products, and devices that have been successful in the preliminary testing phase but have not yet been approved by the Food and Drug Administration (FDA).

A. Definition

Limits access to “investigational drugs, biological products, or devices.” Defines them as one that: (1) has successfully completed the first phase of a clinical trial, but has not been approved for general use by the FDA; and (2) is currently in an FDA clinical trial.

Adds Minn. Stat. § 151.375, subd. 2(c)

B. Patient Eligibility

1. Patients Generally

Requires patients to: (1) be terminally ill; (2) in consultation with a physician, have already explored all other treatment options; (3) have a prescription or recommendation from a physician; and (4) provide (or have a parent or legal guardian provide) informed, written consent.

Adds Minn. Stat. § 151.375, subds. 2(b) and 3

Note: “Terminal illness is defined as irreversible with current FDA-approved drugs and other life sustaining measures.” Adds Minn. Stat. § 151.375, subd. 2(d)

2. Incarcerated Patients

Requires the Medical Director of the Department of Corrections (DOC) to approve the drug, product, or device before it may be used by a patient who is in DOC’s custody.

Adds Minn. Stat. § 151.375, subd. 9

C. Availability and Cost of Investigational Drugs, Products or Devices

1. Availability

Clarifies that the statute does not require a manufacturer to make available investigational drugs, products, or devices and that doing so is at the manufacturer's option.

Adds Minn. Stat. § 151.375, subd. 4

2. Coverage of Costs

a. *Manufacturers*

Gives the manufacturer the option to either: (1) provide the investigational drug, product, or device free; or (2) require the patient to pay the costs associated manufacturing the drug, product, or device.

Adds Minn. Stat. § 151.375, subd. 5

b. *Private Insurers*

Clarifies that private insurers are not required to cover the costs of patient use of an investigational drug, product, or device.

Adds Minn. Stat. § 151.375, subd. 7

c. *State-Provided Health Programs*

Clarifies that government agencies providing public health programs or administering health care services to inmates at a state or county correctional facility are not required to cover the costs of patient use of an investigational drug, product, or device.

Adds Minn. Stat. § 151.375, subd. 7

Note: The Medical Assistance (MA) statute is amended to be consistent by providing that MA (and the early screening, diagnosis, and treatment program (EPSDT) does not cover the costs of patient use of an investigational drug, product, or device. Amends Minn. Stat. § 256B.0625 by adding subd. 64

D. Liability

1. Health Care Providers

a. *Legal Actions*

Specifies health care providers in compliance with the statute are not subject to a separate private cause of action for: (1) treating an eligible patient using an investigational drug, product, or device; or (2) harm done to the patient result from the use of an investigational drug, product, or device.

Adds Minn. Stat. § 151.375, subd. 8

- b. *Licensure Actions*
Insulates health care providers from civil penalty or disciplinary action by a business, occupational, or professional licensing board for either: (1) providing a prescription or recommendation for an investigational drug, product, or device; or (2) providing treatment to an eligible patient.
Adds Minn. Stat. § 151.375, subd. 6

IX. SOMALI WOMEN'S HEALTH PILOT

Regular Session, Chapter 71, Article 14, Section 3, subd. 2 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Section

Effective July 1, 2015

Directs the Department of Health to establish a pilot program among: (1) one or more Federally Qualified Health Centers (FQHCs); (2) a nonprofit organization that helps Somali women; and (3) the Minnesota Evaluation Studies Institute. States the purpose of the pilot is, for first generation Somali women, to develop a promising strategy to address: (1) preventative and primary health care they need; and (2) health inequities they experience. Provides that the goal should be obtained by, among other things:

(1) addressing and identifying clinical and cultural barriers to Somali women accessing preventative and primary care; and (2) developing a culturally appropriate health curriculum for Somali women based on the outcomes from the community-based participatory research report "Cultural Traditions and the Reproductive Health of Somali Refugees and Immigrants." Specifies the outcome of the development of a process that: (1) results in increased screening rates for cervical and breast cancer; and (2) can be replicated by other providers serving ethnic minorities. Requires an evaluation and report to DHS by June 30, 2017. Appropriates \$110,000 for the project.

X. SUPPLEMENTAL NURSING SERVICES COMPLAINTS

Regular Session, Chapter 71, Article 8, Section 39 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 144A.73

Effective July 1, 2015

Requires that complaints against supplemental nursing services be investigated by the Office of Health Facility Complaints.

XI. TASK FORCE ON HEALTH CARE FINANCING

Regular Session, Chapter 71, Article 11, Section 62 (SF 1458)

Regular Session, Chapter 71, Article 14, Section 2, subd. 3(c) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Section

Effective July 1, 2015

Expires the day after submitting a required report (to be submitted by January 15, 2016)

Directs the Governor to convene a task force on health care financing with the express purpose of advising the Governor and Legislature “on strategies that will increase access to and improve the quality of healthcare for Minnesotans,” which must include “options for sustainable health care financing, coverage, purchasing, and delivery for all insurance affordability programs,” including: (1) MA; (2) MinnesotaCare; (3) MNsure; and (4) individuals (between 200% and 400% FPG) who are eligible to purchase coverage with federal tax subsidies. Specifically charges the task force with considering alternatives to MNsure and opportunities under the ACA’s Section 1132 waiver. Requires a report to the Legislature by January 15, 2016. Appropriates \$770,000 in the first year of the biennium as a one-time expenditure to fund the task force.

Note: Under Section 1332 of the ACA, states can request that the Centers for Medicare and Medicaid (CMS) waive major coverage components of the law, including exchanges, benefit packages, and the individual and employer mandates. If a state applies and is approved for a “1332 Waiver,” it can receive the aggregate amount of subsidies—including premium tax credits, cost-sharing reductions, and small business tax credits—that would have otherwise gone to the state’s residents.

XII. TOBACCO USAGE IN THE AFRICAN-AMERICAN COMMUNITY

Regular Session, Chapter 71, Article 14, Section 3, subd. 2 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Section

Effective July 1, 2015

Makes \$200,000 available to the Department of Health to award at least one grant to implement strategies and interventions to reduce: (1) the disproportionately high usage of cigarettes by African-Americans, especially the use of menthol-flavored cigarettes; and (2) the disproportionate harm tobacco causes in that community. Requires grantee(s) to engage members of the African-American community and community-based organizations.

XIII. UNINSURED MINNESOTANS

Regular Session, Chapter 71, Article 14, Section 3, subd. 2 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Section

Effective July 1, 2015

Makes a total of \$5 million available in the biennium to the Department of Health for specified amounts for grants to the following providers treating the uninsured: (1) dental providers; (2) the community mental health programs; (3) the Emergency Medical Assistance outlier grant program; and (4) community health centers.

JUVENILE LAW

Prepared by:
Melinda Hugdahl, Staff Attorney
Legal Services Advocacy Project
651-842-6907
mthugdahl@mnlsap.org

I. CHILD PROTECTION – PUBLIC POLICY, DEFINITIONS, DHS OVERSIGHT/TRAINING, AND SCREENED OUT REPORTS

*Chapter 4, Section 1 (HF 8/SF 807); as amended by Chapter 71, Article 1, Sections 88-89, 92, 93, 98, 99, 122, 123 and 125
(HF 1638/SF 1458)*

Amends Minn. Stat. §626.556, subds. 1, 2, 7, 10, 10e and 11c

Adds Minn. Stat. § 626.556, subds. 7a and 16

Effective July 1, 2015; except that Section 125 (legislative task force) is effective May 23, 2015 (day following enactment)

Note: This section highlights the “big picture” changes in the 2015 session, including the systemic changes required of DHS in training, reviewing and providing oversight to county agencies, and the newly-created Legislative Task Force.

A. Public Policy (Chapter 4, as amended by Chapter 71, Article 1, Section 88 and 94)

Amends child maltreatment mandated reporter statute to prioritize the safety of children as the paramount concern in child protection policy.

Section 88

Strikes reference to family assessment as the preferred response, and prohibits family assessment in cases of alleged sexual abuse or substantial child endangerment.

Sections 88 and 94

Note: Sexual abuse is now a separate definition from being included in “substantial child endangerment.”

B. Screened Out Reports (Chapter 4, as amended by Chapter 71, Article 1, Sections 88, 92, 93, 94, 95 and 98)

Strikes language prohibiting use of screened-out maltreatment reports.

Section 88

Adds consideration of all relevant history, including (1) prior reports (even if screened out), and (2) information obtained from newly-permitted contact with treating professionals and the child’s caretakers (as defined under existing law at Minn. Stat. § 626.556, subd. 10(i)(3)(iii)) in determining whether to screen the report in or out.

Sections 92 and 94

Requires local agencies responsible for investigating or assessing a report to use all prior reports, including screened out reports, in determining whether the family should be referred for investigation or family assessment.

Section 92

Permits use of screened out reports for purposes of making an offer of services to a subject of the report.

Section 92

Requires retention of screened out reports for five years from the date the report was not accepted for assessment or investigation, and clarifies that the report may be used for future screening decisions.

Sections 92 and 98

Requires retained reports to include (1) the subject of the report; (2) the nature of the alleged maltreatment; and (3) reasons why the report was screened out.

Section 98

C. Revised Screening Guidelines/DHS Ongoing Oversight (Chapter 71, Article 1, Sections 93, 95, 99, 122, and 123)

Requires DHS, by September 30, 2015, to perform quality assurance reviews to ensure consistent application of update guidance to counties on appropriate screening, documentation and maintenance of records.

Section 99

Requires DHS, by October 1, 2015, to update the child maltreatment screening guidelines to reflect legislative changes regarding screened out reports and prioritization of children's safety. The update must be conducted in consultation with diverse community representatives with expertise in limiting cultural and ethnic bias, and must be developed with "special sensitivity" to reducing system bias in screening and assessment tools.

Section 122

Requires the new screening guidelines be distributed – and staff trained – by November 1, 2015. The new guidelines must be implemented by counties by January 1, 2016.

Section 122

Requires child protection staff, supervisors or others involved in child protection screening to follow screening guidelines issued by DHS. Requires immediate implementation of any updated policies and protocols.

Section 93

Permits counties to request preapproval of modification of DHS screening guidelines, after consultation with the county attorney. Modifications may provide additional protections for children, but may not be less protective than statute, or limit reports that can be screened in or limit consideration of screened out reports in screening decisions.

Section 93

Strikes language permitting county boards to implement criteria to determine which cases are referred to investigation or assessment.

