

2009 SESSION SUMMARIES

Table of Contents

ADMINISTRATIVE LAW

ADOPTION

CHILD CARE

CONSUMER

COURTS

DISABILITY AND ELDER LAW

DOMESTIC ABUSE

EDUCATION LAW

FAMILY LAW

FARM LAW

FOOD LAW/SUPPORTS

HEALTH LAW

HOUSING LAW

IMMIGRATION

JUVENILE LAW

LANDLORD-TENANT LAW

LICENSING/BACKGROUND CHECKS/COLLATERAL SANCTIONS

MENTAL HEALTH

PUBLIC BENEFITS LAW

TAX LAW

TRANSPORTATION LAW

UNEMPLOYMENT INSURANCE (UI) LAW

UTILITIES LAW

ADMINISTRATIVE LAW

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I. ATTORNEYS FEES IN STATE ACTIONS

Chapter 125 (HF 1529)
Amends Minn. Stat. § 15.471, subd. 5
Effective August 1, 2009

Lifts the cap of \$125 per hour on attorneys fees awarded to prevailing parties in non-tort civil actions or contested case proceedings brought by or against the state.

II. RULEMAKING -- ELECTRONIC NOTICE

Chapter 71 (SF 532)
Amends Minn. Stat. §§ 14.07, subd. 6; 14.14, subd. 1a; 14.22, subd. 1; 14.389, subd. 2;
and 14.3895, subd. 3
Effective August 1, 2009

A. Agencies

1. **Publication of Notices**

Allows agencies to send by e-mail notice of: (1) intent to adopt rules with or without a hearing; (2) proposed rules; and (3) a proposed repeal of a rule. Retains the requirement to publish the notices in the State Register.
Amends Minn. Stat. § 14.22, subd. 1 (notice of intent to adopt rules)
Amends Minn. Stat. § 14.389, subd. 2 (notice of proposed rules)
Amends Minn. Stat. § 14.3895, subd. 3 (notice of proposed repeal)

2. **Registrant List**

Requires agencies to include the name, mailing address, and e-mail address of those on the required list of persons registered to receive notice of rulemaking hearings.
Amends Minn. Stat. § 14.14, subd. 1a

B. Revisor of Statutes

Allows the Revisor's Office to use either United States Mail or e-mail to fulfill its statutory requirement to notify those registered of any hearing to clarify, modernize or simplify the text of an administrative rule.
Amends Minn. Stat. § 14.07, subd. 6

[Back to Top](#)

ADOPTION

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I. ADOPTION ASSISTANCE PAYMENTS

Chapter 79, Article 2, Section 33 (HF 1362)

Adds Minn. Stat. § 259.67, subd. 3b

Effective October 1, 2010

Chapter 163, Article 2, Sections 5-12 (SF 1503)

Amends Minn. Stat. § 259.67, subds. 1, 2, 3, 4, 5, and 7

Adds Minn. Stat. § 259.67, subds. 2a and 11

Repeals Minn. Rules parts 9560.0081; 9560.0083, subparts 1, 5, and 6; and 9560.0091, subpart 4, item C

Effective August 1, 2009

A. Adoption Assistance Agreements

1. **Requirements**

Requires adoption assistance agreements to contain more specific terms, including: (1) the nature of payment, services and assistance to be provided; (2) the child's eligibility for Medicaid and for reimbursement of up to \$2,000 in nonrecurring expenses related to adoption; (3) how the agreement may be modified; (4) that the effective date of the agreement is the effective date of the adoption decree; and (5) that the agreement must remain in place regardless of the adoptive parents' state of residence. Specifies that a monthly payment be part of the adoption assistance agreement to support the care of a child who has manifested special needs.
Amends Minn. Stat. § 259.67, subd. 2

2. **Extensions**

Requires that an application to extend an adoption assistance agreement must: (1) be completed by the adoptive parent before the child becomes 18 years old; (2) comply with Department of Human Services (DHS) requirements, including documentation of eligibility; and (3) be made on a DHS form. Provides that: (1) an extension application triggers a reassessment of a child's disability and risk; and (2) the agreement must be renegotiated if the reassessment shows a change in either the level of parenting required or the manifested disability. Prohibits any change in the subsequent agreement unless DHS and the adoptive parents agree to the changes.
Amends Minn. Stat. § 259.67, subd. 3

3. Terminations

Provides that the agreement terminates if the DHS determines that the adoptive parents are no longer legally responsible or providing financial support for the child.

Amends Minn. Stat. § 259.67, subd. 3

B. Child Over 16

Permits extension of payments to age 21 where the adoption was finalized after the child reached age 16, and the child is: (1) completing a secondary education program leading to an equivalent credential; (2) enrolled in a postsecondary or vocational program; or (3) working at least 80 hours a month. Allows payments in circumstances where the child does not meet any of the criteria due to a medical condition, provided there are regular updates on the condition in the case plan.

Adds Minn. Stat. § 259.67, subd. 3b

C. Eligibility for Assistance Payments

1. Reorganization of Section

Reorganizes the section by moving general eligibility criteria from subdivision 4 to subdivision 1 and replacing the general eligibility criteria in subdivision 4 with eligibility criteria for determining whether the child is considered a “special needs” child.

Amends Minn. Stat. § 259.67, subs. 1 and 4

2. New Eligibility Criteria

a. Eligibility For Adoption Assistance

Establishes a two-prong test for eligibility, requiring a child to:

- 1) Be determined to have special needs; and
- 2) Either:
 - a) Meet the criteria set forth in the federal adoption and guardianship assistance program (section 473 of the Social Security Act); or
 - b) Have had foster care payments paid on the child's behalf while in out-of-home placement through the county or tribe, and be either under the guardianship of DHS or under the jurisdiction of a Minnesota tribe.

Amends Minn. Stat. § 259.67, subd. 1(a)

b. Eligibility for IV-E Assistance

Requires the child to be a United States citizen or otherwise be eligible for public benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PWRORA).

Amends Minn. Stat. § 259.67, subd. 1(c)

- c. Eligibility for State-Funded Assistance
Requires the child to be a citizen of the United States or meet the qualified alien requirements as defined PWRORA.
Amends Minn. Stat. § 259.67, subd. 1(c)

3. Determination of Special Needs Child

- a. New and Supplemental Criteria
Eliminates parts of existing law that set general eligibility criteria for overall adoption assistance. Substitutes new criteria, and incorporates portions of previous criteria, for general adoption assistance to determine whether a child meets the “special needs” prong of eligibility requirement for adoption assistance. Provides that to meet the “special needs” prong:
 - 1) There has been a determination that the child cannot or should not be returned home due to, among other things:
 - a) a termination of parental rights;
 - b) consent to adoption, voluntary relinquishment of parental rights;
 - c) a determination by a tribe where tribal law allows adoption without termination of parental right of why a child cannot or should not return home;
 - d) the death of the legal parent.
Amends Minn. Stat. § 259.67, subd. 4(a)(3)
 - 2) For non-Indian children: (1) the adoptive family has adopted a child of the same biological parents; and (2) the placing agency determines the adoption is in the child’s best interests.
Amends Minn. Stat. § 259.67, subd. 4(a)(2)
- b. Determination that Providing a Home Without Assistance is Difficult
Includes in characteristics or circumstances for making such determination whether: (1) the child is a member of a sibling group to be “adopted at the same time by the same parent”; and (2) the adoptive parents have previously adopted a child of the same biological parents or the child is eligible for Supplemental Security Income benefits.
Amends Minn. Stat. § 259.67, subd. 4(b)
- c. Documentation Requirements
Requires documentation to establish eligibility as “special needs” and limits documentation to evidence deemed “appropriate” by DHS.
Adds Minn. Stat. § 259.67, subd. 4(d)

4. Agency Determinations

Provides that, subject to the approval of DHS, the agency must make eligibility determinations. Specifies that children who are not otherwise eligible for IV-E adoption assistance and who meet all criteria will receive adoption assistance through state funds.

Amends Minn. Stat. § 259.67, subd. 1

5. Ineligibility

a. For IV-E or State-Funded Assistance

Makes either IV-E or State-Funded assistance unavailable for: (1) a biological parent who later adopts the same child; or (2) international adoptions, unless: (i) the child has been placed into the public child welfare system after adoption has failed; and (ii) all eligibility criteria are met.

Amends Minn. Stat. § 259.67, subd. 1

b. For State-Funded Assistance Only

Provides that state-funded assistance is not available for: (1) direct adoptive placements, including equivalent tribal placements; (2) adoptions by a child's legal custodian or guardian; and (3) a child placed in the state from another state or a tribe outside of the state, if eligibility criteria are met and no other state's agency is responsible for the child.

Amends Minn. Stat. § 259.67, subd. 1(Direct Placements/Custodians)

Amends Minn. Stat. § 259.67, subd. 5 (Out-of-State Placements)

D. Payments

Establishes a basic maintenance payment schedule, based upon the child's age, for all children eligible for adoption. Mandates that a child must receive the maximum amount for his or her age, unless otherwise negotiated with the adoptive parents. Permits supplemental payments for children whose disabilities require additional care, supervision, and structure (as compared to ordinary care provided to children the same age), and establishes a supplemental payment schedule based on the severity of a child's disability and the level of parenting required to care for the child.

Adds Minn. Stat. § 259.67, subd. 2a

E. Publicity for Adoption Assistance Program

Requires DHS to: (1) actively promote the adoption assistance program; and (2) inform all parents who adopt children under DHS guardianship about adoption tax credits.

Adds Minn. Stat. § 259.67, subd. 2a

F. Reimbursement

Limits administrative reimbursement for adoption services to those services agreed upon by DHS prior to commencement of services. Permits DHS to determine whether services are reasonable and appropriate.

Amends Minn. Stat. § 259.67, subd. 7

- G. Repeal of Administrative Rules
Repeals administrative rule requiring adoptive parents to submit an annual affidavit to DHS for adoption subsidies.
Repeals Minn. Rules parts 9560.0081; 9560.0083, subparts 1, 5, and 6; and 9560.0091, subpart 4, item C

II. FATHER'S ADOPTION REGISTRY

*Chapter 163, Article 2, Sections 3 and 4 (SF 1503)
Amends Minn. Stat. § 259.52, subds. 2 and 6
Effective August 1, 2009*

Exempts agencies from searching the Father's Adoption Registry if the adoption petition is proceeding under the Safe Place for Newborns Act (Minn. Stat. § 260C.217). Prohibits putative fathers who registered with the Father's Adoption Registry from asserting an interest in a child in a termination of parental rights proceeding under Chapter 260C.

[Back to Top](#)

CHILD CARE

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I. APPLICATION, ELIGIBILITY, AND PAYMENTS

*Chapter 175, Articles 1-6 (HF 1728)
Amends Minn. Stat. §§ 119B.08, subd. 2; 119B.09, subd. 1; 119B.011, subd. 3; 119B.12, subd. 1; 119B.13, subd. 6; and 119B.15
Effective August 1, 2009*

- A. Application
Adds an application for child care assistance as an addendum to the combined application for the Diversionary Work Program, Minnesota Family Investment Program (MFIP), or food support.
Amends Minn. Stat. § 119B.011, subd. 3
- B. Eligibility
Changes eligibility for families from those with incomes less than 67% of State Median Income (SMI) to those with incomes at or below 67% of SMI.
Amends Minn. Stat. § 119B.09, subd. 1

C. Payments and Co-payments

1. Direct Payments to Parents and Vendors

Eliminates child care assistance provider payments directly to parents and vendors and modifies payment timelines to providers for consistency with the new Minnesota Electronic Child Care Payment and Eligibility (MEC2) System.

Amends Minn. Stat. § 119B.13, subd. 6

2. Effect of Tax Deductions

Eliminates consideration of tax deductions from the determination of child care assistance copayment amounts. Requires any changes to copayments must be implemented on the first Monday of the service period following the effective date of the change.

Amends Minn. Stat. § 119B.012, subd. 1

3. Frequency of Payments

Changes the frequency of payments to child care providers from quarterly to monthly.

Amends Minn. Stat. § 119B.08, subd. 2

II. APPROPRIATIONS/FORECAST ADJUSTMENTS

Chapter 79, Articles 12 and 13 (HF 1362)

Effective May 15, 2009

A. Basic Sliding Fee (BSF) Child Care

- Appropriates:
 - ✓ \$40,104,000 in Fiscal Year (FY) 2010 (\$7,045,000 of which is from federal stimulus funds); and
 - ✓ \$45,096,000 in FY 2011 (\$6,974,000 of which is from federal stimulus funds).
- Provides that an additional \$261,000 in each fiscal year represents federal stimulus money for School Readiness Service Agreements. Specifies that the federal stimulus money is a onetime appropriation, and allows any unspent amount in the first year to be spent in the second year.
- Requires the Department of Human Service (DHS) to spend \$5,244,000 in FY 2010 from the child care development fund unexpended balance on BSF, but reduces the general fund base for BSF by \$260,000 in both FY 2012 and FY 2013.
- Allocates BSF funds to counties as follows: first, by the guaranteed floor amount; then, for any remaining balances, proportionally, considering factors of transition year child care, length of BSF waiting list, county cost, and total expenditures.

B. Child Care Development Grants

- Appropriates:
 - ✓ \$1,487,000 in FY 2010 (of which \$375,000 is from federal stimulus funds);
 - ✓ \$1,487,000 in FY 2011 (of which \$375,000 is from federal stimulus funds);
 - ✓ \$633,000 in FY 2010 and 2011 from federal stimulus funds for coaching, training, and preparation for a statewide child care quality rating system;
 - ✓ \$184,000 in FY 2010 from federal stimulus funds to promote the Minnesota Early Learning Foundation (MELF) program; and
 - ✓ \$1,200,000 in FY 2011 from the general fund to implement the Parent Aware system statewide by continuing the MELF pilots through June 20, 2011.
- Specifies that that all are one-time appropriations, but allows funds unspent in the first year to be spent in the second year.
- Specifies that the appropriations cover funding to: (1) the Parent Aware rating system pilot, including the MELF pilot projects; and (2) the Family, Friend and Neighbor pilot programs, but directs the \$375,000 of federal stimulus funding each fiscal year to programs receiving grants prior to June 30, 2009, or to new programs.

C. MFIP Child Care Assistance Grants

- Receives an additional \$4,933,000 in a forecast adjustment from the 2008 appropriation.
- Appropriates:
 - For FY 2010:
 - ✓ \$61,171,000 from the general fund;
 - ✓ \$1,022,000 from federal stimulus funds.
 - For FY 2011:
 - ✓ \$65,214,000 from the general fund; and
 - ✓ \$406,000 is appropriated from federal stimulus funds.
- Provides that funds available from the child care development block grant of federal stimulus bill must be used for MFIP child care, unless specifically earmarked for other uses. Authorizes DHS to make adjustments necessary to utilize all federal stimulus money available.

D. Transitional Year Child Care

- Transfers from the Temporary Assistance for Needy Families (TANF) fund (to be shared with MFIP):
 - ✓ \$5,909,000 in FY 2010;
 - ✓ \$9,808,000 in FY 2011;

- ✓ \$10,826,000 in FY 2012; and
- ✓ \$4,026,000 in FY 2013.

III. EARLY LEARNING STUDY

Chapter 96, Article 6, Section 10 (HF 2)

Effective August 1, 2009

Requires DHS and the Department of Education (DOE) to develop a study on how to: (1) transition basic sliding fee child care, MFIP child care, and child care development grants to DOE; and (2) develop an early learning system with a single set of standards .
Requires a report to the Legislature by February 15, 2010.

IV. HEAD START/EARLY CHILDHOOD FAMILY EDUCATION (ECFE)

Chapter 96, Article 6, Sections 1 and 11 (HF 2)

Amends Minn. Stat. § 119A.52

Effective July 1, 2009

A. Appropriations

Appropriates:

▪ To ECFE:

- ✓ \$22,955,000 in FY 2010; and
- ✓ \$22,547,000 in FY 2011

▪ To Head Start:

- ✓ \$20,100,000 in FY 2010 and FY 2011

B. Substantive Changes

Provides that funding for Head Start agencies without a federal Early Head Start rate will be determined using the state average federal cost per child for Early Head Start. Exempts approved programs with innovative initiatives targeted at high-risk populations from various procedures and corrective action plan requirements.

Amends Minn. Stat. § 119A.52

V. RETROACTIVITY

Chapter 79, Article 2, Sections 1 and 2 (HF 1362)

Amends Minn. Stat. §§ 119B.09, subd. 7; and 119B.13, subd. 6

Effective October 1, 2009

A. Participants

Limits receipt of retroactive MFIP child care assistance to a maximum of six months from the date of the child care assistance application, regardless of termination of payments under Minn. Stat. §119B.07, subd. 7(b).

Amends Minn. Stat. § 119B.09, subd. 7

B. Providers

Requires submission of bills within 60 days of the last date of service on the bill if the provider has been issued an authorization of care and billing form for a family. Limits applicability of retroactive payments to a maximum of six months from the date the provider is sent the authorization of care and billing form if the provider has no authorization of care.

Amends Minn. Stat. § 119B.13, subd. 6

VI. SCHOOL READINESS CONNECTIONS PROGRAM

Chapter 175, Article 1, Section 7 (HF 1728)

Amends Minn. Stat. § 119B.231, subd. 3

Effective August 1, 2009

Allows a family to maintain eligibility for the School Readiness Service Agreement (SRSA) rate at any time following initial approval if authorized activities decrease to an average of 35 hours or less per week, eliminating the existing 12-month period following initial approval as the only window where a family could maintain eligibility if activities decreased.

VII. SIDS/SHAKEN BABY SYNDROME PREVENTION

Chapter 26 (SF 978)

Amends Minn. Stat. §§ 245A.144; 245A.1444; 245A.40, subd. 5; and 245A.50, subd. 5

Effective August 1, 2009

Chapter 142, Article 2, Sections 19 and 21 (SF 1447)

Amends Minn. Stat. §§ 245A.1435 and 245A.50, subd. 5

Effective August 1, 2009

A. Risk Reduction

Provides that a parent directive to a license holder, authorizing a sleeping position other than on the child's back, must be on a form prescribed by DHS and must include a statement that the parent or guardian has read information related to the reduction of Sudden Infant Death Syndrome (SIDS). Requires the license holder to put children up to and including children twelve months of age on a firm mattress with only a fitted crib sheet.

Amends Minn. Stat. § 245A.1435

B. Training

Expands the requirement to receive training on Shaken Baby Syndrome before providing care from infants to children under school age. Reduces the training from one hour to one half-hour in length, and requires that the training be completed at least once every five years. Mandates that the training include: (1) risk factors; (2) ways to reduce Shaken Baby Syndrome; and (3) license holder communication with parents.

Amends Minn. Stat. § 245A.50, subd. 5

VIII. QUALITY RATING SYSTEM (PARENT AWARE)

Chapter 96, Article 6, Section 4 (HF 2)

Adds Minn. Stat. § 124D.142

Effective July 1, 2009

Creates a statewide, voluntary child care quality rating and improvement system, based upon the Parent Aware rating system pilot, which includes: (1) opportunities to improve educational outcomes for children so they are ready for school; (2) ways to increase publicly funded and regulated quality early learning and care facilities; (3) tracking access to early childhood learning; and (4) increasing the number of children prepared for kindergarten, especially children in low-income families. Makes a program or provider choosing to be rated eligible for public funding. Requires that, until the statewide system is created, the state must use the Parent Aware pilot programs used in the Minnesota Early Learning Foundation (MELF) areas and additional pilot sites as supported by public or private funds.

[Back to Top](#)

CONSUMER LAW

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I. CONTRACT FOR DEED

Chapter 130 (SF 1302)

Adds Minn. Stat. § 507.235, subd. 2a

Effective August 1, 2009 for contracts for deed acknowledged on or after that date

Requires a contract for deed vendor to: (1) deliver to the vendee a copy of the contract for deed containing original signatures in recordable form; and (2) pay, or reimburse the vendee for payment of, any delinquent taxes necessary for recordation of the contract for deed, unless the contract provides otherwise.