Section 95

Requires DHS to provide initial and ongoing training, support and continuing education to county agency supervisor knowledge, skills and attitudes as set forth in the Minnesota Child Welfare Practice Model. The training must “advance continuous emphasis and improvement in skills that promote the use of the client’s culture as a resource and the ability to integrate the client’s traditions, customs, values and faith into service delivery.”

Section 123

Requires DHS to provide an annual report to the legislature of aggregate data on quality assurance reviews. The report is public data.

Section 99

D. Definitions (Chapter 71, Article 1, Section 89)

Amends definition of “report” so that is “any communication received by the local welfare agency, police department, county sheriff, or agency responsible for child protection under this section [Minn. Stat. §626.556], that describes neglect or physical or sexual abuse of a child and contains sufficient content to identify the child and any person believed to be responsible for the neglect or abuse, if known.”

Amends definition of “abuse” to remove requirement that action be done in anger or without regard to the safety of the child.

E. Legislative Task Force (Chapter 71, Article 1, Section 125) – Effective May 23, 2015

Creates an ongoing legislative task force made up of members of the Minnesota Senate and the Minnesota House of Representatives.

Permits legislative oversight of:

- Implementation of legislative changes in 2015 session;
- Implementation of recommendations from the Governor’s Task Force (final report was issued in 2015);
- Efforts of other agencies to work with DHS to ensure safety and well-being of children who are at risk of harm or are already in the child welfare system; and
- Efforts by DHS, other agencies, counties and tribes to implement best practices to protect children and ensure every child has the opportunity for healthy growth and development.

Requires report to the legislature and Governor by February 1, 2016, regarding progress of implementation of changes to the child protection system, recommendations for additional legislative changes, and funding needs to implement the recommended changes.

Requires sunset of the legislative task force on the final day of the 2016 legislative session.

II. CHILD PROTECTION – MANDATED REPORTING

Chapter 71, Article 1, Section 90-92, 94 and 96 (HF 1638/SF 1458)

Amends Minn. Stat. § 626.556, subs. 3, 6a, 7 (as amended by Chapter 4), 10, and 10j

Effective July 1, 2015

Expands mandated reporting and voluntary reporting to tribal social services agencies and tribal police department, which authorizes tribal agencies and departments to receive the information.

Section 90

Moves existing statutory language regarding notifications of reports from mandated or voluntary reporters to Minn. Stat. § 626.556, subd. 10.

Sections 90 and 91

Requires release of summary of the case disposition the mandated reporter who made the report who has an ongoing responsibility for the child's health, education or welfare, regardless of whether the case was opened or referred, unless disclosure is not in the child's best interests. Permits release to any other mandated reporter with ongoing responsibility for the child's health, education or welfare. The reporter must treat the data consistent with its data practices classification, whether or not the person works for a government entity, and violation of those provisions subjects the reporter to data practices violations.

Sections 92 and 96

Requires release of concise summary of disposition to a voluntary reporter who made report, upon the reporter's request, unless disclosure is not in the best interests of the child.

Section 92

III. CHILD PROTECTION – INFORMATION SHARING AMONG AGENCIES

Chapter 71, Article 1, Section 94 (HF 1638/SF 1458)

Chapter 78, Article 1, Section 36 (HF 1535/SF 1356)

Amends Minn. Stat. § 626.556, subd. 10

Effective July 1, 2015

Moves language previously at Minn. Stat. § 626.556, subd. 3 to subd. 10. This language requires the local agency or agency responsible for child protection reports to notify law enforcement upon receipt of any report, and places the same requirements on law enforcement when they receive a report. If the alleged maltreatment occurred on tribal land, the tribe's social services agency and tribal law enforcement. All notifications are immediate and must be orally and in writing.

Chapter 71, Article 1, Section 94

Note: When read with the amended definition of "report," the result is that every call will be reported by the agency to law enforcement (and vice versa).

Requires immediate notice to tribes when local agency has reason to believe the investigation or assessment involves an Indian child. Defines "immediate" notice to tribe as notice within 24 hours.

Chapter 78, Article 1, Section 36

IV. FAMILY ASSESSMENT/DIFFERENTIAL RESPONSE AND CHIPS PROCEEDINGS

Chapter 71, Article 1, Section 97 (HF 1638/SF 1458)

Amends Minn. Stat. §626.556, subd. 10m

Effective July 1, 2015

Requires county worker to consult with the county attorney about filing a CHIPS petition when:

- The family doesn't accept or comply with a child protective services plan;
- The voluntary services may not provide enough protection for the child; or
- The family isn't cooperating with an investigation or assessment.

Note: The overall change intended is to bridge any gap between either not accepting or insufficient voluntary services and the ability to bring a CHIPS petition.

V. CHILD PROTECTION FUNDING ALLOCATION

Chapter 71, Article 1, Sections 46 and 124 (HF 1638/SF 1458)

Adds Minn. Stat. §256M.41

Effective July 1, 2015

Creates statutory child protection function allocation formula for child protection services.

A. Additional Staffing/Services:

Establishes the following annual allocation formula for extra staffing and expanded services:

- 50% based upon the county's child population;
- 25% based upon the number of screened in reports of child maltreatment; and
- 25% based upon the county's open child protection management cases.

Establishes \$75,000 minimum payment to a county.

Note: These are state funds that must be used in addition to existing funds.

B. Performance-Based Payment Schedule:

Requires that 80% of the funds for additional staffing and services (described above) must be paid to each county by July 10 of each year. The other 20% of the county funds are conditioned upon performance as follows:

- 10% of the allocation is withheld until DHS determines that the county has met the 90% threshold of face-to-face contacts with alleged victims;
 - Must have timely contact with at least 90% of victims of screened-in reports;
 - "Timely" as defined in Minn. Stat. § 626.556, subd. 10(i)
 - Threshold determination is each January; payments to counties meeting threshold is each February;
 - Withheld funds may be reallocated from counties who do not meet to counties who do meet the threshold;

- 10% of the allocation is withheld until DHS determines that the county has met the 90% threshold for face-to-face visits by the case manager.
 - Standard met if total number of monthly caseworker visits to children in foster care and children receiving child protection services in their home is 90% of the total visits if every child were visited once per month;
 - In 2015 only, standard instead will be for monthly foster care visits;
 - Threshold determination is each January; payments to counties meeting threshold is each February;
 - Withheld funds may be reallocated from counties who do not meet to counties who do meet the threshold;
- Requires DHS to work with the Human Services Performance Council under Minn. Stat. § 402A.16 to develop recommendations regarding:
 - Outcome measures for counties to receive withheld performance funds; and
 - Whether the new 90% performance measures should be modified or phased out.
 - The group's recommendations must be submitted to the legislature by January 1, 2018.

Section 46

- Requires DHS evaluate these formulas and recommend an updated distribution formula for use beginning in fiscal year 2018. The evaluation must consider relief to counties and/or tribes for child welfare or foster care costs, additional tribal social services programs, and any other relevant information. DHS must provide a report to the legislature on its recommendations by December 15, 2016.

Section 124

VI. CHILD PROTECTION GRANTS TO ADDRESS DISPARITIES

Chapter 71, Article 1, Section 12 (HF 1638/SF 1458)

Creates Minn. Stat. § 256E.28

Effective July 1, 2015

A. Program Structure

Creates grant program at DHS for projects and initiatives designed to reduce disparities in the child protection system. Permits up to 20% of grant fund for planning grants to address such areas as community assessment, coordination activities, and community-supported strategy development.

Requires DHS to consult with state and community partners, to develop a coordinated, comprehensive method to award funds and measure outcomes. DHS must consult with the following state-community partners:

- Legislative Child Protection Task Force;
- Culturally based community organizations;
- Indian Affairs Council;
- Council on Black Minnesotans;
- Council on Affairs of Chicano/Latino People;
- Council on Asian-Pacific Minnesotans;
- American Indian Child Welfare Advisory Council; and
- Counties;
- Tribal Governments

B. Application Process

Defines eligible applicants as including, but not limited to:

- Faith-based organizations;
- Social Services organizations;
- Community nonprofits;
- Counties; and
- Tribal governments.

Requires grant proposals to be submitted to the commissioner (DHS).

Requires that grant proposal specify (1) the strategies to be implemented to address one or more of the following priority areas:

- Identifying and addressing structural factors that contribute to outcome inequities;
- Identifying and implementing strategies to reduce disparities in treatment and outcomes;
- Using cultural values, beliefs, and practices of families, communities and tribes in case planning, services and decision-making processes;
- Using placement and reunification strategies to maintain and support relationships and connections between parents, siblings, children, kin, significant others and tribes; and
- Supporting families in the context of their communities and tribes to safely divert them from the child welfare system whenever possible;

And

(2) Targeted to achieve the outcomes developed by DHS in consultation with state and community partners.

Requires priority for grant applicants who demonstration their proposed project/initiative is:

- Supported by the community served;
- Evidence-based;
- Designed to complement other related community activities;
- Utilizes strategies that positive impact priority areas;
- Reflects culturally appropriate approaches; or
- Will be implemented through or with community-based organizations that reflect the culture of the population to be reached.

C. Evaluation

Requires DHS, in consultation with the legislative task force on child protection, to conduct a biennial evaluation on outcomes of the grant program.

Requires grant recipients to cooperate with DHS in the evaluation and provide information needed for the evaluation.

The evaluation must submit the biennial evaluation to the legislative task force on child protection and the chairs and ranking minority members of the legislature with jurisdiction over child protection funding.

D. American Indian Child Welfare Projects

Requires DHS to award \$75,000 to each tribe authorized to provide delivery of child welfare services. See Minn. Stat. § 256.01, subd. 14b. Tribes may additionally apply for the competitive grants described above.

VII. BACKGROUND STUDIES – CHILD PROTECTION WORKERS/LOCAL AGENCY STAFF

Chapter 71, Article 1, Sections 4,5,7 and 100 (HF 1638/SF 1458)

Adds Minn. Stat. § 245C.03, subd. 11; 245C.04, subd. 10; 245C.10, subd. 12; and 626.559, subd. 1b Effective July 1, 2015

Requires counties to initiate background studies on county child protection staff hired on or after July 1, 2015, or on existing county staff who are assigned to child protection duties on or after July 1, 2015. The county may complete the study through DHS, or by an alternate process defined by the county.

Requires completion of background studies for county or local agency staff prior to any direct contact with persons served. If the background study is completed by DHS, disqualification determinations are made by the county, not DHS.

Permits DHS to charge a background study fee not to exceed \$20.

VIII. NORTHSTAR CARE

Chapter 71, Article 1, Sections 47-51 and 67 (HF 1638/SF 1458)

Amends Minn. Stat §§ 256N.22, subds. 9 -10, 256N.24, subd. 1, 256N.25, subd. 1; 256N.27, subd. 2; and 260C.521, subd. 2 Effective July 1, 2015

A. Successor Relative Custodians (Sections 47-48, 50 and 67)

Expands current provisions for death of a relative custodian to incapacity of a relative custodian. This expansion was required to comply with federal changes to kinship assistance.
(Section 47)

Requires Northstar Care agreements to name a successor custodian, if possible. The successor custodian may be amended when the agreement is renegotiated by mutual agreement.
(Section 50)

Permits Northstar Care payments to continue to a successor custodian named in the Northstar agreement, even if the successor is not a relative. The successor custodian must undergo a full background study, and the custodial arrangement must be modified with the courts. Northstar payments must end if there is no court order appointing the successor as a permanent legal guardian within six months.
(Section 48)

In cases where the child receives Northstar Care assistance, creates specific statutory authority for a successor guardian to file a motion to be named the child's permanent legal and physical custodian. The court must review the background study, and may modify the custody order if it is in the child's best interests.

(Section 67)

Permits, with DHS consent, continued payments to a successor custodian awarded custody by the court, if there was no successor named in the Northstar Care agreement. Payments to a temporary custodian, or payments where the agreement had no named successor, may not be made from federal funds.

(Section 48)

B. Difficulty of Care Payments (Section 49)

Extends supplemental difficulty of care payments to children who reside in foster residence settings.

C. Northstar Care Funding (Section 51)

Strikes language about funding transfers if the funding account is in deficit – functionally, this transforms Northstar Care into a forecasted program.

IX. TRIBAL – MINNESOTA INDIAN PRESERVATION ACT AND INDIAN CHILD WELFARE ACT (ICWA)

Chapter 78, Article 1, Sections 4-34 (HF 1535/SF 1356)

Amends Minn. Stat. §§ 245A.035, subs. 1 and 5; 245C.22, subd. 7; 256.01, subd. 14b; 256N.02, subd. 18; 256N.23, subd. 6; 257.85, subd. 3; 259A.01, subd. 25; 259A.10, subd. 6; 260.755, subs. 8 and 14; 260.761, subs. 1 and 2; 260.771, subd. 3; 260B.007, subd. 12; 260C.007, subs. 26b and 27; 260C.168; 260C.178, subd. 1; 260C.201, subd. 5; 260C.212, subs. 1 and 2; and 260C.511

Creates Minn. Stat. §§ 260.753; 260.755, subs. 1a, 2a and 17a; 260.762; and 260.771, subs. 3a, 6 and 7

Effective August 1, 2015

Note: These changes are the work product of a DHS-led tribal working group, which included counties and tribal representatives.

A. Definition – Relative of an Indian Child

Moves language in existing law to new statutory definition of “relative of an Indian Child” to cross-reference the Indian Child Welfare Act (ICWA) definition.

Note: The existing definition of “relative” was amended to remove the pieces regarding Indian children, which were expanded and moved into a new statutory subdivision, Minn. Stat. § 260B.007, subd. 26b.

Sections 26 and 27

Note: See 25 U.S.C. § 1903, paragraphs (2), (6) and (9) for ICWA cross-reference. The language includes the following persons:

(2) “extended family member” shall be as defined by the law or custom of the Indian child’s tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child’s grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

(6) “Indian custodian” means any Indian person who has legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child; and

(9) “parent” means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established;

Makes cross-reference corrections in other statutory sections of Minnesota law that use the phrase “relative” or “relative of an Indian Child.”

Sections 4-6, 8-12, 26, 28, and 31

B. Child Protection – American Indian Child Welfare Projects

Permits DHS authorization for alternative methods for (1) investigation and assessment and (2) administrative reconsideration and judicial appeal of child maltreatment cases *if* the alternative methods still comply with individuals’ rights to notice, appeal, and data practices requirements contained in Minn. Stat. §§ 256.045 and 626.556.

Section 7

C. Minnesota Indian Preservation Act

a. Purpose/Compliance/Definitions

i. Purpose Statement (Section 13)

Creates a purpose statement for the Minnesota Indian Preservation Act, which is to:

“(1) protect the long-term interests, as defined by the tribes, of Indian children, their families as defined by law or custom, and the child’s tribe; and (2) preserve the Indian family and tribal identity, including an understanding that Indian children are damaged if family and child tribal identity and contact are denied. Indian children are the future of the tribes and are vital to their very existence.”

Section 13

ii. Compliance (Section 29)

Adds provisions of Minnesota Indian Preservation Act to provisions to which existing Child Protection Chapter (Chapter 260C) must comply.

iii. Definition – Active Efforts (Section 14)

Creates definition of “active efforts” – defined as

- Higher standard than “reasonable efforts” to preserve the family, prevent family breakup, and reunify the family. See Minn. Stat. § 260.762;
- Including “reasonable efforts” as required by Title IV-E (See 42 U.S.C. §§ 670-679c; and
- Requires vigorous and concentrated effort throughout involvement by the local agency to (1) include the tribe; (2) uses prevailing social and cultural values, conditions and way of life to preserve the Indian child’s family and prevent placement; and (3) if placement occurs, return the child to the child’s family at the earliest possible time.

Section 14

iv. Definition – Best Interests of the Child (Section 15)

Creates definition of “best interests of the child” as:

- Compliance with the Indian Child Welfare Act (ICWA) and the Minnesota Indian Preservation Act to preserve and maintain an Indian child’s family;
- Support the child’s sense of belonging to family, extended family and tribe; and
- Are interwoven with the best interests of the child’s Indian tribe.

Section 15

v. Definition – Indian Child (Section 16)

Expands and clarifies existing definition of “Indian child” to add:

- Tribe’s determination of the child’s membership or eligibility for membership conclusively defines the child as an Indian child; and
- For purposes of most Minnesota child welfare statutes (Chapters 260, 256N, 260C, and 260D), an Indian child can also include a child who is (1) unmarried; (2) a tribal member or eligible for membership; (3) between ages 18 and 21; and (4) in foster care.

Section 16

vi. Definition – Parent /Paternity (Section 17)

Expands existing definition of “parent” in unmarried parent cases to include:

- Fathers identified by tribal law or custom; and
- Action by the father to hold himself out as the biological father of the Indian child.
 - Note: This is now included as an acknowledgment of paternity, which is required for an unmarried father to be recognized, along with a paternity establishment.

Section 17

vii. Definition – Qualified Expert Witness

Adds definition of a qualified expert witness, who must:

1. Have specific knowledge of the child's tribe's culture or customs, or meet one of the following criteria (in descending order of preference):
 - A member of the child's tribe who is recognized by the child's tribal community as knowledgeable in tribal customs pertaining to family organization and child-rearing practices; or
 - An Indian person from an Indian community who has substantial experience in delivering child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and traditional child-rearing practices of the child's tribe; or
 - A person, who meets the expert witness rules as defined by Minnesota Rules of Evidence Rule 702, with substantial knowledge of prevailing social and cultural standards and child-rearing practices within the Indian community.
 - This last qualification only applies if the court finds by clear and convincing evidence that after diligent efforts, no other higher-ordered expert was available.

AND

2. The expert provides testimony as required by ICWA regarding out of home placement or termination of parental rights for an Indian Child.
See 25 U.S.C. § 1912

Sections 18 and 24

b. Inquiry of Tribal Lineage (Section 19)

Clarifies and renames agency's determination of child's tribe to an inquiry of tribal lineage, which requires the agency to specifically ask the child, the child's parents and custodians, and any other appropriate person whether there is reason to believe that the child may have lineage to a tribe. Retains current requirement that inquiry happen when the child is brought to the agency's attention.

Section 19

c. Agency and Court Notice to Tribes (Section 20)

Requires local agency to notify a child's tribe of an investigation or assessment when the agency has information that an Indian child may be involved. Notice must be by telephone and by either email or fax.

Section 20

Requires agency to request participation by tribe or designated tribal representative in evaluating family circumstances, identifying family and tribal community resources, and developing any case plans.

Section 20

Requires agency, when information that an Indian child is receiving services, to notify the child's tribe within seven days by telephone and email or fax, of the following demographic information for purposes of the tribe determining if the child is a member or eligible for membership:

- Child's full name and date of birth;
- Full names and dates of birth for the child's biological parents; and
- If known, full names and dates of birth of the child's grandparents or Indian custodian.
 - If the information about grandparents and the Indian custodian is not known within seven days, the agency must submit notice but continue to request the information and notify the tribe when it is received.

Requires agency to notify any tribe for which the child might have tribal lineage. If the identify of a parent, custodian or tribe cannot be determined, the agency is required to provide notice to the United States Secretary of the Interior.

Section 20

Requires agency to fully cooperate with tribal social services agency, including full data disclosure regarding the Indian child.

Section 20

Requires courts, when it has reason to believe that a child placed in emergency protective care may be an Indian child, to notify the tribal social services agency by telephone and email or fax, of the time, date and location of the emergency protective case hearing. Notice must be in accordance with Minn. Stat. §§ 260C.151 and 260C.152, and must be made as soon as possible and before the hearing takes place. Requires courts to make efforts to allow telephone appearances by tribal representatives, parents and Indian custodians.

Section 20

Requires agency to provide notices at earliest possible time to facilitate tribal involvement, but not intended to hinder agency's or court's ability to respond to an emergency situation. Lack of participation by a tribe doesn't preclude involvement or intervention at any other stage of the proceedings.

Section 20

Clarifies that none of the provisions required in this section (Minn. Stat. § 260.761, subd. 2) relieve the local social services agency from notice provisions required under the Indian Child Welfare Act.

Section 20

d. Duty to Prevent Out of Home Placements and Promote Reunification – Active Efforts (Sections 21 and 30)

Defines "active efforts" to include acknowledging traditional helping and healing systems of an Indian child's tribe and using these systems as the core to help and heal the Indian child and family.

Section 21

Requires local social services agency to:

- (1) Work with the child's tribe and family to develop a plan alternative to out of home placement;
- (2) Seek guidance from the child's tribe, before making decisions that may affect the child or contemplating out of home placement, on family structure, how the family can seek help, what resources are available, and what family barriers could threaten the family's preservation; and
- (3) Request tribal participation as early as possible, and continue to request the tribe's active participation throughout the case.