II. DEBT MANAGEMENT

Chapter 37, Article 4, Sections 6 - 18 (HF 2123)

Amends Minn. Stat. §§ 332A.02, subds. 5, 8, 9, 10, and 13; 332A.04, subd. 6; 332A.08; 332A.10, subds. 1, 2, 3, 4, and 5; 332A.11, subd. 2; 332A.14; and 332A.16

Adds Minn. Stat. §§ 332A.02, subds. 2a and 5a

Effective August 1, 2009

Chapter 178, Article 1, Sections 62 and 63 (HF 1853)

Amends Minn. Stat. §§ 332A.02, subd. 13, as amended by Laws 2009, chapter 37, article 4, section 12; and 332A.14, as amended by Laws 2009, chapter 37, article 4, section 17 (making technical corrections to the earlier bill)

Effective August 1, 2009

- A. Additional Cause of Denial of a Registration
Adds that the Department of Commerce may deny an application for registration if the applicant has been shown to have engaged in a pattern of failing to perform the services promised.
Amends Minn. Stat. § 332A.08
- B. Bond
Clarifies that the right of action on the bond is available upon the failure of a debt management services provider to perform any of the services promised in the contract.
Amends Minn. Stat. § 332A.04, subd. 6
- C. Definitions
1. **Creditor**
Defines creditor broadly to mean any party: (1) named in the contract; (2) that acquires or holds the debt; or (3) to whom interactions are assigned in relation to the debt listed in the contract.
Adds Minn. Stat. § 332A.02, subd. 5a
 2. **Debt Management Services**
Revises the definition, specifying that the primary purpose of debt management is the full repayment the debt through the management by the debt management services provider of the finances and payments of the debtor.
Amends Minn. Stat. § 332A.02, subd. 9
 3. **Debt Management Services Provider**
Expands definition to include “any person to whom debt management services are delegated.”
Amends Minn. Stat. § 332A.02, subd. 8
- D. New Prohibited Contract Term
Proscribes a choice of law clause that subjects the debtor, where a dispute arises, to any law other than Minnesota law.
Amends Minn. Stat. § 332A.10, subd. 4
- E. New Prohibited Practices
Prohibits debt management companies from: (1) counseling or encouraging a debtor to stop paying a creditor; (2) implying inferring, or in any other way indicating, that it is advisable to stop paying a creditor; (3) sanctioning or condoning the act by a debtor of ceasing payments or implying, inferring, or in any manner indicating that the act of ceasing payments is advisable or beneficial to the debtor; or (4) soliciting a voluntary contribution to the debt management services provider or a designee.
Amends Minn. Stat. § 332A.14

- F. New Requirements for Debt Management Services Contracts
Requires the contract to: (1) conspicuously indicate whether or not the provider is registered with the Department of Commerce; (2) include any registration number; and (3) be written in the debtor's primary language if the provider advertised in that language. Defines “advertise” broadly to mean “solicit[ing] business through any means or medium.”
Amends Minn. Stat. § 332A.10, subd. 1 (new contract requirements)
Adds Minn. Stat. § 332A.02, subd. 2a (definition of “advertise”)
- G. New Requirements Prior to Execution of a Debt Management Services Contract
Requires a provider to fulfill all precontractual obligations before a contract may be executed.
Amends Minn. Stat. § 332A.10, subd. 2
- H. Revised Exemption for Collection Agencies
Changes the basis for an exemption to a collection agency from whether a fee is charged to whether the agency is providing services solely to a creditor.
Amends Minn. Stat. § 332A.02, subd. 8

III. DEBT SETTLEMENT

Chapter 37, Article 4, Sections 1 -5 and 19 – 31 (HF 2123)
Amends Minn. Stat. §§ 45.011, subd. 1; 46.04, subd. 1; 46.05; 46.131, subd. 2; and 325E.311
Adds Chapter 332B, specifically, Minn. Stat. §§ 332B.02 - 332B.14
Effective August 1, 2009

Chapter 178, Article 1, Sections 64 – 67 (HF 1853)
Amends Minn. Stat. § 332B.02, subd. 13, as added by Laws 2009, chapter 37, article 4, section 19; 332B.03, as added by Laws 2009, chapter 37, article 4, section 20; 332B.06, as added by Laws 2009, chapter 37, article 4, section 23; and 332B.09, as added by Laws 2009, chapter 37, article 4, section 26 (making technical corrections to the earlier bill)
Effective August 1, 2009

- A. Key Definitions
1. **Creditor**
Defines creditor to mean any party: (1) named by the debtor; (2) that acquires or holds the debt; or (3) to whom interactions are assigned in relation to the debt listed in the contract.
Adds Minn. Stat. § 332B.02, subd. 9
 2. **Debt Settlement Services**
Clearly delineates the nature of debt settlement services and differentiates it from debt management services. Defines debt settlement as: (1) having the primary purpose of obtaining a settlement for less than the full amount of debt; and (2) accomplishing that purpose by advising, encouraging, assisting, or counseling a debtor to accumulate funds in an account for future payment of a reduced amount of debt to one or more of the debtor's creditors.
Adds Minn. Stat. § 332B.02, subd. 10

B. Registration Requirements

1. **Registration**

Requires a debt settler, whether or not physically located in the state, doing business with a Minnesota consumer to be registered with the Department of Commerce. Exempts debt settlers from complying with the new provisions for contracts signed prior to the effective date.

Adds Minn. Stat. § 332B.03

2. **Application Form**

Establishes criteria for approval, including whether: (1) any controlling or affiliated party has ever been convicted of a crime of moral turpitude; (2) the applicant's license has been suspended or revoked in other jurisdictions; and (3) the applicant has been subject to any judgment or investigations in the past 10 years.

Adds Minn. Stat. § 332B.04, subd. 1

3. **Bond**

Requires an applicant to post a bond of \$5,000, which may be modified upward by the Department of Commerce. Gives the debtor, along with the Department of Commerce and the Attorney General, the right of action on the bond if the provider has defaulted, which is defined as failing to: (1) account to a debtor; or (2) perform any of the services promised.

Adds Minn. Stat. § 332B.04, subd. 3 (requirement of bond)

Adds Minn. Stat. § 332B.04, subd. 4 (right of action for default)

4. **Denial, Suspension, Revocation**

Establishes bases for denial, suspension, and revocation of registration.

Provides due process procedures regarding agency actions.

Adds Minn. Stat. § 332B.05

C. Contract

1. **Restrictions Prior to Execution of Contract**

Provides that, until the parties have executed a contract in compliance with the statute: (1) services may not be performed; (2) charges may not be imposed; and (3) payments may not be received.

Adds Minn. Stat. § 332B.06, subd. 1(a)

2. **Duties Prior to Execution of Contract**

a. Disclosures

Requires a debt settler to disclose both orally and in the contract, whether the provider is or is not licensed by the Minnesota Department of Commerce. Requires a debt settler to make

verbatim disclosures, both orally and in a separate writing, including that: (1) the provider cannot guarantee a reduction or elimination of debt; (2) there is a strong likelihood of garnishment, continuing creditor contacts, lawsuit, and the accrual of fees, interest and other charges if the debtor stops paying creditors; and (3) there may be a tax consequence regarding any portion of a debt forgiven. Specifies the format and type size of the disclosures and requires that they be provided in the debtor's primary language if the debt settlement services provider advertises in that language.
Adds Minn. Stat. § 332B.06, subd. 4

- b. **Determination of Suitability, Ability to Meet Terms, Net Benefit**
Prohibits a debt settler from providing services or executing a contract unless, among other things, the debt settler has first determined that: (1) debt settlement is suitable for the individual debtor; (2) the debtor can reasonably meet the requirements of the proposed plan; and (3) based on the totality of the circumstances, the plan provides a net tangible benefit.
Adds Minn. Stat. § 332B.06, subd. 2

- c. **Determination of Likelihood of Creditor Participation**
Requires a debt settler to make a determination, supported by sufficient bases, which creditors listed are reasonably likely – and which are not reasonably likely – to participate. Establishes a defense against a claim that no sufficient bases existed if the debt settler can produce: (1) written confirmation from the creditor that, at the time the determination was made, the creditor and the debt settler were engaged in negotiations to settle a debt for another debtor; or (2) evidence that the provider and the creditor had entered into a settlement of a debt within the six months prior to the date of the determination. Requires timely written authorization from the debtor to proceed if all creditors are not likely to participate.
Adds Minn. Stat. § 332B.06, subd. 3

3. Requirement of Written Contract

Requires a written contract that must: (1) conspicuously indicate whether or not the provider is registered with the Department of Commerce; (2) inform the debtor of the right to cancel in easily readable type immediately adjacent to the space for the debtor's signature; and (2) be written in the debtor's primary language if the debt settlement services provider advertises in that language. Defines "advertise" broadly.
Adds Minn. Stat. § 332B.02, subd. 3 (definition of "advertise")
Adds Minn. Stat. § 332B.06, subd. 1(b) (requirement of contract)
Adds Minn. Stat. § 332B.07, subd. 2 (notice of right to cancel)

4. Required Contract Terms

Provides that the contract must contain, among other things: (1) an itemization of fees on the front page, segregated from all other information; (2) all the terms and conditions; (3) the provider's name and address (which cannot be a post office box); and (4) the name of and debt owed to each creditor that will be the subject of a settlement.

Adds Minn. Stat. § 332B.06, subd. 5

5. Prohibited Contract Terms

Prohibits any contract from containing, among other things: (1) a hold harmless clause; (2) a confession of judgment or power of attorney to confess judgment; (3) a waiver of claims; or (4) a mandatory arbitration or choice of law clause subjecting the debtor to a law other than the laws of Minnesota..

Adds Minn. Stat. § 332B.06, subd. 6

6. New Agreements; Modifications of Existing Agreements

Allows separate, additional agreements provided they comply with the debt settlement statutes and no additional origination fee is charged. Allows modification of existing agreements provided the agreements are written and signed by both parties, and no additional fee is charged.

Adds Minn. Stat. § 332B.06, subd. 7

D. Right to Cancel

1. Debtor's Right to Cancel

Allows debtor to cancel a debt settlement contract at any time upon 10 days' notice to the debt settler. Requires, upon cancellation, the refund of excess fees, and the cessation of collection of any monthly fees.

Adds Minn. Stat. § 332B.07, subd. 1

2. Debt Settler's Right to Cancel

Allows a debt settler to cancel a contract for good cause upon 30 days' written notice to the debtor. Requires that the debt settler notify all creditors and the refund of any excess fees.

Adds Minn. Stat. § 332B.07, subd. 4

3. Conditions Triggering Payment of Full Fees

Allows a debt settler to retain fees already collected and collect any fees due if: (1) the debt settler obtained a settlement offer from the creditor or creditors in accordance with the contract; and (2) the debtor: (i) rejected the settlement offer; or (ii) within the contractual period, entered into a settlement agreement with the same creditor or creditors for an amount equal to or lower than the settlement offer obtained by the debt settler.

Adds Minn. Stat. § 332B.07, subd. 4

E. Fees

Allows a debt settler to charge and calculate fees either on a: (1) percentage of debt basis; or (2) percentage of savings basis. Ties maximum fees allowed to aggregate debt. Defines aggregate debt narrowly to mean “the total of principal and interest that is owed by the debtor to the creditors at the time of execution of the debt settlement agreement.”

Adds Minn. Stat. § 332B.09, subd. 1 (choice of fees generally)

Adds Minn. Stat. § 332B.02, subd. 4 (definition of “aggregate debt”)

1. Fees as a Percentage of Debt

- Limits fees under this formula to 15% of the aggregate debt.
- Permits a debt settler to charge an origination fee of: (1) \$200 on aggregate debt of less than \$20,000; or (2) \$400 on aggregate debt of \$20,000 or more.
- Permits a debt settler to charge a monthly fee of: (1) no greater than \$50 per month on aggregate debt of less than \$40,000; and (2) no greater than \$60 per month on aggregate debt of \$40,000 or more.
- Caps the collection of fees at a maximum of 40% of the total until the provider obtains a bona fide settlement offer.
Adds Minn. Stat. § 332B.09, subd. 2

2. Fees as a Percentage of Savings

- Limits fees under this formula to 30% of savings actually negotiated by the debt settlement services provider, calculated as the difference between the aggregate debt stated in the contract at the time of its execution and the total amount that the debtor actually pays to settle the debt.
- Permits a debt settler to charge an origination fee of: (1) \$300 on aggregate debt of less than \$20,000; or (2) \$500 on aggregate debt of \$20,000 or more.
- Permits a debt settler to charge of a monthly fee of: (1) no greater than \$65 per month on aggregate debt of less than \$40,000; and (2) no greater than \$75 per month on aggregate debt of \$40,000 or more.
- Caps the collection of fees at a maximum of 50% of the total until the provider obtains a bona fide settlement offer.
Adds Minn. Stat. § 332B.09, subd. 3

- F. Prohibited Acts
Prohibits 28 practices, including: (1) the 16 practices prohibited under the Debt Management Law (Minn. Stat. § 332A.14); (2) representing that any of the possible actions a creditor may take that are stated in the disclosures will not occur; (3) executing a power of attorney that restricts direct contact between the debtor and a creditor; and (4) representing that entering into a debt settlement contract will have no effect on, or improve, the debtor's credit, credit rating, and credit score.
Adds Minn. Stat. § 332B.10
- G. Advertisement and Solicitation of Debt Settlement Services
- 1. Advertisement**
Prohibits debt settlers from: (1) making false, deceptive, or misleading statements or omissions (or creation of the likelihood of consumer confusion); (2) representing that the debt settler is a nonprofit if some or all services are performed by an affiliated or controlling for-profit; (3) giving the impression that the debt settler is a government agency; and (4) making a representation that secured debts can be settled.
Adds Minn. Stat. § 332B.11, subd. 1
- 2. Solicitations by Lead Generators**
- a. Definition of Lead Generator
Defines lead generators to mean persons that do not provide any debt settlement services but who: (1) solicit debtors through mail, in person, or electronic Web site-based solicitation or any other means; (2) act as intermediaries or referral agents; or (3) obtain and transmit to a debt settler a debtor's personally identifiable information.
Adds Minn. Stat. § 332B.02, subd. 14
- b. Requirements and Prohibitions
Requires lead generators to make the following verbatim disclosure: "This company does not actually provide any debt settlement, debt consolidation, or other credit counseling services. We ONLY refer you to companies that want to provide some or all of those services." Prohibits lead generators from: (1) representing that any service is guaranteed; or (2) misrepresenting the benefits of its services or debt settlement generally compared to credit counseling, debt management, or bankruptcy.
Adds Minn. Stat. § 332B.11, subd. 2
- H. Rescission
Allows a debtor to rescind the contract for a material violation of the statute.
Adds Minn. Stat. § 332B.12

I. Enforcement

1. **Violation a Deceptive Trade Practice**

Makes violation of any provision an unfair or deceptive trade practice and declares that a private right of action under Minn. Stat. § 8.31 is in the public interest.

Adds Minn. Stat. § 332B.13, subd. 1

2. **Private Right of Action**

Gives debtors a private right of action and permits class actions for violations committed by debt settlers or lead generators. Provides for injunctive relief and monetary relief totaling: (1) actual, incidental, and consequential damages; (2) statutory damages of up to \$5,000; and (3) costs and reasonable attorneys' fees. Establishes criteria for assessing statutory damages. Provides that remedies are cumulative and nonexclusive.

Adds Minn. Stat. § 332B.13, subd. 2 (legal damages)

Adds Minn. Stat. § 332B.13, subd. 3 (equitable relief)

Adds Minn. Stat. § 332B.13, subd. 4 (remedies cumulative)

3. **Public Enforcement**

Empowers the Attorney General to enforce the provisions of the statute under Minn. Stat. § 8.31.

Adds Minn. Stat. § 332B.13, subd. 5

IV. **FINANCIAL EXPLOITATION OF VULNERABLE ADULTS**

Chapter 119 (HF 818)

Amends Minn. Stat. §§ 13A.02, subds. 1 and 2; 13A.04, subd. 1; 256B.0595, subds. 4 and 9; 388.23, subd. 1; 609.2335; 609.52, subd. 3; 611A.033; and 628.26

Adds Minn. Stat. § 626.557, subds. 5a and 20

Effective August 1, 2009

A. Cooperation of Financial Institutions in Maltreatment Investigations

Mandates that financial institutions cooperate with authorities and comply with reasonable requests concerning investigations into maltreatment of vulnerable adults. Provides immunity to financial institutions from civil or criminal liability for compliance.

Adds Minn. Stat. § 626.557, subd. 5a

B. Crime of Financial Exploitation of Vulnerable Adult

Strengthens, supplements, and more clearly details the elements of a breach of fiduciary duty with respect to a vulnerable adult. Makes violation of new elements subject to the most severe sentence for theft crimes. Establishes a five year statute of limitations for prosecutions.

Amends Minn. Stat. § 609.2335 (new elements)

Amends Minn. Stat. § 609.52, subd. 3 (sentence)

Amends Minn. Stat. § 628.26 (statute of limitations)

Effective August 1, 2009 and applies to crimes committed on or after that date

- C. Disclosure of Financial Records
Permits disclosure by a financial institution of financial records to law enforcement, authorized agencies, or prosecutors investigating financial exploitation of a vulnerable adult: (1) in response to a judicial or administrative subpoena; or (2) voluntarily, where the institution has knowledge concerning financial exploitation.
Amends Minn. Stat. § 13A.02, subd. 1 (disclosure in response to subpoena)
Amends Minn. Stat. § 13A.04, subd. 1 (voluntary disclosure)

- D. Investigative Authority
Authorizes county attorneys to subpoena banking, credit card, and financial records of vulnerable adults.
Amends Minn. Stat. § 388.23, subd. 1

- E. Private Right of Action
Gives a vulnerable adult a cause of action for financial exploitation, without the necessity of having a report filed. Provides for recovery of the greater of three times the compensatory damages or \$10,000, plus reasonable attorneys fees and costs and reasonable guardian, conservator, or guardian ad litem fees.
Adds Minn. Stat. § 626.557, subd. 20

- F. Transfer of Assets of Institutionalized Persons re: Medical Assistance Eligibility
Requires local agencies evaluating a hardship waiver to: (1) take into account whether the individual was the victim of financial exploitation; and (2) grant a waiver of the portion of a period of ineligibility where there is an imminent threat to the individual's health and well-being and where a transfer has been made as a result of financial exploitation.
Amends Minn. Stat. § 256B.0595, subd. 4

V. FORECLOSURE LAW CHANGES

- A. Additional Duty Imposed on Holder of Sheriff's Certificate to Protect Premises
Chapter 123, Section 9 (SF 1147)
Amends Minn. Stat. § 582.031
Effective August 1, 2009

Imposes upon holder of a sheriff's certificate, where the holder knows that there is prima facie evidence of abandonment, to enter the premises and make reasonable periodic inspections, install or change the locks on all doors, install locks on all windows that do not have locks, and ensure that any existing window locks are functioning properly. Permits the holder to take additional steps to prevent waste and prevent or minimize damage from the weather, vandalism, trespass, or other illegal activity. Allows the holder to recover costs of these actions upon redemption.

B. Five Week Redemption Period

Chapter 123, Sections 11, 12, and 13 (SF 1147)

Amends Minn. Stat. § 582.032, subs. 4, 5, and 7

1. **City May Petition**

Allows a city or county to initiate or intervene in an action to reduce the redemption period to five weeks.

Effective August 1, 2009

2. **Remedy for Wrongful Finding of Abandonment**

Clarifies that Rule 60.02 (i.e., vacation for mistakes, newly discovered evidence, etc.) of the Minnesota Rules of Civil Procedure applies to findings that the failure to appear is conclusive proof of abandonment.

Effective retroactively and prospectively from May 21, 2009, and applies to orders issued before, on, or after that date

C. Foreclosure Data

Chapter 130, Section 5 (SF 1302)

Amends Minn. Stat. § 580.025

Effective August 1, 2009 for foreclosures in which the notice of pendency under section 580.032 is recorded on or after that date

Clarifies that the data requirements added in 2008 to the notice of pendency apply only to foreclosures involving one-to-four family dwellings.