Section 21

Requires the court, before ordering out of home placement, to make findings that the local social services agency made meaningful services available to the family for their needs and made the following active efforts:

- Whether the agency made efforts to identify the child as an Indian child under ICWA and made efforts to identify and request participation from the child's tribe both at the earliest possible point and throughout the case;
 - See 25 U.S.C. § 1903 and Minn. Stat. § 260.755, subd. 8 for ICWA requirements in state and federal law
- Whether the agency requested a tribally designated representative with expertise in prevailing social and cultural standards and child-rearing within the tribe to evaluate the family and create a case plan using tribal and Indian community resources;
- Whether the agency provided (1) "concrete" services and access to tribal and nontribal services to the Indian child's family, including but not limited to:
 - Financial assistance;
 - Food
 - Housing;
 - Health care;
 - Transportation;
 - In-home services;
 - Community support services; and specialized services;

(2) whether the services are being provided in an ongoing way throughout involvement with the family;

(3) to directly assist the family in accessing and utilizing services to maintain the family; or

(4) where out of home placement has occurred, reunify the Indian family as soon as safety is assured;

- Whether the agency notified and consulted with the child's extended family members or the tribe to:
 - Provide support to the child and parents;
 - Inform local agency and court as to cultural connections and family structure;
 - Assist in identifying appropriate cultural services and supports for the Indian child and the child's parents;
 - Identify and service as a placement and permanency resource for the child; and
 - In cases where contacting or engaging extended family members was difficult, seeking assistance from the tribe, DHS, or other agencies with expertise in working with Indian families.

- Whether the local agency provided services and resources to relatives considered the primary placement option for an Indian child, as agreed by the local agency and the tribe, to overcome barriers to providing care; and
 - “Services and resources” includes, but is not limited to, child care assistance, financial assistance, housing resources, emergency resources, and foster care licensing assistance and resources.
- Whether the local agency (1) arranged for visitation, when possible, in the home of the Indian child’s parent, Indian custodian, other family member, or noninstitutional setting, to keep the child in close contact with parents, siblings, and other relatives, regardless of the child’s age; (2) allowed the child to have natural, unsupervised interaction when consistent with the child’s safety; and (3) consulted with a tribal representative to determine and arrange visitation in the most natural setting that ensures child safety, when supervised visitation is required.

Section 21

Requires court to determine whether compliance with active efforts as defined in Minnesota Indian Preservation Act, in addition to ICWA, at emergency removal hearings.

Section 30

- e. Transfer of Proceedings to Tribal Court – Adoption or Culturally Appropriate Placement Option (Section 22)

Unless there is good cause or objection by a parent, requires the court, at any point in a proceeding for finalizing a permanency plan, to transfer the case to tribal court for customary adoption or other culturally appropriate permanency option. Transfer must be made upon petition of either a parent who has parental rights, the Indian custodian, or the child’s tribe. The tribe may decline the transfer.

- f. Good Cause to Deny Transfer of Jurisdiction (Section 23)

Good cause considerations must be fact-specific to each case and may not include socioeconomic conditions or perceptions about the adequacy of the tribal or Bureau of Indian Affairs social services agency or courts.

The party opposing the motion to transfer jurisdiction (in other words, the party claiming good cause) has the burden of proof to show, by clear and convincing evidence, that good cause exists. The motion for good cause must be in writing and served on all parties.

Permits the court to find good cause and deny transfer to tribal court if:

- The tribe doesn't have tribal court or any other tribal administrative body vested with authority over child custody proceedings to which the case would be transferred, and no other tribe has been designated by the child's tribe; or
 - See 25 U.S.C., Chapter 21 (ICWA) for definition of an administrative body vested with this authority;
- Evidence necessary to decide the case can't be adequately presented in tribal court without undue hardship to parties or witnesses, and the tribe is unable to mitigate the hardship through any means allowed in the tribal court's rules.
 - Without undue hardship evidence, travel distance alone is not basis for denying a transfer (and granting good cause).

g. Evidentiary Requirements (Section 24)

i. Involuntary Foster Care Placement Proceedings

Requires court to determine by clear and convincing evidence, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

- Determination must include testimony of a qualified expert witness
- See 25 U.S.C. § 1912(e) for the definition of "serious emotional or physical damage to the child" under ICWA.

Section 24

ii. Termination of Parental Rights Proceeding

Requires court to determine, by evidence beyond a reasonable doubt, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

- Determination must include testimony of a qualified expert witness
- See 25 U.S.C. § 1912(e) for the definition of "serious emotional or physical damage to the child" under ICWA.

Section 24

iii. Qualified Expert Witness

Requires agency or any other party to make diligent efforts to locate and present a qualified expert witness designated by the child's tribe.

Qualifications of a qualified expert witness designated by the child's tribe and not subject to challenge in Indian child custody proceedings.

See standards and methodology listed in paragraph (a) (4) above for establishing qualified expert witnesses when there is no one designated by the tribe.

Section 24

h. Placement Preference – Order of Placement and Deviation (Section 25)

Requires court to place Indian children in the order of placement preferences in ICWA.
See 25 U.S.C. § 1915.

Permits deviation for placement outside of ICWA preference order only if the court finds good cause, based upon:

- Request of the parents, if a reasonable request includes that parents have reviewed the placement options that comply with ICWA;
- Request of the Indian child, if the court finds that the child is able to comprehend and understand the decision being made;
- Testimony from a qualified expert designated by the tribe, and, if necessary an Indian person with expertise in the delivery of Indian child and family services and prevailing social, cultural and both contemporary and traditional child rearing practices of the tribe; and
 - Note that the second qualified expert witness is the qualification last in the “qualified expert witness” order set forth above; *See* Minn. Stat. § 260.771, subd. 6(d)(2).
- Testimony from the local social services agency that after a diligent search no suitable, available family meeting the ICWA criteria could be found.

Prohibits good cause finding based solely on child’s bonding or attachment to foster family – requires additional finding based on at least one good cause factor listed above. Party requesting good cause for deviation placement bears burden of proof by clear and convincing evidence.

Requires court to make findings if it orders alternate placement based upon good cause. Requires good cause finding to consider whether active efforts were provided to family members who would be a primary placement option under ICWA to assist the family member(s) in becoming a placement option.

- *See* Section 21; Minn. Stat. § 260.762.

Requires review of the good cause determination (and the deviation placement) at each stage of the proceedings.

Section 25

i. Placement (Sections 32-24)

Cross references new definitions in Minnesota Indian Preservation Act regarding “Indian Child” and “best interests” into child placement statute.

See Minn. Stat. § 260C.212.

Sections 32-34

Extends ICWA placement preferences to child placement statute, which requires social services agency to follow those preferences in cases with an Indian child. *See* Minn. Stat. § 260C.212.

Section 33

X. TRIBAL CUSTOMARY ADOPTIONS

Chapter 71, Article 1, Section 54 (HF 1638/SF 1458)
Amends Minn. Stat. § 259A.75
Effective July 1, 2015

Requires DHS to enter into agreements with Minnesota tribal social services agencies to provide child-specific recruitment and adoption placement services for children under the jurisdiction of tribal courts.

XI. DEFINITION OF “RELATIVE” AND “SIBLING”

Chapter 71, Article 1, Section 55 (HF 1638/SF 1458);
Amends Minn. Stat. § 260C.007, subds. 27 and 32
Effective July 1, 2015

Amends the definition of “relative” to include a legal parent, guardian or custodian of a child’s sibling.

Amends the definition of “sibling” to include a person who would have been included under the existing definition of a sibling, but for a termination of parental rights of one or both parents, suspension of parental rights under a tribal code, or disruption of parental rights (i.e. death of the parent).

Chapter 71, Article 1, Section 55

Note: the purpose of these changes is to maintain contact between separated siblings and potentially expand placement options.

Note: The definition of “relative” is also amended for Indian children – see topic IX above.

XII. RELATIVE SEARCH

Chapter 71, Article 1, Section 61 (HF 1638/SF 1458)
Amends Minn. Stat. § 260C.221
Effective July 1, 2015

Expands scope of relative search to the following:

- Maternal and paternal adult relatives;
- Adult grandparents;
- All legal parents, guardians or custodians;
- The child’s siblings; and
- Any other adult relatives suggested by the child’s parents, subject to family violence exceptions (See Minn. Stat. § 260C.221(c))

XIII. OUT OF HOME PLACEMENTS

Chapter 71, Article 1, Sections 57-58 and 68 (HF 1638/SF 1458)

Amends Minn. Stat. §§ 260C.203, 260C.212, subd. 1, and 260C.607, subd. 4

Effective July 1, 2015

Lowers age for in-court review of independent living plan and the provision of services as the child prepares to leave foster care from age 16 to age 14.

Sections 57 and 68

Requires independent living plan for children age 14 or older to include age-appropriate or developmentally-appropriate activities typical of the child's age group, while taking the child's individual capacity into consideration.

Section 58

Adds tribal enrollment card to the list of documents that the responsible agency, in conjunction with the placement provider, must assist the child in obtaining prior to the child leaving foster care.

Section 57

Permits a child aged 14 or older to include two other individuals on the team preparing the child's out-of-home placement plan.

Section 58

Requires out-of-home placement plan documentation of efforts to finalize adoption, and if there is no adoption, documentation of the following:

- Reasonable efforts used to determine that adoption or returning the child home was not appropriate;
- Reasons why placement with a relative through Northstar Care kinship assistance is in the child's best interests;
- How the child meets eligibility for Northstar payments;
- Agency efforts to discuss adoption with the relative foster parent, and why the foster parent didn't choose adoption, if applicable; and
- Agency efforts to discuss with the child's parent(s) the permanent transfer of legal and physical custody, or the reasons those efforts were not made.

Section 58.

XIV. ACTIVITIES FOR CHILDREN IN FOSTER CARE

Chapter 71, Article 1, Section 60 (HF 1638/SF 1458)

Adds Minn. Stat. § 260C.212, subd. 14

Effective July 1, 2015

Requires social services agencies and child placing agencies to permit a foster to child to participate in age or developmentally-appropriate activities or events.

Permits foster parents and residential staff facility to permit the child's participation in extracurricular, social and cultural activities typical for the child's age by applying "prudent parenting standards."

- Defines "prudent parenting standards" as "characterized by careful and sensible parenting decisions that maintain the child's health and safety, and are made in the child's best interest."