D. Notice of Foreclosure

1. **Requirement to Specify Date and Time to Vacate.**

Requires that the notice of foreclosure for single-family, owner-occupied dwellings specify: (1) the date on or before which the homeowner must vacate if the mortgage is not reinstated or redeemed; and (2) the time by which the homeowner must vacate is 11:59 p.m.

Chapter 130, Section 6 (SF 1302)

Amends Minn. Stat. § 580.04

Effective August 1, 2009 for foreclosures in which the notice of pendency under section 580.032 is recorded on or after that date

2. **Requirement to Add Street Address**

Requires that the notice of foreclosure include the commonly used street address of the property.

Chapter 123, Section 6 (SF 1147)

Amends Minn. Stat. § 580.04

Effective August 1, 2009 and applies to notices of sale first published on or after that date

- E. Notice of Opportunity for Counseling
Chapter 130, Section 4 (SF 1302)
Amends Minn. Stat. § 580.04
Effective August 1, 2009 for foreclosures in which the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded on or after that date

Clarifies, by removing a cross reference, that the applicability of the right to the notice of the opportunity of foreclosure prevention counseling is not limited to homeowners with “conventional loans,” defined as loans whose principal is \$100,000 or less.

- F. Notice of Postponement of Foreclosure
Chapter 130, Section 9 (SF 1302)
Amends Minn. Stat. § 580.09
Effective August 1, 2009 for notices of postponement published or served on or after that date

Requires the foreclosing party to provide notice of postponement, including the date and time if known, directly to the homeowner. Requires the notice to inform the homeowner: (1) of the date on or before which the homeowner must vacate the property if the mortgage is not reinstated or redeemed; and (2) that the time by which the homeowner must vacate is 11:59 p.m.

- G. Postponement of Sheriff’s Sale and Extension of Reinstatement Period
Chapter 78, Article 8, Section 21 (HF 2088)
Amends Minn. Stat. § 580.07
Effective June 14, 2009 and applies to foreclosure sales scheduled to occur on or after that date

1. Right to Postpone

Permits a homeowner of a homesteaded property – at any time after the first publication of the notice of mortgage foreclosure sale but at least 15 days before the scheduled sale – to postpone the sale for five months, effectively replacing most of the redemption period with an extension of the reinstatement period.

2. Procedure for Postponing

Specifies that the homeowner may postpone the sale by: (1) executing a sworn affidavit in a form set by statute; (2) recording the affidavit with the County Recorder(s) and Registrar of Titles where the mortgage was recorded; (3) filing a copy of the recorded affidavit with the sheriff conducting the sale; (4) and delivering a copy of the recorded affidavit to the foreclosing attorney.

3. Effect on Redemption Period

Provides that recordation automatically reduces the redemption period to five weeks, effectively providing one additional week over and above the typical period comprising reinstatement and redemption. L

- 4. Limitation on Exercising Right to Postpone**
Allows, without exception, only one postponement.

H. Rights of Homeowners Subject to Judicial Foreclosure

Chapter 130, Sections 1 and 7 (SF 1302)

Amends Minn. Stat. §§ 580.021, subd. 1; and 580.041, subd. 1a

Effective August 1, 2009 for foreclosures in which the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded on or after that date

1. Pre-Foreclosure Notice

Extends to judicial foreclosures (foreclosures by action) the requirements to: (1) provide notice to the homeowner: (i) of the opportunity for foreclosure prevention counseling; and (ii) that the homeowner's contact information will be shared with the foreclosure counseling agency; and (2) provide notice to the counseling agency of the homeowner that will be subject to the foreclosure.

Amends Minn. Stat. § 580.021, subd. 1

2. Foreclosure Advice Notice to Homeowners

Extends to judicial foreclosures the requirement to provide the foreclosure advice notice to homeowners along with the notice of foreclosure.

Amends Minn. Stat. § 580.041, subd. 1a

I. Tenant Protections

1. Rights of Tenants Living in Properties Subject to Judicial Foreclosure

a. Foreclosure Advice Notice to Tenants

Chapter 130, Section 8 (SF 1302)

Amends Minn. Stat. § 580.042, subd. 1

Effective August 1, 2009 for foreclosures in which the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded on or after that date

Extends to judicial foreclosures the requirement to provide the foreclosure advice notice to tenants along with the notice of foreclosure.

b. Notice that Property is in Foreclosure

Chapter 123, Section 3 (SF 1147)

Amends Minn. Stat. § 504B.151, subd. 1

Effective August 1, 2009 and applies to leases entered into on or after that date

Extends to judicial foreclosures the requirement that landlords provide notice to prospective tenants that the property is in foreclosure.

- c. **Withholding Rent**
Chapter 123, Section 4 (SF 1147)
Amends Minn. Stat. § 504B.178, subd. 8
Effective August 1, 2009 and applies to cancellations of contracts for deed in which the notice of cancellation is first served or published on or after August 1, 2009, and mortgage foreclosures under chapter 581 in which the lis pendens is recorded on or after that date

Extends to judicial foreclosures the right of tenants in foreclosed properties and cancelled contract for deed transactions to withhold last month's rent.

- 2. **Notice to Vacate**
Chapter 130, Section 1 (SF 1302)
Amends Minn. Stat. § 504B.285, subd. 1
Effective August 1, 2009

Clarifies that tenants who enter into leases prior to the notice of foreclosure are entitled to the two month notice to vacate foreclosing parties are required to send before they can evict.

VI. **GARNISHMENT AND LEVY**

Chapter 31 (HF 334)
Amends Minn. Stat. §§ 550.143, subds. 2, 3, 4, 5, 6, 7, and 9; 550.37, subd. 14; 551.05, subds. 1a, 2, 3, 4, and 5; 571.71; 571.911; 571.912; 571.913; 571.914, subds. 1, 2, and 4; and 571.925
Deletes Minn. Stat. 550.143, subd. 8; 551.05, subd. 6; and 571.914, subd. 3
Adds Minn. Stat §§ 550.143, subds. 3a, 3b, and 3c; 551.05, subds. 1b, 1c and 1d; 571.72, subds. 10 and 11; and 571.912, subds. 1, 2, and 3
Effective August 1, 2009.

A. **Exemptions Updated**

Changes the term "relief based on need" to "government assistance based on need." Deletes obsolete program names, updates existing program names, and adds names of new program. Clarifies that government assistance based on need includes but is not limited to the enumerated programs.
Amends Minn. Stat. § 550.37, subd. 14

B. **Prejudgment Garnishment**

- 1. **When Garnishment is Authorized**
Extends the period after which garnishment is authorized following the service of a summons and complaint and default to 45 days (from 40 days). *Amends Minn. Stat. § 571.71*

2. New Notices Required

- a. New “Notice of Intent to Garnish”
Provides that garnishment is effective only if a new, plain language “Notice of Intent to Garnish” is served upon the debtor at any time after 20 days following the service of the summons and complaint. (*Note*: The Notice of Intent to Garnish provides a second notice of an impending garnishment to address possible misunderstanding by debtors about the prejudgment garnishment process and to encourage debtors to file a formal answer to the initial summons.)
Amends Minn. Stat. § 571.71
- **Content of New “Notice of Intent to Garnish”**
Specifies that the notice must be substantially in the statutory form. Notifies debtors that, among other things: (1) no formal, written answer to the original summons was sent; (2) there may not be a court file; and (3) there will be no court hearing on the matter. Instructs that garnishment will occur in 20 days unless the debtor: (1) answers; (2) claims an exemption; or (3) contacts the creditor to establish a payment plan if the funds are not exempt or the debt is rightfully owed.
Adds Minn. Stat. § 571.72, subd. 11
- b. New “Exemption Notice”
Provides that garnishment is effective only if an “Exemption Notice” is served upon the debtor at any time after 20 days following the service of the summons and complaint.
Amends Minn. Stat. § 571.71
- **Content of New “Exemption Notice”**
Specifies that the notice must be in substantially the statutory form. Among other things, the notice: (1) informs the debtor that a garnishment summons may be served without any court proceeding; (2) informs the debtor that certain types of listed funds (e.g., Social Security benefits) in a bank account and all or part of wages are protected (exempt); and (3) urges the debtor to claim a valid exemption.
Adds Minn. Stat. § 571.72, subd. 10

C. Garnishment of Funds at a Financial Institution

1. New Notice

Requires provision of a new plain language notice that funds at a financial institution have been garnished. Notifies the debtor: (1) of the current balance in the account; (2) of the amount frozen; (3) for how long the funds will be frozen; and (4) that some of the funds may be exempt.
Adds Minn. Stat. § 571.912, subd. 1

- 2. New Instructions to Claim an Exemption**
Requires provision to the debtor of a new, plain language set of instructions, notifying the debtor, among other things: (1) how to claim an exemption; (2) to submit: (i) proof of the exemption; and (ii) the bank statements for the past 60 days; (3) how the levy process works, including what happens if the debtor does – or does not -- return the exemption form and what happens if the creditor does – or does not – object to the assertion of an exemption; (4) that Legal Aid assistance may be available if the debtor is low-income; and (5) what the penalties are: (i) for the debtor for a bad faith exemption claim; or (ii) for the creditor for a bad faith objection to an exemption claim.
Adds Minn. Stat. § 571.912, subd. 2
- 3. Revised Exemption Form**
Replaces existing exemption form with a new, plain language form that, among other things: (1) allows the debtor to check a box claiming either a full or partial exemption; (2) lists many (but not all) exempt sources of funds to check; (3) provides a check box for exempt earnings; and (4) gives permission to state agencies to verify the receipt by the debtor of benefits.
Adds Minn. Stat. § 571.912, subd. 3
- 4. New Service Requirements**

 - a. Judgment Creditor Requirement
Requires the creditor to serve upon the financial institution/garnishee the new notice and instructions along with the currently required summons and exemption notice.
Amends Minn. Stat. § 571.911
 - b. Financial Institution Requirement
Requires the financial institution/garnishee to serve the debtor with the new notice and instructions along with the currently required garnishment summons and exemption notice.
Amends Minn. Stat. § 571.913
- 5. New Debtor Obligation**
Requires debtors to deliver copies of the required bank statements for the prior 60 days. Makes explicit that failure to do so does not constitute a waiver of a claimed right to an exemption.
Amends Minn. Stat. § 571.913
- 6. Release of Funds to Debtor by Financial Institution**
Increases from seven calendar days to six business days the waiting period after which the financial institution must remit funds to the debtor the creditor does not object to the assertion of an exemption.
Amends Minn. Stat. § 571.913

7. **Process When Creditor Objects**
Changes the process when a creditor objects to an exemption claim by placing the burden on the creditor to, within six days of receipt of an exemption claim, mail or deliver a copy of a new “Notice of Objection and Notice of Hearing” to the financial institution and to the debtor. Requires the court administrator to schedule a hearing no sooner than five, but no later than seven, business days from the date of filing. Adds that a debtor may request continuance of the hearing by notifying the creditor and the court, and requires the court to schedule the continued hearing within seven days of the original hearing date.
Amends Minn. Stat. § 571.914, subd. 1
8. **Form of Notice of Objection and Notice of Hearing**
Replaces the current Notice of Objection with a new statutory Notice of Objection and Notice Hearing. Deletes the current Request for Hearing and Notice for Hearing section and form.
Amends Minn. Stat. § 571.914, subd. 2 (new notice)
Deletes Minn. Stat. § 571.914, subd. 3 (old notice)
9. **Duties of Financial Institution If Creditor Objects**
Adds “mutual agreement of the parties” as another condition for release by the financial institution of funds to the creditor.
Amends Minn. Stat. § 571.914, subd. 4

D. Levy on Funds at a Financial Institution

1. **New Service Requirements for Sheriff**
Requires the sheriff to serve on the financial institution, in addition to the writ of execution and two copies of the exemption notice, a new notice and set of instructions. Renders the levy void for the failure of sheriff to serve the new notice and new instructions.
Amends Minn. Stat. § 550.143, subd. 2 (service requirements)
Amends Minn. Stat. § 550.143, subd.3 (rendering levy void)
2. **New Requirement for Judgment Creditor**
Requires the judgment creditor or its attorney to provide the sheriff with a new notice and set of instructions.
Amends Minn. Stat. § 550.143, subd. 3
3. **New Notice of Levy**
Requires provision to the debtor of a new plain language notice that funds have been levied. Notifies the debtor: (1) of the current balance in the account; (2) of the amount frozen; (3) for how long the funds will be frozen; and (4) that some of the funds may be exempt.
Adds Minn. Stat. § 550.143, subd. 3a

- 4. New Instructions to Claim an Exemption**
Requires provision to the debtor of a new, plain language set of instructions, notifying the debtor, among other things: (1) how to claim an exemption; (2) to submit: (i) proof of the exemption; and (ii) the bank statements for the past 60 days; (3) how the levy process works, including what happens if the debtor does – or does not -- return the exemption form and what happens if the creditor does – or does not – object to the assertion of an exemption; (4) that Legal Aid assistance may be available if the debtor is low-income; and (5) what the penalties are: (i) for the debtor for a bad faith exemption claim; or (ii) for the creditor for a bad faith objection to an exemption claim.
Adds Minn. Stat. § 550.143, subd. 3b
- 5. New Debtor Obligation**
Requires debtors to deliver copies of the required bank statements for the prior 60 days. Makes explicit that failure to do so does not constitute a waiver of a claimed right to an exemption.
Amends Minn. Stat. § 550.143, subd. 4
- 6. Revised Exemption Form**
Replaces existing exemption form with a new, plain language form that, among other things: (1) allows the debtor to check a box claiming either a full or partial exemption; (2) lists many (but not all) exempt sources of funds to check; (3) provides a check box for exempt earnings; and (4) gives permission to state agencies to verify the receipt by the debtor of benefits.
Adds Minn. Stat. § 550.143, subd. 3c
- 7. Release of Funds to Sheriff**
Increases from seven calendar days to six business days the waiting period after which the financial institution must remit funds to the sheriff if creditor does object to an assertion of exemption.
Amends Minn. Stat. § 550.143, subd. 4
- 8. Process When Creditor Objects**
Places the burden on the creditor to set a hearing if objecting to an exemption claim by, within six days of receipt of an exemption claim, mailing or delivering a copy of a new “Notice of Objection and Notice of Hearing” to the financial institution and a copy to the debtor.
Amends Minn. Stat. § 550.143, subd. 5
- 9. Form of Notice of Objection and Notice of Hearing**
Replaces the current Notice of Objection with a new statutory Notice of Objection and Notice Hearing. Deletes the current Request for Hearing and Notice for Hearing section and form.
Amends Minn. Stat. § 550.143, subd. 7(new notice)
Deletes Minn. Stat. § 550.143, subd. 8(old notice)

10. Duties of Financial Institution If Creditor Objects

Adds “mutual agreement of the parties” as another condition for release by the financial institution of funds to the creditor.

Amends Minn. Stat. § 550.143, subd. 6

E. Attorney’s Summary Execution Upon Funds at a Financial Institution

1. New Service Requirements for Judgment Creditor Attorney

Requires the attorney for the judgment creditor to serve a new notice and set of instructions upon the financial institution. Renders the levy void for failure of the attorney to send these forms.

Amends Minn. Stat. § 551.05, subd. 1a

2. New Notice of Execution

Requires provision to the debtor of a new plain language notice that funds have been levied. Notifies the debtor: (1) of the current balance in the account; (2) of the amount frozen; (3) for how long the funds will be frozen; and (4) that some of the funds may be exempt.

Adds Minn. Stat. § 551.05, subd. 1b

3. New Instructions to Claim an Exemption

Requires provision to the debtor of a new, plain language set of instructions, notifying the debtor, among other things: (1) how to claim an exemption; (2) to submit: (i) proof of the exemption; and (ii) the bank statements for the past 60 days; (3) how the levy process works, including what happens if the debtor does – or does not -- return the exemption form and what happens if the creditor does – or does not – object to the assertion of an exemption; (4) that Legal Aid assistance may be available if the debtor is low-income; and (5) what the penalties are: (i) for the debtor for a bad faith exemption claim; or (ii) for the creditor for a bad faith objection to an exemption claim.

Adds Minn. Stat. § 551.05, subd. 1c

4. New Debtor Obligation

Requires debtors to deliver copies of the required bank statements for the prior 60 days. Makes explicit that failure to do so does not constitute a waiver of a claimed right to an exemption.

Amends Minn. Stat. § 551.05, subd. 2

5. Revised Exemption Form

Replaces existing exemption form with a new, plain language form that, among other things: (1) allows the debtor to check a box claiming either a full or partial exemption; (2) lists many (but not all) exempt sources of funds to check; (3) provides a check box for exempt earnings; and (4) gives permission to state agencies to verify the receipt by the debtor of benefits.

Adds Minn. Stat. § 551.05, subd. 1d

6. **Release of Funds to Judgment Creditor Attorney**
Increases from seven calendar days to six business days the waiting period after which the financial institution must remit funds to the debtor if an exemption claim is submitted and the creditor does not interpose an objection.
Amends Minn. Stat. § 551.05, subd. 2
7. **Process When Creditor Objects**
Changes the process when a creditor objects to an exemption claim by placing the burden on the creditor to, within six days of receipt of an exemption claim, mail or deliver one copy of a new “Notice of Objection and Notice of Hearing” to the financial institution and one copy to the debtor.
Amends Minn. Stat. § 551.05, subd. 3
8. **Form of Notice of Objection and Notice of Hearing**
Replaces the current Notice of Objection with a new statutory Notice of Objection and Notice Hearing. Deletes the current Request for Hearing and Notice for Hearing section and form.
Amends Minn. Stat. § 551.05, subd. 5 (new notice)
Deletes Minn. Stat. § 551.05, subd. 6 (old notice)
9. **Duties of Financial Institution If Creditor Objects**
Adds that funds must be released to the creditor by the financial institution “upon mutual agreement of the parties” or “upon lapse of the garnishment.”
Amends Minn. Stat. § 551.05, subd. 4

- F. **Garnishment of Earnings 10 Day Notice Exemption Form**
Changes the term “relief based on need” to “government assistance based on need.” Deletes obsolete program names, updates existing program names, and adds new program names. Clarifies that government assistance based on need includes but is not limited to the enumerated programs.
Amends Minn. Stat. § 571.925

VII. HOME WARRANTIES

Chapter 91 (HF 420)

Amends Minn. Stat. §§ 327A.04; 327A.06; 327A.07; and 327A.08

Effective August 1, 2009, and applies to contracts entered into, or construction of dwellings or home improvements completed, on or after that date

Requires vendors and contractors to provide express warranties, eliminating the existing implied warranties. Requires the warranties to be provided to the buyer in writing. Prohibits waivers, but allows post-contract modifications pursuant to existing law. Gives homeowners, by operation of law, an implied warranty with the effect of an express warranty where the vendor or contractor fails to provide an express warranty as required.

VIII. INSURANCE SOLICITATIONS TO ELDERLY CONSUMERS

Chapter 178, Article 1, Section 43 (HF 1853)

Adds Minn. Stat. § 72A.204

Effective August 1, 2009

Makes it an unfair and deceptive act or practice to use a “senior-specific certification or professional designation” that, by indication or implication, misleads a consumer that the seller has special certification or training in advising or servicing seniors regarding life insurance, including annuities. Sets forth a non-exclusive list of misleading acts, including using a nonexistent or self-conferred designation. Establishes a rebuttable presumption that there is no violation if the seller uses a certification from any one of an enumerated list of organizations.

IX. LOAN MODIFIERS

Chapter 141 (SF 708)

Amends Minn. Stat. § 325N.01

Effective June 20, 2009

Adds persons who, for compensation, negotiate or modify the terms or conditions of an existing residential mortgage loan to the list of persons who are defined as foreclosure consultants. Subjects these loan modifiers substantive provisions of section 325N.04, including the prohibition against charging for services until they are fully performed. Provides that otherwise exempt licensed mortgage originators and nonprofits are included when they negotiate (or offer to negotiate) existing mortgages. Adds to the definition of a “regulated service” any contact with servicers to negotiate existing mortgages.

X. PAYDAY LENDING

Chapter 37, Article 3, Sections 2, 3, and 4 (HF 2123)

Amends Minn. Stat. § 47.60, subds. 1, 3, and 6

Effective August 1, 2009

Chapter 68 (SF 806)

Amends Minn. Stat. §§ 47.60, subds. 4 and 6; and 53.09, subd. 2

Adds Minn. Stat. § 47.601

Effective August 1, 2009

A. Definitions

1. Consumer Short-Term Lender

Chapter 68, Section 3 (SF 806)

Creates a new definition, intended to cover loans made under the lending authority of either the Consumer Small Loan Act (Minn. Stat. § 47.60) or Chapter 53 (governing Industrial Loan and Thrifts). Excludes a state or federally chartered bank, savings bank, or credit union.

Adds Minn. Stat. § 47.601, subd. 1(e)

2. Consumer Short-Term Loan

Chapter 68, Section 3 (SF 806)

Creates a new definition, intended to cover loans made under the lending authority of either the Consumer Small Loan Act or Chapter 53. Defines a consumer short term loan as a loan “which has a principal amount, or an advance on a credit limit, of \$1,000 or less and requires a minimum payment within 60 days of loan origination or credit advance of more than 25 percent of the principal balance or credit advance.” Provides that each new loan or advance is a loan. Excludes pawn transactions under Chapter 325J or a recourse loan secured by physical goods pledged as collateral.

Adds Minn. Stat. § 47.601, subd. 1(d)

3. Consumer Small Loan Lender

Chapter 37, Article 3, Section 2 (HF 2123)

Replaces “person” (which is undefined) with “business entity” in the definitions section of the Consumer Small Loan Act.

Amends Minn. Stat. § 47.60, subd. 1

B. Class Actions

Chapter 68, Section 3 (SF 806)

Prohibits any contract clause that limits a class action for: (1) violating any contract requirement or prohibition; (2) lending without a license; or (3) exceeding, by other than a de minimis amount if no pattern or practice exists, the interest rates, fees, or loan amounts allowable under Minnesota law.

Adds Minn. Stat. § 47.601, subd. 2(a)(3)

C. Debt Collection

Chapter 68, Section 3 (SF 806)

Subjects first party payday loan collectors to Minnesota’s debt collection statutes (Minn. Stat. § 332.37), incorporating by reference the provisions of the Federal Fair Debt Collections Practices Act.

Adds Minn. Stat. § 47.601, subd. 3

D. Enforcement

Chapter 68, Section 3 (SF 806)

Grants enforcement authority to the Attorney General.

Adds Minn. Stat. § 47.601, subd. 7

E. Jurisdiction Over Internet Payday Lenders

Chapter 37, Article 3, Section 3 (HF 2123)

Chapter 68, Section 3 (SF 806)

- Deems a consumer short-term loan transaction to occur in Minnesota if the borrower is: (1) a state resident; and (2) completes the transaction, either personally or electronically, while physically located in the state.

Adds Minn. Stat. § 47.601, subd. 5

- Clarifies that lenders not physically located in Minnesota and making loans electronically must: (1) be licensed by the Department of Commerce; and (2) follow Minnesota law.
Amends Minn. Stat. § 47.60, subd. 3

F. Loan Contracts

Chapter 68, Section 3 (SF 806)

Requires all payday loan to be in writing in the language in which the contract was negotiated. Prescribes certain terms that must be contained (e.g. annual percentage rate). Proscribes certain terms (e.g., a choice of law or forum clause).

Adds Minn. Stat. § 47.601, subd. 2(c)

G. Remedies

Chapter 37, Article 3, Section 4 (HF 2123)

Chapter 68, Sections 2 and 6 (SF 806)

1. Who is Liable

a. Person vs. Entity

Replaces “person” (which is undefined) with “business entity” and eliminates individual liability for members, officers, directors, agents, and employees in the penalties section of the Consumer Small Loan Act.

Amends Minn. Stat. § 47.60, subd. 6

b. Holders and Assignees

Subjects holders and assignees to all claims and defenses available to the borrower against the lender.

Adds Minn. Stat. § 47.601, subd. 2(d)

2. Nature of Liability

Expands liability for a violation to include: (1) all money collected or received in connection with the loan; (2) actual, incidental, and consequential damages; (3) statutory damages of up to \$1,000 per violation; (4) costs, disbursements, and reasonable attorney fees; and (5) injunctive relief. Voids a loan made by a lender who: lends without a license; or (2) violates: (i) any contract term or prohibition; (ii) prohibited debt collection practices; or (iii) rate, fee, or amount limitations. Exempts “bona fide errors” as defined under federal law. Provides that remedies are cumulative.

Adds Minn. Stat. § 47.601, subd. 6 (elements of liability)

Adds Minn. Stat. § 47.601, subd. 8 (liability cumulative)

3. Uniformity of Liability

Makes lenders making payday loans under the authority of either the Consumer Small Loan Act or Chapter 53 subject to the same liability. For lenders lending under the Consumer Small Loan Act authority: (1) expands liability to include actual, consequential, incidental, and statutory

damages; (2) subjects violators to payment of costs, disbursements and attorneys fees; and (3) eliminates criminal penalties for lenders.

Amends Minn. Stat. § 47.60, subd. 6

Adds Minn. Stat. § 47.601, subd. 6

H. Reporting Requirements

Chapter 68, Sections 1, 3, and 4 (SF 806)

Subjects lenders making payday loans under the authority of either the Consumer Small Loan Act or Chapter 53 to new reporting requirements, including: (1) the amount of fees collected; (2) the average annual percentage rate and range of annual percentage rates; (3) the number of individual borrowers who obtained one or more loans; (4) a breakdown of the number of individual borrowers who obtained five, ten, fifteen and twenty or more loans in the calendar year; and (5) the total number and dollar amount of loans charged off or written off.

Adds Minn. Stat. § 47.601, subd. 4 (new reporting requirements)

Amends Minn. Stat. § 47.60, subd. 4 (covering section 47.60 lenders)

Amends Minn. Stat. § 53.09, subd. 2 (covering Chapter 53 lenders)

XI. REAL ESTATE APPRAISERS

Chapter 178, Article 1, Section 55 (HF 1853)

Amends Minn. Stat. § 82B.20, subd. 2

Effective August 1, 2009

Add a new prohibition to the existing list of prohibited real estate appraiser practices: improperly influencing (or attempting to improperly influence) the development, reporting, result, or review of an appraisal. Includes coercion or other behavior that impairs or may impair the independent judgment of the appraiser as a prohibited act.

XII. RESIDENTIAL MORTGAGE ORIGINATORS AND SERVICERS

Chapter 37, Article 3, Sections 7, 8, and 9 (HF 2123)

Amends Minn. Stat. §§ 58.06, subd. 2; 58.126; and 58.13, subd. 1

Effective various dates

A. Amended Education and New Testing Requirements

Increases the hours of educational training required to obtain or retain a license as a residential mortgage originator from 15 to 20. Institutes a new annual continuing education requirement of eight hours, consisting of: (1) three hours of federal law and regulations; (2) two hours of ethics, which must include fraud, consumer protection, and fair lending; and (3) two hours of standards governing nontraditional mortgage lending. Authorizes the Department of Commerce to, by rule, establish testing requirements for individual residential mortgage originators.

Amends Minn. Stat. § 58.126

Effective September 1, 2009, and applies to license applications and renewals made on or after that date

- B. New License Requirement
Requires an applicant for a residential mortgage originator license to affirm under oath the dates that the new continuing education and testing requirements were completed.
Amends Minn. Stat. § 58.06, subd. 2
Effective August 1, 2009 for existing initial educational requirement.
- C. New Standard of Conduct
Prohibits a residential mortgage originator from violating the provisions of the state law (Minn. Stat. § 47.58) or federal law governing reverse mortgages.
Amends Minn. Stat. § 58.13, subd. 1(8)
Effective August 1, 2009

XIII. REVERSE MORTGAGES

Chapter 37, Article 3, Section 1 (HF 2123)
Amends Minn. Stat. § 47.58, subd. 1
Effective August 1, 2009

Amends the definition of “lender” subject to the requirements of Minnesota’s reverse mortgage provisions to include mortgage originators subject to Chapter 58.

XIV. STRANGER ORIGINATED LIFE INSURANCE (STOLI)

Chapter 52 (SF 166)
Adds Chapter 60A, specifically Minn. Stat. §§ 60A.078 – 60A.0789
Effective for insurance policies issued on or after May 10, 2009

Note: Stranger Originated Life Insurance or STOLI refers to the purchase of a life insurance policy for the benefit of a third, unrelated party. The third party provides an immediate cash benefit as consideration for becoming the beneficiary on the insured’s policy (which is worth, upon the death of the insured, significantly more than the buyout). This law is intended to curb what many consider a questionable practice of “betting on the death” of another for financial gain of an unrelated third party business entity.

- A. STOLI Defined
Defines “stranger-originated life insurance or STOLI practices” as an act, practice, or arrangement to initiate a life insurance policy for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest in the insured.
Adds Minn. Stat. § 60A.0782, subd. 12

B. Limitation on Procuring a Policy on Another's Life

1. **Conditions**

Prohibits a person from procuring an insurance policy on someone else's life unless the benefits are payable to: (1) the insured; (2) the insured's estate's personal representatives; or (3) a person having, at the time the policy is issued, an "insurable interest" in the insured.

Adds Minn. Stat. § 60A.0783, subd. 1

2. **Definition of "Insurable Interest"**

Enumerates an exclusive list of nine persons who (or entities that) have insurable interest in another. They include: (1) a person who is related to the insured by blood or law and the interest is "engendered by love and affection"; (2) a person whose interest is other than a person whose only interest is profit from the death of the insured; (3) a charitable organization; (4) a trust or trustee.; and (5) a guardian or fiduciary.

Adds Minn. Stat. § 60A.0783, subd. 2

3. **Consent of the Insured Required**

Requires insured: (1) has the legal capacity to contract; and (2) applies for or consents in writing to the terms of the policy.

Adds Minn. Stat. § 60A.0783, subd. 5

C. Prohibited Practices

Prohibits, among other things: (1) engaging in STOLI practices; and (2) soliciting or marketing a policy whose purpose is sale on the secondary market.

Adds Minn. Stat. § 60A.0784

D. Rebuttable Presumption

Creates a rebuttable presumption of STOLI practices. Provides that a court may presume the policy was originated as the result of STOLI practices if: (1) an insured underwent a life expectancy exam; (2) a policy was settled within four years of purchase; and (3) there is some form of unconventional premium financing.

Adds Minn. Stat. § 60A.0786, subd. 1

E. Restriction Settlement Contracts

Prohibits a prospective buyer of either the policy or a beneficial interest in the policy from entering into a settlement contract prior to and within four years after the issuance of the policy unless the buyer determines, based on a reasonable inquiry, that certain specified conditions are or are not present. For example, prohibits a settlement contract if: (1) funds to purchase the policy did not come from a source other than the insured's personal assets or assets of a person closely related to the insured by blood or law; or (2) a life expectancy evaluation was shared with or used by any person to determine the actual or potential value of the policy in the secondary market.

Adds Minn. Stat. § 60A.0785

F. Criminal Penalties

Lists fraudulent acts in relation to this statute and makes the commission of fraud under the statute insurance fraud, subject to criminal penalties and jail sentences pursuant to the insurance fraud law.

Adds Minn. Stat. § 60A.0788

G. Remedies

1. **Damages**

Provides a cause of action personal representative of the insured's to recover the benefits upon violation. Allows the court to: (1) limit recovery for nonwillful violations to unjust enrichment; and (2) expand recovery for willful violations to include exemplary damages of up to twice the benefit. Provides for recovery of costs, disbursements, and reasonable attorneys' fees.

Adds Minn. Stat. § 60A.0789, subd. 1

2. **Enforceability of Contract**

Makes a contract that violates the provisions voidable.

Adds Minn. Stat. § 60A.0789, subd. 2

3. **Availability of Declaratory Judgment Action**

Permits an insurer who believes STOLI practices precipitated the policy to seek a declaratory judgment prior to payment of death benefits.

Adds Minn. Stat. § 60A.0789, subd. 3

4. **Nonexclusivity**

Provides that the remedies do not preempt or limit other civil remedies or limit the authority of the state to punish a violator for other crimes.

Adds Minn. Stat. § 60A.0789, subd. 4

XV. TAX PREPARER REGULATION

Chapter 88, Article 11, Sections 3 and 4; and Article 12 (HF 1298)

Amends Minn. Stat. §§ 270C.445; and 270C.446, subds. 2 and 5

Adds Minn. Stat. § 270C.445, subds. 2(g), 2(h), 2(i), 3a, 4a, 4b, and 5b

Various effective dates

A. Applicability

Expands the applicability of the Refund Anticipation Loan (RAL) protections to those who "facilitate" transactions. Defines "facilitate" broadly to mean: a person, individually or in conjunction or cooperation with another, who (1) accepts an application for a refund anticipation loan; (2) pays the proceeds, through direct deposit, a negotiable instrument, or any other means, of a refund anticipation loan to a client; or (3) offers, arranges, processes, provides, or in any other manner acts to allow the making of, a refund anticipation loan.

Adds Minn. Stat. § 270C.445, subd. 2(h)

Effective August 1, 2009

- B. Exemption
Exempts nonprofit organizations providing tax preparation services under the Internal Revenue Service Volunteer Income Tax Assistance (VITA) Program or Tax Counseling for the Elderly (TCE) Program from compliance with standards of conduct and disclosure requirements.
Amends Minn. Stat. § 270C.445, subd. 1
Effective August 1, 2009
- C. New Standards
Adds seven standards to the 12 existing ones, including prohibitions against: (1) commingling client and preparer funds; (2) failing to act in the client's best interests; (3) failing to disclose all material facts of which the preparer has knowledge which might reasonably affect the client's rights and interests; (4) violating state and federal debt collection laws; and (5) including specified anti-consumer provisions in contracts.
Amends Minn. Stat. § 270C.445, subd. 3
Effective August 1, 2009
- D. Refund Anticipation Loans and Refund Anticipation Checks (RACs)
1. **Contracts**
- a. Written Contracts Required
Requires all contracts for RALs and RACs to be in writing.
Adds Minn. Stat. § 270C.445, subd. 3a
Effective August 1, 2009
- b. Deduction from Refunds Limited
Prohibits any provision that, directly or indirectly, allows for a deduction for any amount other than the fees for tax preparation and the RAL or RAC.
Adds Minn. Stat. § 270C.445, subd. 3a
Effective August 1, 2009
- c. Mandatory Arbitration Limited
Requires that tax preparers permit clients to opt out of mandatory arbitration clauses. Voids any arbitration ruling if the dispute involves a violation of Minnesota statutes governing tax preparers. Requires disclosure of client rights involving mandatory arbitration.
Adds Minn. Stat. § 270C.445, subd. 3a
Effective August 1, 2009
- d. Right to Rescind
Provides taxpayers with the right to rescind a RAL on or before the close of business of the next business day after it was taken. Makes rescission effective when the client: (1) provides written notification to the tax preparer of the rescission, and, if applicable, (2) either returns the original check issued for the

loan, or tenders the amount of the loan. Allows the tax preparer to charge a fee to rescind only if the preparer has already opened an account at a bank to receive an electronic transfer of the refund. Limits the rescission fee to the amount the bank charges the tax preparer.

Adds Minn. Stat. § 270C.445, subd. 5b

Effective August 1, 2009

2. Disclosures

a. Addition to Itemized Bill Disclosure

Requires tax preparers to separately itemize each fee associated with a RAC.

Amends Minn. Stat. § 270C.445, subd. 5

Effective August 1, 2009

b. Language Requirement

Mandates that all required disclosures be made in the client's primary language, if the tax preparer advertises in that language.

Amends Minn. Stat. § 270C.445, subd. 4

Effective August 1, 2009

c. New RAC Disclosure Required

Adds a disclosure requirement if the tax preparer offers a RAC, informing the client, among other things, that the client is not obligated to take a RAC to get a refund.

Adds Minn. Stat. § 270C.445, subd. 4b

Effective August 1, 2009

E. Private Right of Action

Adds statutory damages of twice the sum of: (i) the tax preparation fees; and (ii) if the plaintiff violated any of the provisions governing RALs, all interest and fees for the loan. Provides that a private action taken under Minn. Stat. § 8.31 is in the public interest.

Amends Minn. Stat. § 270C.445, subd. 7

Effective August 1, 2009

F. Publication of Convicted Tax Preparers

1. Limit on Publication

Clarifies that the Department of Revenue must publish the names of tax preparers who have failed to file or pay taxes or committed other fraudulent acts only if they do so in their capacity as tax preparers.

Amends Minn. Stat. § 270.446, subd. 2

Effective May 17, 2009

2. Removal from Published List

Requires the Department of Revenue to remove from the list a tax preparer who has satisfied all sentences imposed. Clarifies that all conditions for removal must be demonstrated to the Department of Revenue.

Amends Minn. Stat. § 270.446, subd. 5

Effective May 17, 2009

XVI. TELEPHONE SOLICITATIONS/STATE DO NOT CALL LIST

Chapter 178, Article 1, Sections 60 and 61 (HF 1853)

Amends Minn. Stat. § 325E.27

Expires Minn. Stat. §§ 325E.311 to 325E.316

Effective August 1, 2009

A. Automatic Dialers

Exempts from the prohibition against using pre-recorded, automatic dialed solicitations nonprofit, tax-exempt charitable organizations soliciting voluntary donations of clothing for disabled United States military veterans, provided no monetary or other solicitations are included.

Amends Minn. Stat. § 325E.27

B. Do Not Call List

Shuts down the Minnesota Do Not Call List on December 31, 2012.

Expires Minn. Stat. §§ 325E.311 to 325E.316

[Back to Top](#)

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I. ATTORNEYS FEES IN STATE ACTIONS

Chapter 125 (HF 1529)

Amends Minn. Stat. § 15.471, subd. 5

Effective August 1, 2009

Lifts the cap of \$125 per hour on attorneys fees provided to prevailing parties in non-tort civil actions or contested cases proceedings brought by or against the state.

II. COLLECTION OF COURT DEBTS

Chapter 83, Article 2, Section 28 (SF 802)

Adds Minn. Stat. § 480.15, subd. 10c

Effective August 1, 2009

Allows the State Court Administrator, under the direction of the Judicial Council, to contract with credit bureaus, public and private collection agencies, the Department of Revenue, and other public or private debt collectors to collect court debts plus collection costs. Exempts the courts from requirements to provide notice to the debtor under Minn. Stat. § 16D.07.

III. FEE INCREASES

Chapter 83, Article 2, Sections 21, 24, and 25 (SF 802)

Amends Minn. Stat. §§ 357.021, subd. 2; 357.022; and 357.08

Effective August 1, 2009

A. Appellate Courts

Raises from \$500 to \$550, an appellant's: (1) initial filing fee; (2) petition for review from a decision of the Court of Appeals; and (3) petition for permission to appeal.

Amends Minn. Stat. § 357.08

B. Civil Matters

Raises the fee for:

- the first paper filed by:
 - ✓ a movant from \$240 to \$310;
 - ✓ a movant in a marriage dissolution from \$270 to \$340;
 - ✓ the party requesting a trial by jury from \$75 to \$100.
- filing:
 - ✓ and docketing a transcript of judgment from another court from \$30 to \$40;
 - ✓ a motion (or response to a motion) in civil, guardianship, and family (excluding child support) cases from \$55 to \$100;
 - ✓ each partial, final, or annual account in all trusteeships from \$40 to \$55;
 - ✓ a motion (or response to a motion) for modification of child support from \$55 to \$100;
 - ✓ a return of an execution from \$40 to \$55.
- issuing:
 - ✓ a subpoena from \$12 to \$16;
 - ✓ an execution, or a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned from \$40 to \$55;

- ✓ a transcript of judgment from \$30 to \$4;
 - a certified copy of any instrument from a civil or criminal proceeding from \$10 to \$14;
 - an uncertified copy of any instrument from a civil or criminal proceeding from \$5 to \$8;
 - the deposit of a will from \$20 to \$27;
- Amends Minn. Stat. §§ 357.021, subd. 2*

C. Conciliation Court

Raises the filing fee applicable to each plaintiff and defendant from \$50 to \$65.
Amends Minn. Stat. § 357.022

IV. JUDGMENT DEBTOR DISCLOSURE

Chapter 83, Article 2, Sections 32 and 36 (SF 802)
Amends Minn. Stat. §§ 491A.02, subd. 9; and 550.011
Effective August 1, 2009

Adds the judgment creditor's attorney, as an officer of the court, as an additionally authorized person to order a debtor to complete the form disclosing personal financial information.