XV. PERMANENCY CUSTODY TO AGENCY

Chapter 71, Article 1, Sections 65-66 (HF 1638/SF 1458)

Amends Minn. Stat. §§ 260C.515, subd. 5 and 260C.521, subd. 1

Effective July 1, 2015

Increases minimum required age for consultation with child about the child's desired permanency outcome from age 12 to age 16.

XVI. PROTECTING MISSING/RUNAWAY YOUTH AT RISK FOR TRAFFICKING

Chapter 71, Article 1, Section 59 (HF 1638/SF 1458)

Adds Minn. Stat. § 260C.212, subd. 13

Effective July 1, 2015

Requires the local social services agency to:

- Expeditiously locate any child missing from foster care;
- Immediately, and no later than 24 hours, report to local law enforcement any information received about a missing or abducted child for purposes of entry into the FBI's National Crime Information Center and the Center for Missing and Exploited Children;
- Keep a social services case open (prohibited from closing or discharging the child) until diligent efforts to locate the child have been exhausted and the court terminates agency jurisdiction;
- Determine the primary factors that contributed to the child running away or otherwise being absent from care, and to the extent possible, respond to them in current and future placements;
- Determine what the child experienced while absent from care, including screening for sex trafficking;
- Report immediately, and no later than 24 hours, to local law enforcement any reasonable cause that the child is, or could be at risk of becoming, a sex trafficking victim.
 - Also required to provide services for any child under the agency's care, supervision or placement. See Minn. Stat. § 145.4717.

XVII. PROSTITUTION

Chapter 65, Article 6, Sections 11 and 12 (HF 849/SF 878)

Amends Minn. Stat. § 609.324, subd. 1 (Offense)

Creates Minn. Stat. § 609.324, subd. 3a (No affirmative defense)

Effective August 1, 2015, and applies to crimes committed on or after that date

Creates felony-level offense for hiring or agreeing to hire, a person the actor reasonably believes to be under the age of 18 for purposes of sexual penetration or sexual contact.

Eliminates affirmative defense based upon use of an undercover operative.

XVIII. SEX TRAFFICKING

Chapter 65, Article 6, Sections 13 and 15 and 18-21(HF 849/SF 878)

Amends Minn. Stat. §§ 609.325, subd. 4, 609.3471, 611A.26, subds. 1 and 6, 617.242, subd. 6, and 628.26

Effective dates – various (see below)

Amends existing affirmative defense to prostitution charges upon proving that the person was a victim of sex trafficking.

Amends Minn. Stat. § 609.325, subd. 4; Effective July 1, 2015

Prohibits public access to data in petitions, complaints or indictments that would disclose the identity of a sex trafficking victim.

Amends Minn. Stat. § 609.3471; Effective July 1, 2015

Prohibits use of polygraph tests on sex trafficking victims.

Amends Minn. Stat. § 611A.26, subd. 1 and 611A.26, subd. 6; Effective July 1, 2015

Adds sex trafficking to list of convictions that bar operation or management of an adult business establishment for three years after discharge of the person's sentence.

Amends Minn. Stat. § 617.242, subd. 6; Effective July 1, 2015

Extends the statutes of limitations for filing sex trafficking charges from three years to parallel to the time periods for filing criminal sexual conduct charges (which vary from nine years to no limitation).

Amends Minn. Stat. § 628.626; Effective August 1, and applies to crimes committed after that date, and crimes committed before that date if the statute of limitations had not already expired on August 1, 2015.

XIX. HOMELESS YOUTH

Chapter 71, Article 1, Sections 44 and 45 (HF 1638/SF 1458)

Amends Minn. Stat. § 256K.45, subds. 1a and 6

Effective July 1, 2015

Extends the age limit to be defined as “homeless youth” or “youth at risk of homelessness” from 21 to age 24.

Requires DHS to provide outreach, technical assistance and program development support to organization receiving funds under the Homeless Youth Act. The DHS support is to increase capacity to new and existing services providers, especially those in greater Minnesota where homeless youth services have not been established.

XX. DHS CHILD FATALITY/NEAR FATALITY REVIEW TEAM AND LOCAL AGENCY PUBLIC DISCLOSURE

Chapter 71, Article 1, Section 8 (HF 1638/SF 1458)

Chapter 78, Article 1, Section 37 (HF 1535/SF 1356)

Amends Minn. Stat. § 626.556, subd. 11d

Adds Minn. Stat. § 256.01, subd. 12a

Effective July 1, 2015

a. Review Team (Chapter 71, Article 1, Section 8)

Requires DHS to establish a child fatality and near fatality review team to review fatalities and near fatalities that occur in licensed facilities and are not related to natural cases.

Requires review team to assess the entire child protection services process from the point of a mandated report through ongoing case management.

Requires team led by DHS staff, which conducts on-site local reviews, using supervisors from local county and tribal social services agencies as peer reviewers.

Requires review process to focus on critical elements of the case, and involvement of the child and family with the local social services or tribal agency. Requires review team to identify any necessary program improvement planning to address practice issues or training or technical assistance needs of the local agency.

Requires summary reports of each review must be provided to the state child mortality review panel.

b. Public Disclosure by Local Agency (Chapter 78, Article 1, Section 37)

Amends existing mandated reporting statute for agency public disclosure, upon request, of child fatality or near-fatality cases as follows:

- Amends definitions of “child fatality” and “near fatality” to remove suspected cases of abuse or neglect to require disclosure of determined abuse and neglect cases;
 - Note: this change also applies to the existing prohibition to access of private data underlying records such as treatment records and mandated reporter identities.
- Amends definitions of “child fatality” and “near fatality” to remove maltreatment from cases requiring public disclosure;
- Adds fatality or near-fatality cases with a determination of child abuse or neglect to cases that must be disclosed upon request, notwithstanding any other law to the contrary;
- Provides that the following information can be provided in a written summary:
 - Cause and circumstances regarding the child fatality or near-fatality;
 - Child’s age and gender
 - Information in any previous abuse or neglect report or investigation that is pertinent to the abuse or neglect that led to the fatality or near fatality;
 - The result of any previous pertinent abuse or neglect investigations;
 - Actions and services provided by the local social services agency on the child’s behalf that are pertinent to the child abuse or neglect that led to the fatality or near fatality; and
 - Results of any review by the state child mortality review panel, local child mortality review panel, location community child protection team, or any public agency.

XXI. DELINQUENCY – ELECTRONIC MONITORING

Chapter 65, Article 5, Section 8 (HF 849/SF 878)

Adds Minn. Stat. § 260B.198, subd. 13

Effective July 1, 2015

Creates ability for court to order a juvenile adjudicated delinquent to serve any portion of the disposition on electronic surveillance, and that the court may require that the juvenile be kept in custody on under direct probation supervision until the electronic surveillance is activated. Requires parents to be responsible for ensuring that the juvenile’s residence is properly equipped, including a proper telecommunications system is in place, prior to the juvenile’s release from custody or direct supervision.

XXII. INTERSTATE COMPACT FOR JUVENILES – REPEAL

Chapter 35 (HF 1718/SF 1478)

Repeals Minn. Stat. §§ 260.51 and 260.53

Effective August 1, 2015

Repeals obsolete Interstate Compact for Juveniles. The Interstate Compact for Juveniles adopted in 2010 is still in effect, and found at Minnesota Statutes, Section 260.515.

PUBLIC BENEFITS LAW

Prepared by:

Jessica L. Webster, Staff Attorney

Legal Services Advocacy Project

651-842-6902

jlwebster@mnlisap.org

Acronyms Used in this Section

DHS	=	Minnesota Department of Human Services
DWP	=	Diversionsary Work Program
GA	=	General Assistance
GRH	=	Group Residential Housing
MFIP	=	Minnesota Family Investment Program
MSA	=	Minnesota Supplemental Aid
SNAP	=	Supplemental Nutrition Assistance Program

I. **HEALTHY EATING, HERE AT HOME**

Regular Session, Chapter 77, Article 2, Section 17 (SF888)

Adds Minn. Stat. § 138.912

Effective July 1, 2015

Establishes the Healthy Eating, Here at Home Program in statute and provides ongoing funding. Provides a \$10 match to SNAP participants who use their SNAP EBT benefits at authorized farmers' markets and mobile markets statewide. Requires participants to purchase SNAP-eligible foods at the markets to obtain the match. Requires the Commissioner of Human Services to submit a waiver request to the United States Department of Agriculture seeking approval for the inclusion of Minnesota grocery stores in the Healthy Eating, Here at Home program.

II. **HOMELESS YOUTH ACT**

Regular Session, Chapter 71, Article 1, Sections 44 and 45 (SF1458)

Health and Human Services Omnibus Appropriations Bill

Amends Minn. Stat. § 256K.45, subds. 1a and 6

Effective July 1, 2015

A. **Definition of Homeless Youth**

Modifies the definition of "homeless youth" and "youth at risk of homelessness" to include persons who are 24 years old or younger, an increase from age 21. *Amends Minn. Stat. § 256K.45, subd. 1a*

B. DHS Duties

Requires DHS to provide outreach, technical assistance, and program development support to new and existing service providers, especially in Greater Minnesota.

Amends Minn. Stat. § 256K.45, subd. 6

III. MFIP CHILD SUPPORT DISREGARD

Regular Session, Chapter 71, Article 1, Sections 41 and 43 (SF1458)

Health and Human Services Omnibus Appropriations Bill

First Special Session, Chapter 6, Section 5 (HF 6)

Revisor's Bill

Amends Minn. Stat. §§ 256J.21, subd. 2 and 256J.33, subd. 4

Effective October 1, 2015

Creates a new MFIP income disregard for child support payments of up to \$100 for a family with one child and up to \$200 for a family with two or more children.

IV. PUBLIC ASSISTANCE SIMPLIFICATION

Regular Session, Chapter 71, Article 5, Sections 1-35 (SF1458)

Health and Human Services Omnibus Appropriations Bill

Amends Various Sections in Chapters 119B, 256D, 256I, 256P, 256J

Effective August 1, 2016

This law implements the second phase of administrative simplification for public benefits programs. Last session, the Legislature created Chapter 256P to bring uniform treatment to income, assets, and household composition for MFIP, GA, MSA, and GRH. This year's changes build on Chapter 256P by incorporating child care assistance, streamlining income calculations, simplifying the required reporting for income and household composition changes, and making uniform the process for correcting overpayments and underpayments. The income definition simplification efforts, in particular, are another step toward encouraging asset building among public benefits recipients.

A. Technical Conformity

Makes technical changes to streamline the definition of terms, incorporate references to Chapter 256P, and bring additional uniformity to child care assistance, GA, GRH, and MFIP.