Amends Minn. Stat. § 491A.02, subd. 9 (conciliation court cases)
Amends Minn. Stat. § 550.011 (district court cases)

V. JUDGMENT INTEREST RATE

Chapter 83, Article 2, Section 35 (SF 802)
Amends Minn. Stat. § 549.09, subd. 1
Effective August 1, 2009

Fixes the judgment interest rate on judgments or awards of more than \$50,000 at 10% per year.

VI. POLICY ON DISPROPORTIONATE MINORITY CONTACT

Chapter 54, Article 3, Section 1 (HF1301)
Adds Minn. Stat. § 260B.002
Effective August 1, 2009

Declares as state policy to identify and eliminate barriers to racial, ethnic, and gender fairness within the criminal justice, juvenile justice, corrections, and judicial systems, in support of the fundamental principle of fair and equitable treatment under law.

[Back to Top](#)

DISABILITY AND ELDER LAW

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I. ACCESS TO CRIME ALERTS

Chapter 22 (SF 265)

Adds Minn. Stat. § 611A.0393

Effective August 1, 2009

Provides that law enforcement agencies must issue crime alerts and any accompanying documents in a form that a person with a disability can access with commercially available text-based screen reader software. Provides that any contact information provided by a citizen requesting a crime alert is private data on individuals as defined in Minn. Stat. § 13.02.

II. BUDGET CUTS IN COMMUNITY SERVICES

A. Disability Home and Community-Based Waiver Services Reductions

Chapter 79, Article 13, Section 3, Subd. 8 (HF 1362)

Rider Language

Effective July 1, 2009

1. **Legislative Cuts**

Imposes caseload limits for home and community-based waiver services for: (1) persons with traumatic brain injury (TBI); (2) those eligible for nursing facility care through the Community Alternatives for Disabled Individuals (CADI) waiver; and (3) those eligible for the Developmental Disabilities (DD) waiver. Limits the TBI waiver to 150 new persons per year, the CADI waiver to 1,140 new persons per year, and the DD waiver to 180 new persons per year. Cuts through more restrictive limits \$42 million in state and federal Medicaid funding for 1,060 persons who are projected to need home and community-based services due to qualifying for an institutional level of care during the 2010-2011 biennium.

2. **Unallotment**

Cuts an additional \$5.2 million in state general funds and \$9 million in federal Medicaid (totaling \$14.2 million) through the Governor's unallotment of the 1% growth factor for the DD waiver included in the forecast to cover the increased cost for persons with developmental disabilities due to aging or increased disabilities and chronic conditions over the current biennium. Cuts are \$5.2 million from the state general funds and nearly \$9 million in federal Medicaid.

B. Long-Term Care and Community Service Provider Rate Reduction

Chapter 79, Article 8, Sections 71 and 79 (HF 1362)

Uncodified Language

Effective July 1, 2009 for fee-for-service providers

Effective October 1, 2009 for managed care organizations

Imposes a 2.58% rate reduction for: (1) home and community-based waiver services; (2) home care services, including personal care assistant services; (3) day training and habilitation services; (4) group residential housing supplemental services; (5) semi-independent living services; (6) Intermediate Care Facility for the Mentally Retarded (ICF/MR) programs; (7) deaf and hard-of-hearing services; (8) consumer support grants; (9) family support grants and (10) aging grants.

C. Moratorium on Corporate Foster Care

Chapter 79, Article 8, Section 8 (HF 1362)

Adds Minn. Stat. § 245A.03, subd. 7

Chapter 173, Article 1, Section 43 (HF 1988)

Amends Minn. Stat. § 245A.03, subd. 7 as added by Laws 2009, Chapter 79,

Article 8, Section 8

Effective July 1, 2009

Establishes a moratorium on the issuance of new licenses for child and adult corporate foster care settings under Chapter 245A. Applies to foster homes which are not the primary residence of the license holder. Provides exceptions and makes DHS responsible for implementation of the moratorium and the exceptions.

D. Nursing Facility and Related Home and Community-Based Waivers Level of Care Changes

Chapter 79, Article 8, Sections 1-5, 16, 32-37, 39-44, 48, and 65-67 (HF 1362)

Amends Numerous Sections

Effective January 1, 2011

Significantly changes eligibility for nursing facilities and related Elderly Waiver (EW), CADI and TBI waiver using nursing facility criteria (TBI-NF) to restrict access to these long-term care services. Requires, under the tightened eligibility criteria, that:

- The person needs help with or constant supervision of at least four activities of daily living: bathing, bed mobility, dressing, eating, grooming, toileting, transferring and walking, or
- The person needs help or constant supervision with toileting, transferring or positioning and the assistance cannot be scheduled; or
- The person has significant difficulty with memory, using information, daily decision-making or behavioral needs that require intervention; or
- The person requires daily clinical monitoring; or
- The person has had a qualifying nursing facility stay of at least 90 days; or

- The person is at risk for nursing facility admission based on face-to-face long-term care consultation completed by the county, tribe or managed care organization (at risk means the person lives alone or will live alone after discharge and has had a fracture caused by a fall or is at risk of maltreatment or neglect or has a sensory impairment that substantially impacts community living).

Eliminates eligibility for over 450 persons with disabilities under 65 using the CADI waiver, and nearly 4,000 seniors using the EW, beginning January 1, 2011. Results in one thousand one hundred (1,100) of the 4,000 seniors losing eligibility for the EW also losing eligibility for Medical Assistance (MA) because they will no longer meet the spend down requirements after the loss of qualifying long-term care costs under the EW.

E. Personal Care Assistant (PCA) Program

Chapter 79, Article 8, Sections 7, 18-28, 31, 74, 75, 77, and 80 (HF 1362)
Amends Minn. Stat. §§ 256B.0625, subds. 19(a) and 19(c); 256B.0651; 256B.0652; 256B.0653; and 256B.0654
Adds Minn. Stat. § 256B.0659
Repeals Minn. Stat. § 256B.0655
Various Effective Dates

Significantly restructures the PCA program to achieve a 10 % budget cut, translating into more than \$88 million in state and federal Medicaid for the biennium for PCA services in the following ways:

1. Budget Related PCA Changes

a. PCA Staff Hours of Work Limited

Chapter 79, Article 8, Section 31 (HF 1362)
Adds Minn. Stat. § 256B.0659, subd. 11(a)(10)
Effective July 1, 2009

1) Legislative Limits

Limits PCA staff work hours to 310 hours per month, which cuts \$12.9 million in state and federal Medicaid dollars from PCA services and staff wages. Bases savings on inability to fill authorized hours of care.

2) Unallotment

Further reduces legislative PCA work limit through the Governor's unallotment to 275 hours per month, cutting an additional \$5.2 million in Medicaid funds.

- b. Changes in Authorization of PCA Service Time
Chapter 79, Article 8, Section 28 (HF 1362)
Amends Minn. Stat. § 256B.0655, subd. 4 (to be renumbered as 256B.0652, subd. 6)
Effective January 1, 2010

Reduces PCA service hours for about 6,500 recipients, collapses current home care ratings from 21 to 10 categories, and restricts PCA service time to a base amount for each of the new 10 home care ratings plus 30-minute increments based upon the total number of:

- Critical activities of daily living;
- Complex health-related functions;
- Qualifying behavioral issues.

- c. Eligibility for PCA Services
Chapter 79, Article 8, Section 20 (HF 1362)
Amends Minn. Stat. § 256B.0625, subd. 19(a)
Various Effective Dates

- 1) **Dependency in One Activity of Daily Living or Level One Behavior**
Effective January 1, 2010

Eliminates eligibility for more than 500 current recipients with disabilities under age 65 and an unknown number of current recipients over age 65 by establishing new eligibility criteria, beginning January 1, 2010. Requires, in order to qualify for PCA services, effective January 1, 2010, that a person must be dependent (i.e., needs hands-on assistance or constant cuing) in at least one activity of daily living or qualify as having Level I behavior.

- 2) **Dependencies in Two Activities of Daily Living**
Effective July 1, 2011

Further tightens eligibility criteria, beginning July 1, 2011, to require a dependency in at least two activities of daily living. Provides that behavior criteria will no longer qualify for PCA eligibility, though time may be given for Level I behavioral needs, if the person qualifies as being dependent in two activities of daily living. Results in the expected termination of more than 1,600 children and adults under the two ADLs eligibility criteria on July 1, 2011.

- d. PCA Provider Rate
Chapter 79, Article 8, Section 79 (HF 1362)
Uncodified Language
Effective July 1, 2009

 Imposes a 2.58% provider rate cut beginning July 1, 2009, from \$16.24 per hour to \$15.82 per hour.
- e. Alternative Services for Persons Ineligible for PCA Services
Chapter 79, Article 8, Section 76; and Article 13, Section 3, Subd. 8(d) (HF 1362)
Uncodified Language
Effective July 1, 2009

 Requires the Department of Human Services (DHS) to consult with interested stakeholders to develop alternative services for persons with mental health and other behavioral challenges who are no longer eligible for PCA services. Appropriates \$8 million for 2012 and 2013 to implement alternative services which may include a family support federal waiver program. Provides for a report to the Legislature by January 15, 2011, with plans for implementation of alternative services by July 1, 2011.
- f. PCA Notice of Termination or Reduction
Chapter 79, Article 8, Section 31, Subd. 30 (HF 1362)
Uncodified Language
Effective July 1, 2009

 Requires DHS to inform PCA recipients of changes which may affect their PCA services by October 31, 2009. Directs that recipients affected by changes to the PCA program be given a 30-day advance notice of DHS action. Allows recipients to request services pending appeal within 30 days of the notice, notwithstanding the general limit of 10 days for such requests.

2. Policy Related PCA Changes

- a. Home Care Bill of Rights
Chapter 79, Article 8, Section 7 (HF 1362)
Amends Minn. Stat. § 144A.44, subd. 2
Effective July 1, 2009

 Requires all home care services and unlicensed personal care assistant services, including MA-covered personal care assistant services, to provide notice of the home care bill of rights, which apply to persons receiving home care services.

- b. Maltreatment Investigations for Children and Adults Receiving PCA Services
Chapter 79, Article 8, Sections 74 and 75 (HF 1362)
Amends Minn. Stat. §§ 626.556, subd. 3(c); and 626.5572, subd. 13

Chapter 173, Article 1, Section 39 (HF 1988)
Amends Minn. Stat. § 626.556, subd. 3(c) as amended by Laws 2009, Chapter 79, Article 8, Section 75
Effective July 1, 2009

Clarifies that counties are the lead agency for investigation of reports involving maltreatment of children and vulnerable adults receiving services from unlicensed personal care provider organizations.

- c. Managed Care Plans' Use of DHS Processes for PCA Services
Chapter 79, Article 8, Section 72 (HF 1362)
Amends Minn. Stat. § 256B.69, subd. 5a
Effective January 1, 2010

Requires managed care health plans to use the assessment and other processes, forms, time lines, documentation, and data reporting requirements consistent with the MA fee-for-service or DHS contract requirements for all PCA services provided by managed care health plans.

- d. Notice Requirement for PCA Service Changes
Chapter 79, Article 8, Section 23 (HF 1362)
Amends Minn. Stat. § 256B.0651, subd. 7
Effective July 1, 2009

Requires DHS to ensure that the PCA recipient has a copy of the most recent service plan containing an explanation of PCA tasks or services proposed for change including the amount of time reduced and the reasons for the denial, termination, or reduction.

- e. PCA Assessments
Chapter 79, Article 8, Section 23 (HF 1362)
Amends Minn. Stat. § 256B.0651, subd. 7
Effective July 1, 2009

Establishes that PCA assessments remain effective when recipients move to managed care or disenroll from managed care back to fee for service.

- f. PCA Services in Foster Homes with Licensed Capacity Over Four
Chapter 79, Article 8, Section 23 (HF 1362)
Amends Minn. Stat. § 256B.0651, subd. 9
Effective July 1, 2009

Prohibits PCA and private duty nursing services in foster care residences with a licensed capacity of greater than four persons, regardless of the number of current residents.

- g. Provider Enrollment and Disenrollment Requirements
Chapter 79, Article 8, Section 31 (HF 1362)
Adds Minn. Stat. § 256B.0659, subds. 21 through 28
Effective July 1, 2009

Establishes extensive new provider enrollment requirements and an annual requirement for re-enrollment. Prohibits direct marketing by providers to potential recipients. Requires that agencies use 72.5% of MA revenue for employee personal care assistant wages and benefits. Prohibits disenrolled provider agency and all named individuals and affiliates from re-enrolling for two years. Establishes probationary period for previously disenrolled providers.

- h. Qualified Professional Supervision
Chapter 79, Article 8, Section 31 (HF 1362)
Adds Minn. Stat. § 256B.0659, subd. 14(a)
Effective January 1, 2010

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Establishes a new requirement that all PCA services must be supervised by a qualified professional. Provides separate requirements for frequency of supervision depending upon whether PCA services are provided through an agency or through the PCA Choice Option.

- i. Qualified Professional Qualifications
Chapter 79, Article 8, Section 21 (HF 1362)
Amends Minn. Stat. § 256B.0625, subd. 19(c)
Effective July 1, 2009

Adds a qualified developmental disability specialist under Minn. Stat. § 256B.07, subd. 4, to those eligible to act as a qualified professional for purposes of supervising personal care assistant services.

j. Separation of Housing Ownership and PCA Provider

Chapter 79, Article 8, Section 31 (HF 1362)

Adds Minn. Stat. § 256B.0659, subd. 3(b)

Effective January 1, 2010

Prohibits a PCA provider agency from also providing licensed or unlicensed housing to a PCA recipient.

k. Stepparents Acting as PCA for Minor Stepchild

Chapter 79, Article 8, Section 31 (HF 1362)

Adds Minn. Stat. § 256B.0659, subd. 11(c)

Effective January 1, 2010

Adds stepparents of minors to those who do not qualify to be paid as a PCA. No definition of a stepparent is provided.

l. Training Required For PCA Agency Staff

Chapter 79, Article 8, Section 31 (HF 1362)

Adds Minn. Stat. § 256B.0659, subs. 11, 13, 21 and 27

Chapter 173, Article 1, Section 25 (HF 1988)

Amends Minn. Stat. § 256B.0659, subd. 18 as added by Laws 2009,

Chapter 79, Article 8, Section 31

Effective January 1, 2010, except providers enrolling after July 1, 2009, must complete training prior to enrollment

Requires completion of training developed by DHS for all staff providing PCA services, including PCA's serving those who use ventilators, qualified professionals, and agency owners, billing staff, and managers.

m. Transition Assistance for PCA Recipients

Chapter 79, Article 8, Section 31 (HF 1362)

Adds Minn. Stat. § 256B.0659, subd. 29

Chapter 173, Article 1, Section 27 (HF 1988)

Amends Minn. Stat. § 256B.0659, subd. 29 as added by Laws 2009,

Chapter 79, Article 8, Section 31

Effective July 1, 2009, until August 10, 2010

Requires the DHS to work with counties, health plans, tribes, and PCA providers to assist recipients and families to comply with new requirements, which may require a change in living arrangements no later than August 10, 2010.

- F. Personal Needs Allowance Reduction
Chapter 79, Article 2, Sections 11 and 36 (HF 1362)
Amends Minn. Stat. § 256I.03, subd. 7
Repeals Minn. Stat. § 256I.06, subd. 9
- Chapter 173, Article xx, Section 40 (HF 1988)*
Repeals Minn. Stat. § 256I.06, subd. 9 as repealed by Laws 2009, Chapter 79, Article 2, Section 36
Effective April 1, 2010
- Reduces the Personal Needs Allowance for all group residential housing (GRH) residents to \$89 per month. Affects more than 15,000 GRH residents who will lose between \$12 and \$32 per month on April 1, 2010.
- G. Quality Assurance Commission Funding
Chapter 173, Article 2, Section 3, Subd. 8 (HF 1988)
Rider Language
Effective July 1, 2009
- Terminates funding for the Quality Assurance Commission, including the alternative licensing function operated by Region 10 and codified under Minn. Stat. § 256.0951. Voice reviews continue to be available through Region 10 Quality Assurance Commission if chosen by disability waiver participants.
- H. Rate Reduction for Adult Foster Care Providers Above the 95th Percentile in Rates
Chapter 79, Article 8, Section 55 (HF 1362)
Adds Minn. Stat. § 256B.0948
Effective July 1, 2009
- Requires that rates paid through the Disability Waiver programs for residential services above the 95th percentile of statewide rates for adult foster care services be reduced to the 95th percentile by reducing county waiver allocations and capitated payment rates.
- I. Revised Long-Term Care Comprehensive Assessment Process and Certification
Chapter 79, Article 8, Sections 34, 35, 37, and 41 (HF 1362)
Amends Minn. Stat. §§ 256B.0911, subd. 3a; and 256B.0911, subd. 5
Effective January 1, 2010 for certification training
Effective January 1, 2011 for new assessment implementation
- Establishes a comprehensive assessment process and tool for long-term care and community support programs statewide. After January 1, 2011, applies to: (1) PCA services; (2) private duty nursing (PDN); (3) home health agency services; (4) nursing facility-level-of-care; (5) home and community-based waiver services; and (6) alternative care programs. Standardizes face-to-face assessments and consolidates processes for all long-term care and community support services using a web-based assessment. Requires certification of new comprehensive assessment staff through training and other requirements to be implemented

January 1, 2010. Certification required for all assessors by January 1, 2011 with recertification required every three years by staff from lead agencies including counties, health plans and tribes.

J. Unallotment of ICF/MR Funding

Governor used unallotment to cut ICF/MR funding for variable rates and for occupancy rate adjustments. The total ICF/MR funding cut for these two unallotments is nearly \$3.4 million in state and federal Medicaid funds for the biennium.

III. BUDGET INCREASES FOR SERVICES

A. Essential Community Services Grant For Seniors

Chapter 79, Article 8, Section 51 (HF 1362)

Adds Minn. Stat. § 256B.0917

Effective January 1, 2011

Provides grants up to \$400 to persons over age 65 who are not eligible for MA and do not meet new level of care requirements for nursing facilities or the Elderly Waiver but meet criteria demonstrating need for community services to obtain a personal emergency response device or system or to pay for caregiver support, homemaker or chore services.

B. Monitoring Technology Grants

Chapter 79, Article 13, Section 3, Subd. 8(i) (HF 1362)

Rider Language

Effective July 1, 2009

Provides \$1.65 million in state funds for grants for technology to increase the independence of persons in residential settings while meeting federal health and safety assurances for persons with disabilities needing residential services.

C. Self-Advocacy Funding

Chapter 101, Article 1, Section 12, Subd. 2(c) (SF 2082)

Rider language

Effective July 1, 2009

Transfers \$127,000 from the Council on Developmental Disabilities to the DHS to establish a statewide self-advocacy network for persons with intellectual and developmental disabilities. Requires the self-advocacy network to work on specific human and civil rights and service needs as well as communication between self-advocacy groups across Minnesota. Provides that the appropriation is included in the base budget for DHS beginning July 1, 2011.

- D. Support Services for Families with Children Who Are Deaf or Have a Hearing Loss
*Chapter 79, Article 5, Section 15, Article 10, Section 18 and Article 13, Section 4,
Subd. 2 (HF 1362)*
Adds Minn. Stat. §§ 144.966, subd. 3(a); and 256.969, subd. 29
Effective July 1, 2010

Provides funding for early hearing detection and intervention family support services by increasing the fee hospitals charge for newborn screening.