Sections 1-23: Amends Minn. Stat. §§ 119B.011, subd. 15; 119B.025, subd. 1; 119B.035, subd. 4; 119B.09, subd. 4; 256D.01, subd. 1a; 256D.02, subds. 1a and 1b; 256D.02, subd. 8; 256D.06, subd. 1; 256D.405, subd. 3; 256I.03, subds. 1b and 7; 256I.04, subd. 1; 256I.06, subd. 6; 256J.08, subds. 26 and 86; 256J.30, subds. 1 and 9; 256J.35; 256J.40; and 256J.95, subd. 19.

B. Simplified Definition of Income

Simplifies the definition of earned and unearned income for MFIP, GA, GRH, Child Care, DWP, and MSA. Directs county workers to count and evaluate a narrowed list of countable income rather than utilize an exhaustive list of exclusions.

1. Earned income

Defines earned income as: “cash or in-kind income earned through the receipt of wages, salary, commissions, bonuses, tips, gratuities, profit from employment activities, net profit from self-employment activities, payments made by an employer for regularly accrued vacation or sick leave, severance pay based on accrued leave time, payments from training programs at a rate at or greater than the state's minimum wage, royalties, honoraria, or other profit from activity that results from the client's work, service, effort, or labor. The income must be in return for, or as a result of, legal activity.”

Sections 24; amends Minn. Stat. § 256P.01, subd. 3

2. Unearned income

Includes as unearned income: interest and dividends from investments and savings; capital gains; proceeds from rent and contract for deed payments that exceed the principal and interest owed on property; income from trusts (excluding special needs and supplemental trusts); interest income from loans made; cash prizes and winnings; unemployment insurance; retirement, survivors, and disability insurance payments; nonrecurring income over \$60 per quarter unless earmarked and used for the purpose for which it is intended; retirement benefits; cash assistance benefits as defined by each program in Chapters 119B, 256D, 256I, and 256J; tribal per capita payments unless excluded by federal and state law; income from service and rehabilitation programs that meet or exceed the state’s minimum wage; income from members of the US armed forces unless excluded from income taxes according to federal or state law; all child support payments for programs under Chapters 119B, 256D, and 256I; the amount of child support received that exceeds the MFIP child support disregard; spousal support.

Sections 25 and 31; adds Minn. Stat. § 256P.01, subd. 8; adds Minn. Stat. § 256P.06 subd. 3.

C. Child Care Program Applicability and Exemption

Requires child care programs to comply with new income calculation and reporting requirements in Chapter 256P; however, exempts child care programs from several requirements in 256P due to unique policies within child care, including different documentation requirements that authorize hours of care and activities, and the use of co-pays rather than income disregards.

Sections 26, 27, 28, and 30; amends Minn. Stat. §§ 256P.03, subd. 1; 256P.04, subd. 1; 256P.05, subd. 1

D. Income Reporting and Verification

Simplifies and streamlines reporting and verification of income across programs; however, exempts MSA and GRH participants from the Chapter 256P reporting requirements.

Section 32; adds Minn. Stat. § 256P.07, subd. 1

1. Available Income

Requires the county to evaluate income received by members of an assistance unit or by other persons whose income is considered available to the assistance unit. Provides that income is only “available” if the individual has legal access to the income. Within child care and MFIP, exempts the income of children under age six, caregivers under age 20 if enrolled at least half time in school; and minors enrolled in school full time.

Section 31; adds Minn. Stat. § 256P.06, subds. 1 and 2

2. Change Reporting Across All Programs (with limited exception)

Simplifies categories of changes that must be reported within 10 days of the date they occur, at recertification, or within eight days of a reporting period – whichever occurs first. Requires participants to report: (1) a change in earned income of \$100 per month or greater; (2) a change in unearned income of \$50 per month or greater; (3) a change in employment status and hours; (4) a change of address or residence; (5) a change in household composition with the exception of GRH; (6) receipt of a lump sum payment; (7) an increase in assets if over \$9,000 with the exception of child care programs; (8) a change in citizenship or immigration status; (9) a change in family status with the exception of GRH; (10) a change in disability status of a unit member with the exception of child care programs; (11) a new rent subsidy or change in rent subsidy; and (12) a sale, purchase, or transfer of real property.

Section 31; adds Minn. Stat. § 256P.06, subd. 3

E. Program Specific Change Reporting

Creates additional MFIP and DWP-specific reporting: (1) a pregnancy not resulting in birth where there are no other minor children, and (2) a change in school attendance of a parent under 20 years of age or of an employed child. For DWP only: (1) shelter expenses, and (2) utility expenses. For child care only: (1) a change in visitation schedule or custody arrangement for any child receiving child care assistance, and (2) a change in authorized activity status. For MSA only: (1) shelter expenses.

Section 31; adds Minn. Stat. § 256P.06, subd. 4, 5, 6, and 7.

F. “Specific Purpose” Funds Verification

Requires the county to verify program applicants’ use of nonrecurring income that exceeds \$60 per quarter if the applicant says the funds are being used for a specific purpose for which they were received.

Section 29; amends Minn. Stat. § 256P.04

G. Correction of Overpayments and Underpayments

Attempts to create a more uniform process for correcting overpayments and underpayments across public benefits programs (with the exception of child care and GRH). Defines the scope, recovery methods, notice requirements, and appeal process for overpayments and underpayments.

Section 33, adds Minn. Stat. 256P.08, subds. 1-11.

VII. TRAFFICKING OF SNAP BENEFITS

Regular Session, Chapter 78, Article 4, Section 60 (HF 1535)

Health and Human Services Policy Bill

Amends Minn. Stat. § 609.821

Effective August 1, 2015, and applies to crimes committed on or after that date

Adds “trafficking of SNAP benefits” to the list of crimes constituting financial transaction card fraud. Defines “trafficking of SNAP benefits” to mean: (1) the buying, selling, stealing, or effecting an exchange – or the attempt to buy, sell, steal or otherwise effect an exchange -- of SNAP benefits for cash or consideration other than for eligible purposes; (2) the exchange of SNAP benefits for firearms, ammunition, explosives, or controlled substances; (3) purchasing a product with SNAP benefits that can be returned for a deposit, discarding the product, and intentionally returning the product for the deposit; (4) purchasing a product with the intent of exchanging it for cash or other consideration or with the intent of – and actually -- reselling the product; (5) intentionally purchasing a product originally purchased with SNAP benefits in the exchange for cash or consideration other than eligible purposes; or (6)

VIII. WRONGFULLY OBTAINING PUBLIC ASSISTANCE

Regular Session, Chapter 78, Article 3, Section 51 (HF 1535)

Health and Human Services Policy Bill

Adds Minn. Stat. § 256.98, subd. 1

Effective August 1, 2015

Adds emergency assistance programs to the statute providing that wrongfully obtaining assistance constitutes theft

IX. CONCILIATION COURT

Regular Session, Chapter 27 (HF 1770)

Amends Minn. Stat. § 491A.01, subd. 3a

Adds Minn. Stat. § 491A.01, subd. 11

Effective August 1, 2015

A. Expanded Jurisdiction to Reach Out-of-County Residents

Permits a county to take an action against a defendant who is not a resident of the county for debts owed for “fees, services, overpayments, or similar obligations.”

Adds Minn. Stat. § 491A.01, subd. 11

B. Public Assistance Overpayments Excluded

Does not extend the conciliation court’s jurisdiction to alleged public assistance overpayments governed under procedures set forth in Chapter 256.

Adds Minn. Stat. § 491A.01, subd. 11

C. Prior Notice Required

Makes a prerequisite of jurisdiction the provision of notice to the non-resident of the overdue debt: (1) sent by first class mail to the defendant’s last known address; and (2) stating that the county may commence an action against a non-resident for the amount allegedly owed.

Adds Minn. Stat. § 491A.01, subd. 11

RACIAL AND CULTURAL EQUITY

Prepared by:

Ron Elwood, Supervising Attorney

Legal Services Advocacy Project

651-842-6909

relwood@mnlsap.org

Note: The biennium encompasses Fiscal Years 2016 and 2017.

I. APPROPRIATIONS

First Special Session, Chapter 1, Article 1, Sections 2 and 3, Various subds. (HF 3)

Jobs and Economic Development Omnibus Appropriations Bill

Regular Session, Chapter 71, Article 14, Section 2, subds. 3(d), 5(k) and 5(l) (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Sections

Effective July 1, 2015

A. Deaf and Hard-of-Hearing Services

Appropriates: (1) \$650,000 in the first year of the biennium and \$500,000 in the second year of the biennium to, among other things, “to provide linguistically and culturally appropriate mental health services”; and (2) \$350,000 in the first year of the biennium and \$500,000 in the second year of the biennium to, among other things, “provide linguistically and culturally appropriate mental health services to children who are deaf, deafblind, and hard-of-hearing.”

Chapter 71, Article 14, Section 2, subds. 3(d) and 5(k)

Health and Human Services Omnibus Appropriations Bill

B. Diversity in Entrepreneurial Development

Makes a one-time, \$400,000 appropriation for the first year of the biennium to Southern and Southwestern Minnesota Initiative Foundation collaborative pilot project to support and develop entrepreneurs in diverse populations in their service areas.

First Special Session, Chapter 1, Article 1, Section 2, subd. 2(n)

Jobs and Economic Development Omnibus Appropriations Bill

- C. Economic Development in Communities of Color**
Makes a one-time, \$500,000 appropriation for the first year of the biennium to the Eastside Enterprise Center for economic development and job creation – including loans, business and workforce training, and business assistance – to be equally divided among: (1) African Economic Development Solutions; (2) the Asian Economic Development Association; and (3) the Latino Economic Development Center.
First Special Session, Chapter 1, Article 1, Section 2, subd. 2(q)
Jobs and Economic Development Omnibus Appropriations Bill
- D. MHFA Challenge Program – Housing Projects for American Indians**
Appropriates \$1.2 million each year of the biennium to the Minnesota Housing Finance Agency to be made available during the first 11 months of the fiscal year exclusively for housing projects for American Indians. Provides that funds not used for the specified purpose may be used for other Challenge Program initiatives under statute.
First Special Session, Chapter 1, Article 1, Section 3, subd. 2(a)
Jobs and Economic Development Omnibus Appropriations Bill
- E. Southeast Asian Veterans**
Appropriates \$100,000 in the first year of the biennium for grants to nonprofit organizations to provide resources and referrals for culturally specific mental health services to Southeast Asian veterans born before 1965 who do not qualify for services available to veterans formally discharged from the United States armed forces.
Chapter 71, Article 14, Section 2, subd. 5(m)
Health and Human Services Omnibus Appropriations Bill
- F. Workforce Development**
Appropriates \$1 million over the biennium from the workforce development fund to Opportunities Industrialization Center programs.
First Special Session, Chapter 1, Article 1, Section 2, subd. 3(f)
Jobs and Economic Development Omnibus Appropriations Bill
- G. Youth Development and Crime Prevention**
Appropriates \$100,000 over the biennium from the workforce development fund for a grant to the St. Cloud Area Somali Salvation Organization for: (1) training and placing mentors in elementary and secondary schools; (2) athletic, social, and other activities to foster leadership development; (3) providing a safe place for participating youth to gather after school, on weekends, and on holidays; and (4) activities to improve the organizational and job readiness skills.
First Special Session, Chapter 1, Article 1, Section 2, subd. 3(k)
Jobs and Economic Development Omnibus Appropriations Bill

II. **CHILD WELFARE DISPARITIES GRANT PROGRAM**

Regular Session, Chapter 71, Article 1, Section 12 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds Minn. Stat. § 256E.28

Effective July 1, 2015

A. Creation

Establishes a Child Welfare Disparities Grant Program at the Department of Human Services for “the development, implementation, and evaluation of activities to address racial disparities and disproportionality in the child welfare system.” Requires coordination among grantees. Requires measurable outcomes and an evaluation.

Adds Minn. Stat. § 256E.28, subd. 1 (creation)

Adds Minn. Stat. § 256E.28, subd. 3 (outcomes)

Adds Minn. Stat. § 256E.28, subd. 6 (evaluation)

B. Plan to Award Funds

Requires the Department of Human Services to develop a comprehensive and coordinated plan to award funds in partnership with: (1) the Legislative Task Force on Child Protection; (2) culturally based community organizations; (3) the Indian Affairs Council; (4) the Council on Affairs of Chicano/Latino People; (4) the Council on Black Minnesotans; (5) the Council on Asian-Pacific Minnesotans; (6) the American Indian Child Welfare Advisory Council; (7) counties; and (8) tribal governments. Requires development of criteria and procedures to allocate competitive grants.

Adds Minn. Stat. § 256E.28, subd. 2 (development of plan)

Adds Minn. Stat. § 256E.28, subd. 4 (development of criteria and procedures)

C. Grant Criteria

Provides, among other things, that the grant criteria must be: (1) supported by the community the applicant will serve; (2) evidence-based; (3) designed to complement other related community activities; (4) utilizes strategies that positively impact priority areas; (5) reflects culturally appropriate approaches; or (6) will be implemented through or with community-based organizations that reflect the culture of the population to be reached.

Adds Minn. Stat. § 256E.28, subd. 5

D. American Indian Child Welfare Projects

Requires the Department of Human Services to award \$75,000 to each tribe authorized to provide tribal delivery of child welfare services and permits the tribes to separately apply for grant funding.

Adds Minn. Stat. § 256E.28, subd. 7

III. CULTURAL AND ETHNIC COMMUNITIES LEADERSHIP COUNCIL

Regular Session, Chapter 78, Article 3, Section 50 (HF 1535)

Health and Human Services Policy Bill

Adds Minn. Stat. § 256.041

Effective retroactively from March 15, 2015

Expires June 30, 2020

A. Establishment

Establishes within the Department of Human Services a Cultural and Ethnic Communities Leadership Council provide advice on reducing disparities that affect racial and ethnic groups.

Adds Minn. Stat. § 256.041, subd. 1

B. Membership

Provides that the chairs of the House and Senate Health and Human Services Committees are members and establishes membership of between 15 and 20 persons, appointed by the DHS Commissioner in consultation with: (1) county, tribal, cultural, and ethnic communities; (2) diverse program participants; and (3) parent representatives from the communities.

Adds Minn. Stat. § 256.041, subd. 2

C. Duties of the Department of Human Services

Requires the Department of Human Services to, among other things: (1) “identify human services rules or statutes affecting persons from racial, ethnic, cultural, linguistic, and tribal communities that may need to be revised; and (2) based on recommendations of the Council, review and make adjustments to DHS policies that “maintain racial, ethnic, cultural, linguistic, and tribal disparities” to ensure that the disparities are not perpetuated.

Adds Minn. Stat. § 256.041, subd. 7

D. Duties of the Council

Directs the Council to, among other things: (1) identify issues regarding disparities by engaging diverse populations in Department of Human Services programs; (2) raise awareness about human services disparities to the Legislature and the media; (3) provide technical assistance to promote statewide development of culturally and linguistically appropriate, accessible, and cost-effective human services and related policies; and (4) facilitate review of culturally sensitive admissions, service, and discharge procedures for human services agencies and institutions.

Adds Minn. Stat. § 256.041, subd. 8

E. Annual Report

Requires the Council to submit a report to the Legislature by February 15 of each year: (1) summarizing activities; (2) identifying major problems and issues confronting racial and ethnic groups in accessing human services; (3) making recommendations to address the problems and issues; and (4) lists programs, grants, and outcomes for reducing disparities.

IV. EARLY PREVENTATIVE DENTAL INTERVENTION AWARENESS IN COMMUNITIES OF COLOR

Regular Session, Chapter 71, Article 8, Section 23 (SF 1458)
Regular Session, Chapter 71, Article 14, Section 3, subd. 2 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Adds Minn. Stat. § 144.3875
Uncodified Section (Appropriation)
Effective July 1, 2015

Directs the Department of Health, in collaboration with the Department of Human Services, to implement a statewide initiative to increase awareness among communities of color and recent immigrants on the importance of early preventive dental intervention for infants and toddlers before and after primary teeth appear. Requires collaboration with: (1) members of the targeted communities; (2) dental providers; (3) pediatricians; (4) child care providers; and (5) home visiting nurses. Appropriates \$172,000 in the first year, and \$140,000 in the second year, of the biennium for the initiative.

V. HEALTH CARE QUALITY

Regular Session, Chapter 71, Article 9, Section 4 (SF 1458)
Health and Human Services Omnibus Appropriations Bill
Amends Minn. Stat. § 62U.02, subds. 1 - 4
Effective July 1, 2015

A. Measurement

Directs the Department of Health to stratify health quality measures it is required to develop by: (1) race; (2) ethnicity; (3) preferred language; and (4) country of origin. Requires the stratification of other measures by other sociodemographic factors on or after January 1, 2018. Requires consultation with the communities impacted by health disparities through culturally appropriate community engagement principles and methods.

Amends Minn. Stat. § 62U.02, subd. 1

B. Quality Incentive Payments

Requires that the quality incentive payment system adjust for variations in patient population to reduce incentives for providers to avoid patients with risk factors related to race, ethnicity, language, country of origin, and socio-demographic factors.

Amends Minn. Stat. § 62U.02, subd. 2

C. Risk Adjustment

Requires, effective July 1, 2017, that the risk adjustment system that the Department of Health is developing for the quality incentive payments take into account patient characteristics that are correlated with health disparities and have an impact on performance, cost, and quality measures.

Amends Minn. Stat. § 62U.02, subd. 3

D. Contracting Requirements

Requires that any private entity with which the Department of Health contracts to fulfill the requirements of the quality incentive payment system has a governance structure that includes representatives of providers serving high concentration of patients and communities impacted by health disparities, and consumers who represent groups who experience health disparities.

Amends Minn. Stat. § 62U.02, subd. 4

VI. HEALTH DISPARITIES

Regular Session, Chapter 71, Article 8, Section 45 and 46 (SF 1458)

Regular Session, Chapter 71, Article 11, Section 63 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds Minn. Stat. § 145.928, subs. 13(b) and 15

Uncodified Section

Effective July 1, 2015

A. Criteria

Requires the Department of Health to consider and give equal weight to applicants who present evidence of a promising strategy to reduce disparities.

Adds Minn. Stat. § 145.928, subd. 15

B. Report

Directs the Department of Health to report annually (beginning January 1, 2016) to the Legislature on the grants made under the Community Grant Program established in 2001 under Minn. Stat. § 145.928, subd. 7, to decrease racial and ethnic disparities in infant mortality rates.

Adds Minn. Stat. § 145.928, subd. 13(b)

C. Payment Enhancement for Providers Serving Patients with Health Disparities

Directs DHS to develop a methodology to pay a higher rate for health care providers and services (both fee-for-service and managed care providers) that takes into consideration the higher cost, complexity, and resources needed to serve patients and populations who experience the greatest health disparities in order to achieve the same health and quality outcomes that are achieved for other patients and populations. Requires DHS to develop the methodology in consultation with affected stakeholders, including communities impacted by health disparities, using culturally appropriate methods of community engagement. Requires DHS to submit a report to the Legislature by February 1, 2016 on the analysis it has conducted, with options for new payment methodologies that incorporate health disparities.

Uncodified Section

VII. HEALTH EQUITY GRANTS

Regular Session, Chapter 71, Article 8, Section 59 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Section

Effective May 23, 2015

Requires the Department of Health to consider and give equal weight to applicants for grant funds appropriated in 2014 for activities to address health equity issues, with an emphasis on refugee populations, who present evidence of a promising strategy to reduce disparities.

Note: See Minn. Laws 2014, Chapter 312, Article 30, Section 3, subd. 2.

VIII. HOUSING DISPARITIES

First Special Session, Chapter 1, Article 1, Section 3, subds. 2, 6, and 9 (HF 3)

Jobs and Energy Omnibus Appropriations Bill

Uncodified Sections

Effective July 1, 2015

A. Challenge Program

Directs the Minnesota Housing Finance Agency to "continue to strengthen its efforts to address the disparity rate between white households and indigenous American Indians and communities of color."

Section 3, subd. 2(a)

B. Homeownership Assistance Program

Directs the Minnesota Housing Finance Agency to "continue to strengthen its efforts to address the disparity gap in the homeownership rate between white households and indigenous American Indians and communities of color."

Section 3, subd. 6

C. Homeownership Education, Counseling, and Training

Permits prioritization of the \$1.7 million appropriation for the biennium to "funding programs that are aimed at culturally specific groups who are providing services to members of their communities."