IV. COMMUNITY SERVICE POLICY CHANGES FOR PERSONS WITH DISABILITIES

- A. Day Training and Habilitation Licensing Alternative
Chapter 142, Article 2, Section 22 (SF 986)
Adds Minn. Stat. § 245B.031
Effective August 1, 2009

Allows day training and habilitation (DT&H) programs which have been accredited by the Commission on Rehabilitation Facilities (CARF) at the highest level for three years to substitute CARF reviews and standards for state licensing standards which are comparable. DT&H providers remain subject to Minnesota's Vulnerable Adult policies and practices, criminal background studies, aversive practices standards. Provides various conditions to continue qualifying for alternative licensing through CARF review and accreditation.

- B. Disability and Elderly Waiver Service Providers' Statewide Requirements
Chapter 79, Article 8, Sections 13, 52 and 69 (HF 1362)
Amends Minn. Stat. § 256B.092, subd. 8a
Adds Minn. Stat. §§ 256.0281 and 256B.4912
Effective July 1, 2009

Eliminates lead agency (counties or tribes) provider contracts and requires enrollment of providers and agreements with the state governing provision of services to eligible waiver recipients. Imposes background check requirement on employees of all waiver service providers if direct contact with service recipients. Applies background check requirement to consumer-directed community support staff upon federal approval. Provides for interagency agreements regarding data exchange among the DHS, the Department of Health, and the Ombudsman for Mental Health and Developmental Disabilities to improve quality management and quality assurances required by federal law.

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- C. Disability and Elderly Waiver Services Statewide Rate Setting Methodologies
Chapter 79, Article 8, Sections 10, 46, 47, and 69 (HF 1362)
Amends Minn. Stat. § 256B.0915, subds. 3e and 3h
Adds Minn. Stat. §§ 252.46, subd. 1a; and 256B.4912
Various Effective Dates

Directs DHS to establish statewide provider qualifications and rate setting methodologies under the Elderly and Disability Home Community waiver programs.

- D. Disability Waivers Residential Support Services
Chapter 79, Article 8, Sections 9, 53, and 68 (HF 1362)
Adds Minn. Stat. §§ 245A.11, subd. 8; 256B.092, subd. 11; and 256B.49, subd. 22
Effective July 1, 2009

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Requires DHS to develop consolidated provider standards for residential support services that combine service and residential standards under one license by January 15, 2011. Applies to adult foster care and child foster care funded under the Disability Home and Community Service waiver program. Excludes family foster care where the licensed home is the license holder's primary residence. Requires registration of all existing residential services funded under the Home and Community waiver, beginning July 1, 2009.

- E. Disability Waivers Statewide Priorities
Chapter 79, Article 8, Sections 54 and 64 (HF 1362)
Adds Minn. Stat. §§ 256B.092, subd. 12; and 256B.49, subd. 11a

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Chapter 173, Article 1, Section 30 (HF 1988)
Amends Minn. Stat. § 256B.49, subd. 11(a) as added by Laws 2009, Chapter 79, Article 8, Section 64
Effective January 1, 2010

Sets statewide priorities for four disability home and community-based waiver services programs for distribution of funding to lead agencies for individuals who have maximized their use of state plan services and other funding resources, including natural supports. Requires meeting at least one of six listed criteria, including unstable living situations, sudden closure of current living situation, needed protection from confirmed neglect/abuse or exploitation, sudden change in need for services or other priorities. Directs DHS to evaluate the statewide priorities and report to the Legislature November 1, 2011.

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- F. License Capacity for Adult Foster Care
Chapter 79, Article 1, Sections 3, 21, and 22 (HF 1362)
Amends Minn. Stat. § 245A.11, subd. 2(a)
Effective July 1, 2009

Allows DHS to issue a license for a fifth bed in an adult foster care home if the overall capacity of licensed adult foster care beds are not increased in homes that are not the primary residence of the license holder. Criteria requires: (1) no increase in statewide capacity of adult foster care beds; (2) consent from affected residents; and (3) county involvement. Requires DHS to seek federal approval and waiver amendments no later than December 1, 2009 to allow licensed adult foster care homes to provide residential services for up to five individuals through home and community-based waiver funding. Authority to issue a license for five-bed capacity expires on June 30, 2011.

- G. License Holder Services in Additional Counties
Chapter 79, Article 1, Section 2 (HF 1362)
Amends Minn. Stat. § 245A.10, subd. 3
Effective July 1, 2009

Allows a provider licensed in one county to provide residential services through the DD waiver to no more than three persons in 10 other counties without the requirement of additional licenses. Allows providers of supported employment and crisis respite funded through the DD waiver to operate under a single statewide license.

- H. Minnesota Extended Treatment Options Community-Based Service Alternatives
Chapter 79, Article 3, Section 17 (HF 1362)
Amends Minn. Stat. § 252.025, subd. 7
Effective July 1, 2009

Provides for community-based services to serve individuals with developmental disabilities committed to the Minnesota Extended Treatment Option. Requires sufficient staff for community-based services to be state employees supervised by the DHS. Prohibits layoffs resulting from the restructuring to community-based services under this section.

- I. Monitoring Technology Allowed For Adult Foster Care
Chapter 79, Article 1, Section 4 (HF 1362)
Adds Minn. Stat. § 245A.11, subd. 7a and 8b
Effective July 1, 2009

Allows an adult foster care license to include supervision technology in lieu of overnight staff under specified conditions, including signed informed consent of residents and inclusion of technology in service plans, emergency provisions including a 10-minute response time, documentation of incidents, and assured privacy and data protections.

- J. Self-Directed Supports Option
Chapter 79, Article 8, Sections 29 and 30 (HF 1362)
Chapter 159, Section 90 (HF 1760)
Amends Minn. Stat. § 256B.0657, subds. 5 and 8
Effective July 1, 2009

Changes the budget methodology for the new self-directed supports option to be assessed hours of service minus a reduction for administration and fiscal services needed to maintain cost neutrality. Establishes a maximum enrollment of 1,000 persons for the first year and an additional 1,000 for the second year of the program. Removes requirement to use home care targeted case manager to conform to federal rules.

- K. Shelter Needy Housing Benefit
Chapter 79, Article 8, Section 73 (HF 1362)
Amends Minn. Stat. § 256D.44, subd. 5

Chapter 173, Article 1, Section 45 (HF 1988)
Amends Minn. Stat. § 256D.44, subd. 5 as amended by Laws 2009, Chapter 79, Article 8, Section 73
Effective July 1, 2009, until June 30, 2011

Allows shelter-needy payments for recipients of Minnesota Supplemental Aid (MSA) to assist them to relocate to housing and services without 24-hour supervision. Provides the equivalent of the recipient's group residential housing (GRH) allocation under specified circumstances in multi-family buildings of six or more as long as program recipients occupy no more than 50 % of the units in the building unless allowed an exception.

V. **COMMUNITY SERVICES FOR SENIORS**

- A. Alternative Care Program Funding Limit
Chapter 79, Article 8, Section 44 (HF 1362)
Amends Minn. Stat. § 256B.0913, subd. 4
Effective July 1, 2009

Sets a monthly cost limit of no more than \$600 for all new Alternative Care Program participants on or after July 1, 2009 and for all others upon reassessment during the year if the person has either no dependencies in activities of daily living, only one dependency in certain ADLs or a dependency score of less than three if eating is involved. Provides for annual increases in the monthly limit and allows individuals to pay for additional services under specific conditions.

B. Community Service And Services Development Grant Funds Reduced

Chapter 79, Article 13, Section 3 (HF 1362)

Rider Language

Effective July 1, 2009

Reduces funding for community service and services development grant fund managed by the Aging Division at DHS. Restores base level funding beginning July 1, 2013.

C. Elderly Waiver Customized Living Services

Chapter 79, Article 8, Sections 46, 47, and 49 (HF 1362)

Amends Minn. Stat. § 256B.0915, subs. 3(e) and 3(h)

Adds Minn. Stat. § 256B.0915, subd. 10

Effective January 1, 2011

Sets rate limits for EW funding provided in housing with services settings for 24-hour customized living. Fixes limits, which can only be increased when payment adjustments are appropriated by the Legislature. Limits are set at the 95th percentile of statewide monthly authorizations in effect March 31, 2009.

Establishes new functional limitations criteria to qualify for 24 Customized Living Services beginning January 1, 2011. Adjustments for managed care capitation payments are required.

D. Elderly Waiver Participant Funding Limit

Chapter 79, Article 8, Section 45 (HF 1362)

Amends Minn. Stat. § 256B.0915, subd. 3(a)

Effective July 1, 2009

1. Limit for Persons with Zero or One Dependency

Establishes a monthly limit for the cost of waiver services for persons with zero or one dependency in specific activities of daily living. Limits the monthly budget to the lower of their current budget limit or the limit in effect on October 1, 2008. Subjects current recipients to the limit as they are reassessed, beginning July 1, 2009.

2. Limit on Cost of Waivered Services

Establishes a monthly limit on the cost of waived services for elderly waiver clients assigned to a case mix classification (a) with various additional, specific dependencies or criteria. Applies the monthly cost limit for new participants beginning July 1, 2009, and all other participants upon reassessment.

- E. Long-Term Care Options Counseling Through Senior Linkage Line
Chapter 79, Article 8, Section 16 (HF 1362)
Amends Minn. Stat. § 256.975, subd. 7
Effective July 1, 2009

Requires the Senior Linkage Line to provide long-term care options counseling for older adults, caregivers, and providers. Directs DHS to provide a list of nursing home residents appropriate for discharge planning via secure web portal to Senior Linkage Line for long-term care options counseling and referrals.

VI. HEALTH CARE RELATED CHANGES

- A. Increased Payment Rate for Special Transportation in Rural Areas
Chapter 79, Article 5, Section 32 (HF 1362)
Amends Minn. Stat. § 256B.0625, subd. 17
Effective July 1, 2009

Establishes increased minimum rates and a new rural urban commuting area (RUCA) system to reimburse MA covered special transportation providers in rural areas.

- B. Intensive Medication Pilot Project for Persons with Multiple Chronic Conditions
Chapter 79, Article 5, Section 31 (HF 1362)
Chapter 173, Article 1, Section 21 (HF 1988)
Amends Minn. Stat. § 256B.0625, subd. 13(h)
Effective July 1, 2009

Requires the DHS to establish pilot project for intensive medication therapy management for MA patients with multiple chronic conditions and numerous medications who are at risk of preventable hospitalizations, emergency room use, complications and poor outcomes. Requires the pilot project to be designed to produce savings to the state.

- C. Medical Non-Emergency Transportation Broker Contract Eliminated
Chapter 79, Article 5, Section 34 (HF 1362)
Effective July 1, 2009

Prohibits the DHS from contracting with a broker to dispatch and pay for non-emergency medical transportation access services with public transportation or private automobile in the 11-county Metropolitan Area. (As of July 1, 2009, ten of 11 counties affected are continuing to contract for access transportation services from the same broker.)

- D. Minnesota Disability Health Option (MNDHO)
Chapter 79, Article 13, Section 3, Subd. 6(c) (HF 1362)
Rider Language
Effective July 1, 2010

Limits enrollment in home and community-based waiver programs for those participating in the Minnesota Disability Health Option (MNDHO), managed care integrated program operating in the seven-county Metropolitan Area. The limitation cuts \$4.7 million in state funds (\$11 million total in Medicaid) by limiting home and community waiver services for MNDHO enrollees.

- E. State Medical Review Team Process Modified
Chapter 79, Article 8, Sections 12 and 17 (HF 1362)
Amends Minn. Stat. § 256B.055, subd. 7
Adds Minn. Stat. § 256.01, subd. 29
Effective July 1, 2009

Requires DHS to assist applicants for MA who do not meet other bases of eligibility but indicate a disability or chronic condition to obtain necessary medical and other information. Provides funding for 16 DHS staff positions. Requires annual report to legislative committees, beginning February 1, 2010.

VII. OTHER POLICY CHANGES

- A. Disaster Services Funding
Chapter 93, Article 2, Section 14 (HF 855)
Amends Minn. Stat. § 12A.10
Effective July 1, 2009

Expands the scope of natural disasters to include other events that threaten the health and safety of individuals served by MA-funded programs. Allows payment for services related to such disasters, including personal care services and residential services, using money appropriated for MA with federal cost sharing as permitted.

- B. Fetal Alcohol Spectrum Disorder Added to Definition of Developmental Disability
Chapter 159, Section 84 (HF 1760)
Amends Minn. Stat. § 252.27, subd. 1a
Effective August 1, 2009

Adds Fetal Alcohol Spectrum (FAS) disorder to the list of conditions which can qualify as a related condition under the definition of developmental disability if certain criteria are met.

C. Guardians and Conservators

Chapter 150 (HF 804)

Amends Minn. Stat. §§ 260C.331, subd. 1; 524.5-102, subd. 7; 524.5-309; 524.5-310; 524.5-315; 524.5-316; 524.5-317; 524.5-406; 524.5-409; 524.5-414; and 524.5-420

Adds Minn. Stat. §§ 524.5-102, subd. 13a; 524.5-119; and 524.5-120

Effective August 1, 2009

1. Bill of Rights for Wards and Protected Persons

Cumulates individual rights into a “bill of rights” which emphasizes that wards retain civil and personal rights not specifically transferred to guardians and that the court is responsible for enforcing those rights.

Clarifies that wards, protected persons, and interested parties may seek not just termination or modification, but other appropriate relief.

Adds Minn. Stat. § 524.5-120

2. Court Review

Requires court review where the ward’s attorney is also representing the interests of the guardian or conservator in a concurrent proceeding and there is a potential conflict.

Amends Minn. Stat. § 524.5-304

3. Informational Statement

Requires guardians to file an annual informational statement with the district court updating the five-year criminal background check

Amends Minn. Stat. § 524.5-304

4. Interested Person Status

Enables representatives of a state ombudsman’s office or the federal protection and advocacy system to be interested parties.

Amends Minn. Stat. § 524.5-102, subd. 7

5. Registration

Requires centralized registration of all guardians and conservators by July 1, 2013.

Adds Minn. Stat. § 524.5-119

6. Reporting

Requires timely filing of annual reports with copies and notices provided to wards and to involved parties who are of record with the court.

Amends Minn. Stat. § 524.5-316

- D. Guardianship For Adults, Uniform Act Adopted
Chapter 46 (HF 412)
Amends Minn. Stat. § 524.5-107
Adds Minn. Stat. §§ 524.5-601 to 524.5-903
Effective January 1, 2010

Adopts the Uniform Guardianship Act provisions governing transfers of guardianship between states, cooperation between courts in various jurisdictions and other matters involving guardianship across state lines.

- E. Notice for Long-Term Care or Community Service Changes
Chapter 79, Article 8, Section 77 (HF 1362)
Uncodified language
Effective July 1, 2009, expires July 1, 2011

Requires that all persons affected by changes to the PCA Services Program and to changes in the long-term care consultation services must be given a 30-day notice of action by DHS.

- F. Parent Fee Notice
Chapter 145 (SF 145)
Amends Minn. Stat. § 252.27, subd. 2(a)
Effective July 1, 2009

Requires that DHS provide notice of possible tax liability with reimbursements of parent fees. Potential tax liability occurs if the fees were paid through the employer's health care flexible spending account.

- G. Seclusion And Restraint For Students In Special Education Programs
Chapter 96, Article 3, Sections 9 - 11 (HF 2)
Adds Minn. Stat. §§ 125A.094; 125A.0941; and 125A.0942
Effective August 1, 2011

1. Definitions

- a. Emergency
Defines emergency as a situation where immediate intervention is necessary to: (1) protect a child or other individual from physical injury; or (2) prevent serious property damage.
Adds Minn. Stat. § 125A.0941(b)
- b. Restrictive Procedures
Defines restrictive procedures as seclusion and physical holding in emergencies only.
Adds Minn. Stat. § 125A.0941(e)

- c. Seclusion
Defines seclusion as confining a child alone in a room from which egress is barred.
Adds Minn. Stat. § 125A.0941(f)
- d. Physical Holding
Defines physical holding as physical intervention intended to hold a child immobile or to limit a child's movement and where body contact is the only source of physical restraint
Adds Minn. Stat. § 125A.0941(c)

2. Standards for Restrictive Procedures

Requires, among other things, that: (1) restrictive procedures be the least intrusive intervention to respond to the emergency; (2) the child be directly observed during the course of the procedures; and (3) the school document each use of the procedures. Provides that restrictions end when the threat of harm ends. Requires same day notification to parents. Limits implementation of the procedures to licensed, trained staff. Prohibits, among other things: (1) withholding food; (2) preventing bathroom access; and (3) physical holding that restricts the child's ability to breathe.
Adds Minn. Stat. § 125A.0942

H. Vulnerable Adult Protection Act (VAPA), Financial Exploitation Changes

Chapter 119 (HF 818)

Amends Minn. Stat. §§ 13A.02, subds. 1 and 2; 13A.04, subd. 1; 256B.0595, subds. 4 and 9; 388.23, subd. 1; 609.2335; 609.52, subd. 3; 611A.033; and 628.26

Adds Minn. Stat. § 626.557, subds. 5a and 20

Effective August 1, 2009

1. Cooperation of Financial Institutions in Maltreatment Investigations

Mandates that financial institutions cooperate with authorities and comply with reasonable requests concerning investigations into maltreatment of vulnerable adults. Provides immunity to financial institutions from civil or criminal liability for compliance.

Adds Minn. Stat. § 626.557, subd. 5a

2. Crime of Financial Exploitation of Vulnerable Adult

Strengthens, supplements, and more clearly details the elements of a breach of fiduciary duty with respect to a vulnerable adult. Makes violation of new elements subject to the most severe sentence for theft crimes. Establishes a five year statute of limitations for prosecutions.

Amends Minn. Stat. § 609.2335 (new elements)

Amends Minn. Stat. § 609.52, subd. 3 (sentence)

Amends Minn. Stat. § 628.26 (statute of limitations)

Effective August 1, 2009 and applies to crimes committed on or after that date

3. **Disclosure of Financial Records**
Permits disclosure by a financial institution of financial records to law enforcement, authorized agencies, or prosecutors investigating financial exploitation of a vulnerable adult: (1) in response to a judicial or administrative subpoena; or (2) voluntarily, where the institution has knowledge concerning financial exploitation.
Amends Minn. Stat. § 13A.02, subd. 1 (disclosure in response to subpoena)
Amends Minn. Stat. § 13A.04, subd. 1 (voluntary disclosure)
4. **Investigative Authority**
Authorizes county attorneys to subpoena banking, credit card, and financial records of vulnerable adults.
Amends Minn. Stat. § 388.23, subd. 1
5. **Private Right of Action**
Gives a vulnerable adult a cause of action for financial exploitation, without the necessity of having a report filed. Provides for recovery of the greater of three times the compensatory damages or \$10,000, plus reasonable attorneys fees and costs and reasonable guardian, conservator, or guardian ad litem fees.
Adds Minn. Stat. § 626.557, subd. 20
6. **Transfer of Assets of Institutionalized Persons re: MA Eligibility**
Requires local agencies evaluating a hardship waiver to: (1) take into account whether the individual was the victim of financial exploitation; and (2) grant a waiver of the portion of a period of ineligibility where there is an imminent threat to the individual's health and well-being and where a transfer has been made as a result of financial exploitation.
Amends Minn. Stat. § 256B.0595, subd. 4

VIII. TASK FORCES, ADVISORY GROUPS, AND REPORTS

- A. Accessibility for State Uses of Technology
Chapter 131 (HF 1744)
Amends multiple subds. of Minn. Stat. Chapters 16C and 16E
Effective July 1, 2009

Requires all state technology, including online videos, websites, hardware, and software to meet new accessibility standards within specified timelines. Establishes an advisory committee for Technology Standards for Accessibility and Usability. Appropriates funds for the Minnesota Commission Serving Deaf and Hard of Hearing People.

- B. Alzheimer's Disease Working Group
Chapter 159, Section 110 (HF 1760)
Uncodified Language
Effective August 1, 2009

Establishes Alzheimer's Disease Working Group which is directed to make recommendations on Alzheimer's population, care needs, resources and services, quality measures and changes needed. Requires a report to the Governor and the chairs and ranking minority members of legislative committees involved no later than January 15, 2011. Expires when report is submitted.

- C. Autism Spectrum Disorder (ASD) Task Force
Chapter 79, Article 7, Section 25 (HF 1362)
Uncodified Language
Effective July 1, 2009 to June 30, 2011

Establishes the Autism Spectrum Disorder (ASD) Task Force of 15 members appointed by legislative bodies and various stakeholder organizations, including pediatricians, psychologists, disability advocacy groups, and health plans. Requires coordination with state agencies involved with ASD and a report of findings and recommendations, including draft legislation, due each January 15 to legislative chairs. Expires June 30, 2011.

- D. Disability Waiver Services Residential Standards Consolidation
Chapter 79, Article 8, Section 81 (HF 1362)
Uncodified Language
Effective July 1, 2009

Requires the DHS to consult with stakeholders to develop a single set of residential standards for home and community-based waiver services programs for persons with disabilities. Directs that the new standards will replace all or portions of existing laws and rules, including data practices, background studies and psychotropic medication requirements.

- E. Housing Options Review
Chapter 79, Article 8, Section 84 (HF 1362)
Uncodified Language
Effective July 1, 2009

Directs the DHS, together with the Department of Administration and the Minnesota Housing Finance Agency, to consult with a variety of stakeholder representatives on ways to increase the availability and affordability of housing options for persons with disabilities. Sets a goal of minimizing state physical plant costs for persons with disabilities who need services. Requires consideration of: (1) improved access to rent subsidies; (2) use of cooperatives and other ownership models; (3) examination of whether public equity paid on behalf of persons with disabilities can be maintained in a fund when residences

are sold; and (4) promotion of increased housing accessibility. Requires a report to the Legislature by December 15, 2010.

- F. Intermediate Care Facilities for Persons with Disabilities (ICF/MR) Report Monitoring
Chapter 79, Article 8, Section 83 (HF 1362)
Uncodified Language
Effective July 1, 2009

Requires DHS to consult with providers and advocates on progress made in response to an ICF/MR report from December 1, 2008.

- G. PCA Services Alternatives Development Consultation
Chapter 79, Article 8, Section 76 (HF 1362)
Uncodified Language
Effective July 1, 2009

Requires DHS to consult with advocates, consumers and legislators on developing alternative services for persons with mental health and other behavioral challenges who can benefit from alternatives to PCA services to more appropriately meet their needs. Requires DHS to report to the Legislature by January 15, 2011 with plans to implement alternative services by July 1, 2011.

- H. PCA Services Changes Stakeholder Recommendations
Chapter 79, Article 8, Section 80 (HF 1362)
Uncodified Language
Effective July 1, 2009

Directs DHS to consult with stakeholder representatives convened as part of the Home and Community Services Expert Panel, beginning in August 2009, on: (1) the implementation of changes to the PCA program; (2) assistance for recipients whose services or housing must change; (3) alternative services for those who are terminated or reduced; (4) cost of services for those who change; and (5) data on the effects of change for public reporting. Requires a report to the Legislature by January 15, 2010 and again on January 15, 2011 regarding PCA changes and results.

[Back to Top](#)

DOMESTIC ABUSE

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I. ARREST WITHOUT WARRANT

Chapter 59, Article 2, Section 3 (HF 1301)
Amends Minn. Stat. § 629.341, subd. 1
Effective July 1, 2009

Expands the period of time within which a peace officer can make a probable cause warrantless arrest from 12 to 24 hours after an alleged perpetrator committed an act of domestic abuse.

II. DOMESTIC VIOLENCE FATALITY REVIEW TEAMS

Chapter 59, Article 2, Section 2 (HF 1301)
Adds Minn. Stat. § 611A.203
Effective August 1, 2009

A. Establishment of Review Teams

Permits judicial districts to create Domestic Fatality Review Teams to review domestic violence deaths in that district for the purpose of developing policies and recommendations for community prevention and intervention initiatives. Requires an annual report to the House and Senate Public Safety Committees, with distribution to the Governor, Attorney General, Supreme Court, County Board, and District Court if a team is established.
Adds Minn. Stat. § 611A.203, subd. 1 (establishment)
Adds Minn. Stat. § 611A.203, subd. 7 (annual report)

B. Definition of Domestic Violence Death

Defines domestic violence death as a homicide or suicide under any one of several circumstances, including where: (1) the alleged perpetrator and victim lived together at any time, had a child together, or were married, separated, or divorced; (2) the alleged perpetrator and victim had a sexual or significant romantic relationship; or (3) the homicide victim lived in the same household, worked with the alleged perpetrator, or was threatened by the alleged perpetrator. Directs the court to interpret the definition broadly.
Adds Minn. Stat. § 611A.203, subd. 2

C. Team Membership

Directs the chief judge, in consultation with the family violence coordinating council, to appoint members. Requires the membership to include, among others: (1) the medical examiner; (2) a county and city attorney; (3) a public defender; (4)

a representative from family court services and the domestic abuse service center; (5) the Department of Corrections; and (5) a judicial officer (judge or referee); (6) public citizen or civic organization representative; and (7) at least three domestic violence advocates or shelter workers. Allows other members to be invited on an ad hoc basis.

Adds Minn. Stat. § 611A.203, subd. 3

D. Duties and Privileges

Directs the team to review death records, reports, medical and counseling records, victim service records, child abuse reports, employment reports, and any other relevant information to the causes and manner of domestic violence deaths.

Grants statutory authority to the team for access to “not public data,” including investigative records (including inactive cases), autopsy records, social services records related to the victim, perpetrator or another victim, child maltreatment records, and medical records. Grants rights to compel records through a civil subpoena.

Adds Minn. Stat. § 611A.203, subd. 4

E. Records and Proceedings

Categorizes team records and provides that proceedings are confidential or not public data, and not subject to discovery or introduction in any civil or criminal proceeding. Grants team members statutory immunity, provided they act in good faith. Requires the team’s report to be publically available.

Adds Minn. Stat. § 611A.203, subd. 4 (duties; access to data)

Adds Minn. Stat. § 611A.203, subd. 5 (confidentiality; data privacy)

Adds Minn. Stat. § 611A.203, subd. 6 (immunity)

Adds Minn. Stat. § 611A.203, subd. 7 (evaluation and report)

III. **SAFE AT HOME PROGRAM CHANGES**

Chapter 105 (HF 1677)

Amends Minn. Stat. §§ 5B.02; 5B.07, subd. 1; and 13.805

Adds Minn. Stat. § 5B.10

Effective May 20, 2009

A. Eligibility to Participate in Program

Excludes from the program any person required to register as a predatory offender.

Amends Minn. Stat. § 5B.02(b)

B. Landlord Duties and Restrictions

Permits disclosure by a landlord of a participant’s name and address to the local government entity only if the participant is alleged to have violated: (1) the health, building or fire code; or (2) a city ordinance. Classifies data maintained by the local government entity as private data. Prohibits landlords or public ordinances from requiring display of a participant’s name at an address protected under the program if the participant notifies the landlord of: (1) the participant’s

participation in the program; and (2) the statutory prohibition on displaying the name and address, and the limited grounds for releasing the participant's name and address.

Amends Minn. Stat. 5B.07, subd. 1 (classification of data)

Adds Minn. Stat. § 5B.10, subd. 1 (display of information by landlord)

Adds Minn. Stat. § 5B.10, subd. 2 (release of information by landlord)

IV. VICTIM NOTIFICATION

Chapter 59, Article 2, Section 1 (HF 1301)

Amends Minn. Stat. § 611A.0315, subd. 1

Effective July 1, 2009

Expands requirement for prosecutor to notify victims of alleged criminal sexual conduct of the ability and process to obtain an Order for Protection as part of the notification of a decision not to prosecute. (Current law requires this notice only in cases of domestic assault and harassment.)

[Back to Top](#)

EDUCATION LAW

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I. EARLY LEARNING STUDY

Chapter 96, Article 6, Section 10 (HF 2)

Effective August 1, 2009

Requires the Department of Human Services and the Department of Education to study how to: (1) transition basic sliding fee child care, Minnesota Family Investment Program child care, and child care development grants to the Department of Education; and (2) develop an early learning system with a single set of standards. Requires a report to the Legislature by February 15, 2010.

II. EXPULSION OF A CHILD WITH A DISABILITY

Chapter 96, Article 3, Section 3 (HF 2)

Amends Minn. Stat. § 121A.43

Effective August 1, 2009

Permits suspension of a child with a disability, consistent with federal and state law. Requires a meeting of a child's individualized education program team when the child has been suspended for more than five consecutive school days or 10 cumulative school days in the same school year. Provides that suspension does not involve a recommendation for expulsion or exclusion or other change of placement. Requires a child with a disability whose suspension exceeds five consecutive school days to be provided with alternative educational services. Requires a determination prior to expulsion or exclusion whether the behavior: (1) was caused by, or had a direct and substantial relationship to, the child's disability; and (2) whether the child's conduct was a direct result of a failure to implement the individualized education program.

III. MINNESOTA PROMISE

Chapter 95, Article 2, Section 11 (SF 2083)

Adds Minn. Stat. § 135A.1201

Effective August 1, 2009

Declares that it is the policy of the Legislature to provide sufficient financial aid funding so that tuition and fees necessary for students from low-income families to attend a public two-year college are covered by state financial aid when combined with federal and other sources of aid. Requires the Office of Higher Education to prepare and distribute materials to promote the Minnesota Promise, the availability of financial aid, and the benefits of higher education.

IV. NOTICE TO STUDENTS AT POST-SECONDARY INSTITUTIONS

Chapter 95, Article 2, Section 2 (SF 2083)

Adds Minn. Stat. § 135A.157

Effective August 1, 2009

Requires post-secondary institutions to notify accepted students -- at or before acceptance of admission, and at or before selection by the student of a major -- that criminal arrests, charges, or convictions may impact the student's employment possibilities in specific careers, and may limit the student's ability to receive financial aid. Expressly provides that there is no liability for failure to provide the notice.

[Back to Top](#)

FAMILY LAW

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I. MARRIAGE PROCEDURES

Chapter 129 (SF 548)

Amends Minn. Stat. §§ 517.02; 517.03, subd. 2; 517.04; 517.05; 517.06; 517.07; 517.08, subds. 1a and 1b; 517.10; 517.101; and 517.130

Effective August 1, 2009

A. Application for Marriage License

1. **Completion of Form if One Party is Absent**

Allows the appearing party/applicant to complete the marriage license application if the other party/applicant is unable to appear in person. Requires the local registrar to send a copy of the information to the absent party/applicant, and prohibits release of the marriage license until the absent party/applicant returns a notarized form verifying the information.

Amends Minn. Stat. § 517.08, subd. 1b

2. **Emergencies**

Permits a district court judge, in emergency or extraordinary circumstances, to issue a license before expiration of the required five-day waiting period. Requires an application to waive the waiting period to be made on a new, statutorily-prescribed form.

Amends Minn. Stat. § 517.08, subd. 1b

3. **Information Required**

Requires, where a party/applicant does not have a Social Security number, to so certify. Expands the current law prohibiting a person with a felony conviction from changing surnames on the marriage license application to prohibit a change of any portion of the person's name. Eliminates the requirement to list any children of either party on application.

Amends Minn. Stat. § 517.08, subd. 1a

B. Authorization to Perform Marriages

Provides that persons must be at least 21 years old to have the legal authority to perform marriages.

Amends Minn. Stat. § 517.04

- C. Capacity to Marry
Requires the legal custodial parent to consent to the marriage of a person between the ages 16 and 17. Requires completion of a statutory “marriage of a minor” form. Changes from the juvenile to the district court the venue for filing a marriage application and the new marriage of minor form.
Amends Minn. Stat. § 517.02
- D. Credentials of Ministers Without License or Ordination
Requires ministers whose denomination does not issue credentials to file authority from the minister’s spiritual assembly.
Amends Minn. Stat. § 517.05
- E. Duties of the Person Solemnizing the Marriage
1. **Number of Certificates Required**
Reduces number of marriage certificates the person solemnizing a marriage is required to prepare and sign from three to one, and provides that the person file the sole certificate with the local registrar. Adds a requirement that the original marriage certificate must contain the parties’ dates of birth.
Amends Minn. Stat. § 517.10
 2. **Responsibility to Provide Certificates and Request Copies**
Relieves the person solemnizing a marriage of the responsibilities to: (1) provide one of the certificates to the parties; and (2) request a copy of the certificate for the parties.
Amends Minn. Stat. § 517.10 (providing certificate to parties)
Amends Minn. Stat. § 517.101 (requesting copies)
 3. **Delivery and Filing of Certificate to Local Registrar**
Eliminates the possibility of a fine for the failure by the person solemnizing a marriage to deliver the certificate to the local registrar, but retains the penalty of a fine for the failure to file the certificate.
Amends Minn. Stat. § 517.13
- F. Licenses
Clarifies that a marriage license obtained in any county in Minnesota is valid anywhere in the state. Requires the marriage to take place within the geographical borders of Minnesota.
Amends Minn. Stat. § 517.07
- G. Required Filings
Shifts the repository of the statutorily required filings from the district court administrator to the local registrar of the county where: (1) the Department of Human Services must file a consent form allowing persons with developmental disability to marry; and (2) ministers must file credentials of license or ordination of ministers.
Amends Minn. Stat. § 517.03, subd. 2 (filing of DHS consent)
Amends Minn. Stat. § 517.05 (filing of minister credentials)

- H. Solemnization
Prohibits solemnization of a marriage unless the person performing the ceremony is satisfied that, in addition to the existing requirement that there be no legal impediment to the marriage: (1) a marriage license has been obtained; and (2) the persons named on the license are the individuals present.
Amends Minn. Stat. § 517.06

[Back to Top](#)

FARM LAW

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I. FARMER-LENDER MEDIATION

Chapter 94, Article 1, Sections 92, 94, 95, 96, and 97 (HF 1122)
Amends Minn. Stat. §§ 336.9-601(i); 550.365, subd. 2; 559.209, subd. 2; 582.039, subd. 2; and 583.215

- A. Extension of Farmer-Lender Mediation Program
Extends the Farmer-Lender Mediation Program four more years, through June 30, 2013.
Amends Minn. Stat. § 583.215
- B. Mediation Notices
Requires the inclusion in mediation notices required for farm foreclosures the amount of debt in default.
Amends Minn. Stat. §§ 336.9-601(i); 550.365, subd. 2; 559.209, subd. 2; and 582.039, subd. 2

[Back to Top](#)

FOOD LAW/SUPPORTS

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I. FEEDING MINNESOTA TASK FORCE

Chapter 94, Article 1, Section 80 (HF 1122)
Adds Minn. Stat. § 31.97
Effective August 1, 2009

Directs the Department of Agriculture to establish a task force to study the consumption of Minnesota grown produce and livestock by facilitating the donation of harvested

products to charities that provide food for hungry people. Requires the task force to define "hungry people." Requires representation on the task force from: (1) a food bank; (2) producers and growers; (3) the Minnesota Farmers Market Association; (4) Minnesota higher education institutions; (5) the food transportation industry; (6) statewide agricultural organizations; and (7) food processors. Requires a report to the Legislative agriculture finance committees November 1, 2010.

II. FOOD STAMPS AND GROUP RESIDENTIAL HOUSING

Chapter 79, Article 2, Section 12 (HF 1362)

Amends Minn. Stat. § 256I.05, subd. 7c

Effective August 1, 2009

Authorizes the Department of Health and Human Services (DHS) to pursue the expansion of a demonstration project to gain additional federal reimbursement of food and nutrition costs currently paid by the state group residential housing program. Requires DHS to seek approval no later than October 1, 2009.

III. WIC VOUCHERS FOR ORGANIC FOOD

Chapter 114, Section 1 (SF 213)

Adds Minn. Stat. § 145.899

Effective May 21, 2009

Permits WIC vouchers to be used to purchase cost-neutral organic foods on the WIC-approved list. Requires the Department of Health to regularly review and add to the WIC-approved organic foods list.

[Back to Top](#)

HEALTH CARE

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FEDERAL COMPLIANCE CHANGES

A. Data from Social Security

Chapter 79, Article 5, Section 37 (HF 1362)

Adds Minn. Stat. § 256B.08, subd. 4

Effective January 1, 2010

Requires the Department of Human Services (DHS) to accept data from the Social Security Administration related to the determination of eligibility for Medicare prescription drug low-income subsidies.

- B. Protections for American Indians
Chapter 79, Article 5, Section 7 (HF 1362)
Adds Minn. Stat. § 256.01, subd. 18b

Chapter 173, Article 1, Section 12 (HF 1988)
Amends Minn. Stat. § 256.01, subd. 18b, as added by Laws 2009, Chapter 79, Article 5, Section 7
Effective July 1, 2009

Requires DHS to comply with federal requirements regarding American Indians in cost-sharing, eligibility determinations, and the option to choose an Indian health care provider as specified in the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5, section 5006.

- C. Public Assistance Reporting Information System
Chapter 79, Article 5, Section 6 (HF 1362)
Adds Minn. Stat. § 256.01, subd. 18a
Effective October 1, 2009

Requires DHS to comply with federal requirements in Public Law 110-379 in implementing the Public Assistance Reporting Information system (PARIS) to determine eligibility for all individuals applying for: (1) health care benefits under chapters 256B, 256D, and 256L; and (2) public benefits under chapters 119B, 256D, 256I, and the supplemental nutrition assistance program. Requires eligibility to be determined by performing data matches, including matching with medical assistance, cash, child care, and supplemental assistance programs operated by other states.

OTHER HEALTH CARE POLICY

- A. Centers of Excellence For Complex Medical Procedures
Chapter 173, Article 3, Section 10 (HF 1988)
Adds Minn. Stat. § 256B.0625, subd. 53
Effective August 1, 2009 or upon federal approval, whichever is later

Authorizes DHS, in consultation with the Health Services Policy Committee, to limit Medical Assistance (MA) coverage for complex procedures for recipients enrolled on a fee-for-service basis to certain facilities which meet specified Medicare criteria.

- B. COBRA Health Insurance State Premium Subsidy
Chapter 79, Article 5, Section 78 (HF 1362)
Effective July 1, 2009 and expires December 31, 2010

1. Eligibility

Provides that an individual and qualified beneficiaries are eligible for a state premium subsidy of 35% of COBRA premiums, if the individual and beneficiaries: (1) are eligible for the 65 % COBRA premium subsidy under ARRA,* (2) elect COBRA coverage; and (3) are eligible for MA, General Assistance Medical Care (GAMC), or MinnesotaCare without application of the

four-month uninsured requirement. Extends the state subsidy for as long as individual remains eligible for the federal COBRA subsidy.

2. Subsidy

Requires the state subsidy payment to be paid directly to the entity to which the individual is required to make COBRA premium payments. Specifies other related requirements.**

3. Notification

Requires employers and plan administrators who are required to provide notice under ARRA to include information about the availability of the state subsidy, eligibility, and the application requirements. Requires the Department of Employment and Economic Development to inform applicants for unemployment benefits of the availability of a state subsidy.**

4. Exemption from Four-Month Barrier Requirement

Exempts persons who received a state subsidy under this section and then apply for MinnesotaCare after their COBRA continuation coverage ends from the MinnesotaCare four-month uninsured requirement.

*The American Recovery and Reinvestment Act of 2009 (ARRA) provides for premium reductions and additional election opportunities for health benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985, commonly called COBRA. Eligible individuals pay only 35% of their COBRA premiums and the remaining 65 % is reimbursed to the coverage provider through a tax credit. The premium reduction applies to periods of health coverage beginning on or after February 17, 2009 and extends for up to nine months.