Section 3, subd. 9

IX. INTEGRATED CARE PILOT GRANT PROGRAM FOR HIGH-RISK PREGNANT WOMEN

Regular Session, Chapter 71, Article 11, Section 45 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Adds Minn. Stat. § 256B.79

Effective July 1, 2015

Expires June 30, 2019

A. Establishment

Directs DHS to establish a pilot program “to improve birth outcomes and strengthen early parental resilience” for pregnant women who are: (1) MA recipients; and (2) in “target populations” that are at “a significantly elevated risk for adverse outcomes of pregnancy.”

Adds Minn. Stat. § 256B.79, subd. 2

B. Eligibility for Grants

Provides that grant applicants must be or be in the process of becoming a “qualified integrated perinatal care collaborative.” Defines a “qualified integrated perinatal care collaborative” as combining: (1) members of community-based organizations that represent communities within the identified targeted populations, and (2) local or tribally based service entities determined by DHS to meet the criteria for the provision of integrated care and enhanced services for enrollees within targeted populations.

Adds Minn. Stat. § 256B.79, subd. 4 (eligibility)

Adds Minn. Stat. § 256B.79, subd. 1(c) (definition)

C. Use of Grant Funds

Limits use of grant funds to the support of “interdisciplinary, team-based needs assessments, planning, and implementation of integrated care and enhanced services for targeted populations.”

Adds Minn. Stat. § 256B.79, subd. 3

D. Report to the Legislature

Requires DHS to submit a report to the Legislature, by January 31, 2019, specifying outcomes and making recommendations for continuing the program or sustaining improvements through other means beyond the expiration date.

Adds Minn. Stat. § 256B.79, subd. 6

X. SOMALI WOMEN'S HEALTH PILOT

Regular Session, Chapter 71, Article 14, Section 3, subd. 2 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Section

Effective July 1, 2015

Directs the Department of Health to establish a pilot program among: (1) one or more Federally Qualified Health Centers (FQHCs); (2) a nonprofit organization that helps Somali women; and (3) the Minnesota Evaluation Studies Institute. States the purpose of the pilot is, for first generation Somali women, to develop a promising strategy to address: (1) preventative and primary health care they need; and (2) health inequities they experience. Provides that the goal should be obtained by, among other things: (1) addressing and identifying clinical and cultural barriers to Somali women accessing preventative and primary care; and (2) developing a culturally appropriate health curriculum for Somali women based on the outcomes from the community-based participatory research report "Cultural Traditions and the Reproductive Health of Somali Refugees and Immigrants." Specifies the outcome of the development of a process that: (1) results in increased screening rates for cervical and breast cancer; and (2) can be replicated by other providers serving ethnic minorities. Requires an evaluation and report to DHS by June 30, 2017. Appropriates \$110,000 for the project.

XI. TOBACCO USAGE IN THE AFRICAN-AMERICAN COMMUNITY

Regular Session, Chapter 71, Article 14, Section 3, subd. 2 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Section

Effective July 1, 2015

Makes \$200,000 available to the Department of Health to award at least one grant to implement strategies and interventions to reduce: (1) the disproportionately high usage of cigarettes by African-Americans, especially the use of menthol-flavored cigarettes; and (2) the disproportionate harm tobacco causes in that community. Requires grantee(s) to engage members of the African-American community and community-based organizations.

XII. WORKING GROUP ON VIOLENCE AGAINST ASIAN WOMEN AND CHILDREN

Regular Session, Chapter 71, Article 8, Section 58 (SF 1458)

Regular Session, Chapter 71, Article 14, Section 3, subd. 2 (SF 1458)

Health and Human Services Omnibus Appropriations Bill

Uncodified Section

Effective May 23, 2015

Expires the day following the submission of a required report (which must be submitted by February 15, 2017)

Appropriates \$200,000 in the first year of the biennium and directs the Department of Health – in collaboration with the Department of Human Services, the Department of Public Safety, and the Council on Asian-Pacific Minnesotans – to establish a multi-disciplinary working group to address violence against Asian women and children. Specifies that the purpose of the working group is to study the nature, scope, and prevalence of violence against Asian women and children in Minnesota, including: (1) domestic violence; (2) trafficking; (3) international abusive marriage; (4) stalking; (5) sexual assault; and (6) other violence. Charges the working group with, among other things, identifying promising prevention and intervention strategies in addressing violence against Asian women and children. Requires that the working group submit recommendations and any draft legislation to the agencies by January 1, 2017 and submit a report to the Legislature on its findings by February 15, 2017.

UNEMPLOYMENT INSURANCE LAW

Prepared by:

Jessica L. Webster, Staff Attorney
Legal Services Advocacy Project
651-842-6902
jlwebster@mnlisap.org

I. PREPONDERANCE OF THE EVIDENCE

First Special Session, Chapter 1, Article 6, Section 1 (HF3)
Jobs and Energy Omnibus Appropriations Bill
Amends Minn. Stat. § 268.035, subd. 21b
Effective August 2, 2015

Clarifies the definition of preponderance of the evidence to be “evidence in support of a fact that is more convincing and has a greater probability of truth than the evidence opposing the fact.”

II. BENEFIT ACCOUNT

First Special Session Chapter 1, Article 6, Section 6 (HF3)
Jobs and Energy Omnibus Appropriations Bill
Amends Minn. Stat. § 268.07, subd. 2
Effective August 2, 2015

A. Total Wage Credits

Clarifies that an applicant must have total wage credits in the four quarter base period of at least 5.3 percent of the state’s average annual wage rounded down to the next lower \$100. Strikes the \$2,400 comparative standard from statute.

B. New Benefit Account

Clarifies that to establish a new benefit account, an applicant must have performed “actual work in subsequent” covered employment. Uses the word “employment” rather than “services.”

III. ELIGIBILITY CONDITIONS

First Special Session Chapter 1, Article 6, Section 8 (HF3)
Jobs and Energy Omnibus Appropriations Bill
Amends Minn. Stat. § 268.085, subd. 1
Effective August 2, 2015

Alters the definition of “job search” and strikes resume writing classes from the examples of reemployment assistance services.

IV. INELIGIBILITY

*First Special Session Chapter 1, Article 6, Section 10 (HF3)
Jobs and Energy Omnibus Appropriations Bill
Amends Minn. Stat. § 268.095, subd. 10
Effective August 2, 2015*

Adds “actual work performed” to further clarify the circumstances under which wages are paid for covered employment.

V. WITHDRAWAL OF AN APPEAL

*First Special Session Chapter 1, Article 6, Section 11 (HF3)
Jobs and Energy Omnibus Appropriations Bill
Amends Minn. Stat. § 268.105, subd. 3
Effective August 2, 2015*

A. Withdrawal of Appeal

Clarifies that the appealing “party” (rather than “person”) may withdraw an appeal.

B. Dismissal of Appeal

Provides that an order of dismissal issued as a result of a notice of withdrawal is not subject to reconsideration or appeal. Provides that a party may file a new appeal after the order of dismissal, but the original 20-day period for appeal begins from the date of issuance of the determination and that time period is not suspended or restarted by the notice of withdrawal and order of dismissal. Requires that the new appeal be filed by mail or fax.

VI. JUDICIAL REVIEW

*First Special Session Chapter 1, Article 6, Section 12 (HF3)
Jobs and Energy Omnibus Appropriations Bill
Amends Minn. Stat. § 268.105, subd. 7
Effective August 2, 2015*

Adds three days to the 30-calendar day period if the decision on reconsideration was mailed to the parties.

VII. SHARED WORK PLANS

*First Special Session Chapter 1, Article 6, Section 13 (HF3)
Jobs and Energy Omnibus Appropriations Bill
Amends Minn. Stat. § 268.136, subd. 1
Effective August 2, 2015*

Provides that the hours of a shared work plan employee must be no more than 80 percent of the normal weekly hours (a decrease from 90 percent).

VIII. SUBPOENAS AND OATHS

*First Special Session Chapter 1, Article 6, Section 14 (HF3)
Jobs and Energy Omnibus Appropriations Bill
Amends Minn. Stat. § 268.188
Effective August 2, 2015*

Clarifies that an Unemployment Law Judge (not only the DEED Commissioner) has authority to administer oaths and affirmations, take depositions, certify to official acts and issue subpoenas.

IX. SPECIAL UNEMPLOYMENT BENEFIT ASSISTANCE

*First Special Session Chapter 1, Article 6, Section 16 (HF3)
Jobs and Energy Omnibus Appropriations Bill
Uncodified Section
Effective June 14, 2015 and retroactive to March 1, 2015*

Provides that vacation pay will not delay unemployment insurance eligibility due to an applicant who has been indefinitely laid off due to lack of work as a result of adverse trade impacts and is not expected to be recalled within six months by the employer responsible for the layoff. Provides that seasonal workers are not covered by this benefit.

X. POULTRY WORKERS EXTRA UNEMPLOYMENT BENEFITS

*Special Session Chapter 1, Article 6, Section 17 (HF3)
Jobs and Energy Omnibus Appropriations Bill
Uncodified Section
Effective August 2, 2015*

Provides for 13 weeks of additional unemployment insurance benefits to applicants laid off by producers or processors affected by the bird flu. Sunsets the benefits by December 31, 2015.

UTILITIES LAW

Prepared by:

Ron Elwood, Supervising Attorney

Legal Services Advocacy Project

651-842-6909

relwood@mnlsap.org

I. **ENERGY-INTENSIVE, TRADE-EXPOSED (EITE) CUSTOMER RATES**

First Special Session, Chapter 1, Article 3, Sections 3 - 9 (HF 3)

Jobs and Energy Omnibus Appropriations Bill

Adds Minn. Stat. § 216B.1696

Effective August 1, 2015

Allows Minnesota Power and Otter Tail Power to file a tariff to create a separate rate options for certain defined very large, industrial customers meeting specified statutory criteria. Permits eligible customers to apply to the utility for the separate rate if the tariff is approved. Exempts low-income utility customers who are receiving energy assistance (LIHEAP) from paying any additional rates to offset any lower rate provided to the industrial customer under the tariff.

II. **STUDY – TRANSFER OF STAFF FROM COMMERCE DEPARTMENT TO PUC**

First Special Session, Chapter 1, Article 1, Section 8, subd. 4 (HF 3)

Jobs and Energy Omnibus Appropriations Bill

Uncodified Section

Effective July 1, 2015

Appropriates \$92,000 in the first year of the biennium (FY 16) for a study to be conducted by the Management Analysis and Development Division of Minnesota Management and Budget for a study to examine potential cost savings and program efficiencies from transferring certain functions and staff of the Division of Energy Resources in the Department of Commerce to the Public Utilities Commission. Requires a report to the relevant committee chairs and ranking minority members by January 1, 2016.