** See DHS web site for COBRA subsidy application and notice information at <http://edocs.dhs.state.mn.us/lfservlet/Legacy/DHS-5847-ENG>

C. Electronic Data Interchange Study

*Chapter 155 (HF 384)
Effective August 1, 2009*

Requires the Department of Health, along with the Minnesota Administrative Uniformity Committee and DHS, to study and recommend ways to simplify health care billing transactions through electronic interchanges. Mandates that the study must: (1) contain recommendations on establishing a single, standardized system for all group purchasers for transactions and notifications; (2) contain recommendations on technology relationships regarding e-prescribing laws; (3) ensure that any use of technologies among providers and purchasers is consistent with national standards; (4) analyze the readiness of providers and purchasers to implement technologies; and (5) prioritize the implementation of specific technologies.

D. Health Information Technology

*Chapter 79, Article 4, Section 1 (HF 1362)
Amends Minn. Stat. § 62J.495, subs. 1 - 4
Effective July 1, 2009*

Renews and extends to 2015 the Minnesota e-Health Advisory Committee. Expands the committee's responsibilities to include updating implementation of the e-health provisions of the ARRA, in particular the federal Health Information Technology for Economic and Clinical Health Act, the "HITECH Act." Requires the uniform standards be updated on an ongoing basis and an annual report to the Legislature.

E. Minnesota Sex Offender Program Payment for Services

Chapter 79, Article 3, Sections 13 - 15 (HF 1362)

Adds Minn. Stat. §§ 246B.07 - 246B.09

Effective July 1, 2009

Those admitted into the Minnesota Sex Offender Program will be assessed by DHS on their ability to pay for the cost of care for services provided in the program. A client's guardian of the estate may be required to pay, or DHS can file a claim. Allows DHS to compromise the claim if the estate is needed to support a spouse or dependent children.

F. Safe Patient Handling Act

Chapter 159, Sections 81 - 83 (HF 1760)

Amends Minn. Stat. § 182.6551

Adds Minn. Stat. §§ 182.6552, subd. 5; 182.6554; and 246B.07 - 246B.09

Effective August 1, 2009

Defines clinical settings that move patients and requires these clinics to develop a written safe patient handling plan by July 1, 2010 for implementation by January 1, 2012.

Establishes as a goal ensuring the safe handling of patients by: (1) minimizing their manual lifting by direct patient care workers; and (2) utilizing safe patient handling equipment. Requires the Department of Health to develop training materials.

Establishes enforcement responsibility.

CHANGES IMPACTING ALL MINNESOTA HEALTH CARE PROGRAMS

A. Dental Care Pilot Projects

Chapter 79, Article 5, Section 10 (HF 1362)

Adds Minn. Stat. § 256.964

Effective July 1, 2009

Requires DHS to authorize pilot projects (and specify program criteria) to reduce hospital emergency room costs for preventable and nonemergency dental services for enrollees of the public health care programs. Allows DHS to: (1) establish special payment rates for urgent dental care services provided as an alternative to emergency room services; and (2) change or waive existing payment policies in order to adequately reimburse community dental clinic or other dental providers for cost-effective alternative services provided in outpatient or urgent care settings.

B. Health Care Provider Rate Cuts

Chapter 173, Article 1, Sections 32, 38 and 52 (HF 1988)

Amends Minn. Stat. §§ 256B.76, subd. 1; 256L.11, subd. 1; and 256B.766

Effective July 1, 2009

Imposes a 3% health care provider rate cut for MA, GAMC, and Minnesota Care, with some exceptions including mental health, dental services, prescription drugs, medical transportation, and primary health care providers. Cuts specialists rates by 5%.

Note: the Governor unallotted an additional 1.5% from basic care providers (using the same exceptions as the Legislature) and another 1.5% for specialists.

C. Health Services Policy Committee

Chapter 79, Article 5, Section 26 (HF 1362)

Amends Minn. Stat. § 256B.0625, subd. 3c by adding paragraphs (b) - (e)

Effective July 1, 2009

Chapter 173, Article 1, Section 20 (HF 1988)

Amends Minn. Stat. § 256B.0625, subd. 3c, as amended by Laws 2009, Chapter 79, Article 5, Section 26

Effective July 1, 2009

1. **Dental Subcommittee**

Requires DHS to establish a dental subcommittee, to operate under the Health Services Policy Committee. Specifies membership. Requires the subcommittee to advise the commissioner regarding: (1) the critical access dental provider program; (2) any changes to the critical access dental program necessary to comply with expenditure limits; (3) dental coverage policy; (4) dental delivery models; and (5) dental services to be added or eliminated from § 256B.0625, subdivision 9, paragraph (b).

Adds Minn. Stat. § 256B.0625, subd. 3c(b)

2. **Other Public Program Issues**

Requires that the committee also address other public program issues, including: (1) studying approaches to provider reimbursement under the public health programs contingent on a patient-centered decision-making process; (2) tracking physician practice patterns for enrollees in state health care programs; and (3) reviewing cesarean section rates for the fee-for-service medical assistance population.

Adds Minn. Stat. § 256B.0625, subd. 3c(c) - (e)

D. Outreach Grants

Chapter 79, Article 5, Section 8 (HF 1362)

Amends Minn. Stat. § 256.962, subd. 2

Effective July 1, 2009

Specifies that outreach grants are available for health care coverage outreach activities targeting geographic areas with high rates of: (1) eligible but unenrolled children, including children who reside in rural areas; or (2) racial and ethnic minorities and health disparity populations.

Note: The Governor unallotted the general fund appropriation for outreach grants. Funding for the grants from the Health Care Access Fund remains.

E. Repealer
Chapter 79, Article 5, Section 80 (HF 1362)
Effective May 14, 2009

Repeals: (1) the requirement that renewal notices for Minnesota health care programs be sent at least 60 and 90 days prior to renewal date (Minn. Stat. § 256.962, subd. 7); and (2) reference to federal waiver request to apply a MinnesotaCare asset test to children (Minn. Stat. § 256L.17, subd. 6).

CHANGES TO SPECIFIC MINNESOTA HEALTH CARE PROGRAMS

I. GENERAL ASSISTANCE MEDICAL CARE

Line-item veto by Governor of all funding (\$381 million) for GAMC for fiscal year 2011, to begin April 15, 2010. Attempted House override of the veto failed 87-47.
Unallotment by Governor of additional six weeks of GAMC funding. (Elimination of the program funding affects between 30,000 and 40,000 low-income adults per month, more than 70% of whom receive treatment for mental illness or chemical dependency.)

II. MEDICAL ASSISTANCE

A. Benefits

1. Asthma Coverage for American Indian Children

Chapter 79, Article 5, Section 75 (HF 1362)
Effective July 1, 2009

Requires DHS to establish a demonstration project to provide MA coverage for certain durable medical equipment to reduce asthma symptoms for up to 200 American Indian children who meet specified criteria and live in Minneapolis, St. Paul, or Duluth. Contingent on availability of nonstate funds, requires the Department of Health to report on asthma-related school and hospital findings.

2. Colorectal Cancer Treatment

Chapter 79, Article 5, Section 19 (HF 1362)
Amends Minn. Stat. § 256B.057, by adding subd. 11
Effective July 1, 2009 and expires December 31, 2010

Chapter 173, Article 1, Section 18 (HF 1988)
Amends Minn. Stat. § 256B.057, subd. 11, as added by Laws 2009,
Chapter 79, Article 5, Section 19
Effective July 1, 2009 and expires December 31, 2010

Allows state-only funded MA to be paid for individuals who: (1) have been screened by the colorectal cancer prevention demonstration project; (2) need treatment for colorectal cancer; (3) meet income guidelines for the project; (4) are under age 65; and (5) are not otherwise eligible for federally funded MA or covered under creditable coverage. Limits MA coverage to services provided during the period during which the individual receives treatment for colorectal cancer. Provides an exemption from MA income and asset standards.

3. Dental Services

Chapter 79, Article 5, Section 27 (HF 1362)

Amends Minn. Stat. § 256B.0625, subd. 9

Effective January 1, 2010

- Eliminates coverage for fixed bridges.
- Specifies dental coverage for nonpregnant adults. Limits coverage to:
 - ✓ comprehensive exams, limited to once every five years;
 - ✓ periodic exams, once per year;
 - ✓ limited exams;
 - ✓ bitewing x-rays, once per year;
 - ✓ periapical x-rays;
 - ✓ panoramic x-rays, once every five years and only if certain conditions are met, except that panoramic x-rays are allowed once every two years to certain patients who cannot cooperate for intra-oral film;
 - ✓ prophylaxis, once per year;
 - ✓ application of fluoride varnish, once per year;
 - ✓ posterior fillings at the amalgam rate;
 - ✓ anterior fillings;
 - ✓ endodontics, limited to root canals on the anterior and premolars only;
 - ✓ removable prostheses, each dental arch limited to one every six years;
 - ✓ oral surgery, limited to extractions, biopsies, and incision and drainage of abscesses;
 - ✓ palliative treatment and sedative fillings for relief of pain; and
 - ✓ full mouth debridement, once every five years.
- Provides that MA also covers the following services for adults, if provided in an outpatient hospital setting or freestanding ambulatory surgical center as part of outpatient dental surgery:
 - ✓ periodontics, limited to periodontal scaling and root planing once every two years;
 - ✓ general anesthesia; and
 - ✓ full mouth survey once every five years.

- Provides that, for children, MA covers dental services that are medically necessary using the following guidelines:
 - ✓ posterior fillings are paid at the amalgam rate;
 - ✓ application of sealants once every five years per permanent molar; and
 - ✓ application of fluoride varnish is limited to once every six months.

4. Diagnostic Imaging Services and Prior Authorization

Chapter 79, Article 5, Section 35 (HF 1362)

Adds Minn. Stat. § 256B.0625, subd. 25a

Effective July 1, 2009

Requires prior authorization or decision support for various diagnostic imaging services at time services are ordered unless specified exceptions apply. Does not apply to recipients enrolled in Medicare, the prepaid medical assistance, GAMC, or the MinnesotaCare programs. Permits DHS to contract with a private entity to provide prior authorization or decision support required.

B. Eligibility

1. Asset Limitations for Families and Children

Chapter 79, Article 5, Section 17 (HF 1362)

Amends Minn. Stat. § 256B.056, subd. 3c

Effective January 1, 2011 or upon federal approval, whichever is later

Provides that a bank account that contains personal income or assets – or is used to pay personal expenses – is no longer considered a capital or operating asset of a trade or business for MA applicants or enrollees who are families and children, and is therefore considered when determining asset amounts for eligibility. Requires specified assets to be: (1) disclosed to the local agency at the time of application or reapplication; and (2) verified upon request of the local agency.

2. Citizenship Documentation Requirements for MA and MNCare for Families with Children

The Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111-3 amended the federal Deficit Reduction Act of 2005 (DRA) citizenship documentation requirements as follows:

- a. Citizen Documentation Process for Applicants
Applicants for MA and MinnesotaCare for Families with Children must now be approved for eligibility prior to providing citizenship documentation if they meet all other eligibility criteria. Applicants must also be given a reasonable opportunity to provide documentation of citizenship. Costs associated with documentation

of U.S. citizenship and identity qualify for 50% federal matching administrative funds.

- b. Auto Newborn Exemption
MA and MinnesotaCare auto newborns are now exempt from citizenship and identity documentation requirements.
- c. American Indian tribal Enrollment Documents
Level 1 (no separate identity documentation is required) citizenship documentation requirement may now be met by providing a tribal enrollment, membership or affiliation document, or a certificate of degree of Indian blood issued by a federally recognized Indian tribe.

3. Citizenship Requirement Changes for MA Eligibility

Chapter 79, Article 5, Section 23 (HF 1362)

Amends Minn. Stat. § 256B.06, subd. 4

Effective July 1, 2009

Chapter 173, Article 1, Section 19 (HF 1988)

Amends Minn. Stat. § 256B.06, subd. 4, as amended by Laws 2009,

Chapter 79, Article 5, Section 23

Effective July 1, 2009

- a. Children and Pregnant Noncitizens
Allows children and pregnant women who are noncitizens (qualified noncitizens or lawfully present) to be eligible beginning July 1, 2010 for MA with federal financial participation as provided by the federal Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA).
- b. Post-Partum Coverage for Noncitizens
Allows pregnant noncitizens who are undocumented, nonimmigrants, or lawfully present, and who are uninsured and otherwise meet MA eligibility requirements, to be eligible for MA for the 60 days post partum period beginning July 1, 2009, using CHIPRA funding. (Under current law, these post partum services are covered by state-only MA.)

4. Critical Access Dental Care

Eliminated, effective April 1, 2010, per executive action (unallotment authority).

5. **Income Disregard**
Chapter 173, Article 3, Section 6 (HF 1988)
Amends Minn. Stat. § 256B.056, subd. 1c
Effective July 1, 2009

Provides that annual gifts of \$2000 or less by a tax-exempt organization to, or for the benefit of, a child 18 years old or younger who has a life-threatening illness must be disregarded from income when determining eligibility.

6. **Sponsor-Deeming of Income and Resources**
Chapter 79, Article 5, Section 24 (HF 1362)
Amends Minn. Stat. § 256B.06, subd. 5
Effective July 1, 2010

Eliminates the requirement that sponsor's income and resources be considered determining MA eligibility for pregnant women and children who are qualified noncitizens.

III. MINNESOTA CARE

A. Benefits

1. **Chiropractic Services**
Chapter 79, Article 5, Section 54 (HF 1362)
Adds Minn. Stat. § 256L.03, subd. 3b

Chapter 173, Article 1, Section 35 (HF 1988)
Amends Minn. Stat. § 256L.03, subd. 3b as added by Laws 2009,
Chapter 79, Article 5, Section 54
Effective July 1, 2010 or upon federal approval, whichever is later

Provides that MinnesotaCare covers the following chiropractic services:
(1) medically necessary exams; (2) manual manipulation of the spine; and
(3) x-rays.

B. Eligibility

1. **For All Enrollees**
- a. Elimination of Depreciation for Self-employed Farmers
Chapter 79, Article 5, Section 79 (HF 1362)

Requires DHS to resubmit for federal approval elimination of the depreciation add-back for self-employed farmers in determining

eligibility for MinnesotaCare. (See Laws 2007, Chapter 147, article 5, section 19.)

- b. Sliding-fee Scale
Chapter 173, Article 3, Section 20 (HF 1988)
Amends Minn. Stat. § 256L.15, subd. 2
Effective January 1, 2009, or upon federal approval, whichever is later

Makes certain clarifying changes to the sliding fee scale. Specifies that for family income of between 46% and 54% of the Federal Poverty Guidelines (FPG), the premium payment for adult enrollees is \$4 or 1.1% of family income, whichever is greater.

2. For Families with Children

- a. Asset Requirements
Chapter 79, Article 5, Section 71 (HF 1362)
Amends Minn. Stat. § 256L.17, subd. 5
Effective July 1, 2009

Clarifies that children are exempt from MinnesotaCare asset limits.

- b. Automatic Eligibility for Certain Children
Chapter 79, Article 5, Section 66 (HF 1362)
Adds Minn. Stat. § 256L.07, subd. 8
Effective July 1, 2009, or upon federal approval, whichever is later

Deems automatically eligible for MinnesotaCare upon termination or release until the age of 21 any child who was residing in foster care or a juvenile residential correctional facility on the child's 18th birthday. Exempts the child from: (1) the employer-subsidized insurance (ESI) and four-month insurance barriers; and (2) paying premiums. Requires the child to complete an initial application for MinnesotaCare.

- c. Barriers to Coverage for Certain Children Eliminated
 - 1) **Employer-Subsidized Insurance**
Chapter 79, Article 5, Section 64 (HF 1362)
Amends Minn. Stat. § 256L.07, subd. 2
Effective July 1, 2009, or upon federal approval, whichever is later

Exempts children with family income equal to or less than 200% of FPG from the MinnesotaCare ESI barrier.

2) Four-Months Uninsured Requirement

Chapter 79, Article 5, Section 65 (HF 1362)

Amends Minn. Stat. § 256L.07, subd. 3

Effective July 1, 2009, or upon federal approval, whichever is later

Exempts children with family income less than 200% of FPG from the MinnesotaCare four-months uninsured prior to application requirement. Also increases from 150 to 200 percent of FPG, the income limit for those children exempted from the four-month insurance barrier because they meet the criteria specified for being considered “underinsured.”

3) Citizenship Documentation Requirements

The Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111-3 amended the federal Deficit Reduction Act of 2005 (DRA) citizenship documentation requirements as follows:

a. Documentation Process for Applicants

Applicants for MA and MinnesotaCare for Families with Children must now be approved for eligibility prior to providing citizenship documentation if they meet all other eligibility criteria. Applicants must also be given a reasonable opportunity to provide documentation of citizenship. Costs associated with documentation of U.S. citizenship and identity qualify for 50% federal matching administrative funds.

b. Auto Newborn Exemption

MA and MinnesotaCare auto newborns are now exempt from citizenship and identity documentation requirements.

c. American Indian tribal Enrollment Documents

Level 1 (no separate identity documentation is required) citizenship documentation requirement may now be met by providing a tribal enrollment, membership or affiliation document, or a certificate of degree of Indian blood issued by a federally recognized Indian tribe.

4) Premium Payments

a) Exemption

*Chapter 79, Article 5, Section 68 (HF 1362)
Amends Minn. Stat. § 256L.15, subd. 2
Effective July 1, 2009, or upon federal approval,
whichever is later*

Exempts children with family income at or below 200% of FPG from paying MinnesotaCare sliding-fee scale premiums.

b) Clarification

*Chapter 79, Article 5, Section 69 (HF 1362)
Amends Minn. Stat. § 256L.15, subd. 3
Effective July 1, 2009, or upon federal approval,
whichever is later*

Clarifies that children with family income at or below 200% of FPG pay no monthly premiums.

5) Children Leaving Foster Home/Juvenile Correctional Facility

a) Exemption

*Chapter 79, Article 5, Section 55 (HF 1362)
Ads Minn. Stat. § 256L.04, subd. 1f
Effective July 1, 2009 or upon federal approval,
whichever is later*

Exempts children who were residing in a foster home or juvenile residential correctional facility on their 18th birthday from the MinnesotaCare eligibility requirements that apply to families with children.

b) Effective Date of Coverage

*Chapter 79, Article 5, Section 61 (HF 1362)
Amends Minn. Stat. § 256L.05, subd. 3
Effective July 1, 2009, or upon federal approval,
whichever is later*

Provides that the effective date of MinnesotaCare coverage for children eligible under Minn. Stat. § 256L.07, (new) subd. 8, is the first day of the month following the date of termination from foster care or release from a juvenile residential correctional facility.

- 6. Deeming of Sponsor Income and Resources**
Chapter 79, Article 5, Section 58 (HF 1362)
Amends Minn. Stat. § 256L.04, subd. 10a
Effective July 1, 2010, or upon federal approval, whichever is later

Exempts pregnant women and children who are qualified noncitizens from deeming of sponsor income and resources when determining MinnesotaCare eligibility.

- 7. Income Eligibility and Buy-in Option for Children**
Chapter 79, Article 5, Section 56 (HF 1362)
Adds Minn. Stat. § 256L.04, subd. 1b
Effective July 1, 2009, or upon federal approval, whichever is later

Extends eligibility for MinnesotaCare to children with family incomes greater than 275% of FPG. (All other MinnesotaCare provisions, including insurance-related barriers to enrollment generally continue to apply.)

- 8. Income Eligibility and Children**
Chapter 79, Article 5, Section 63 (HF 1362)
Amends Minn. Stat. § 256L.07, subd. 1
Effective July 1, 2009, or upon federal approval, whichever is later

Permits children in families with incomes greater than 275% of FPG to remain on MinnesotaCare.

- 9. Income Eligibility and Parents**
Chapter 79, Article 5, Section 57 (HF 1362)
Amends Minn. Stat. § 256L.04, subd. 7a
Effective July 1, 2009, or upon federal approval, whichever is later

Clarifies that adults with income greater than 275% of FPG limit are ineligible for MinnesotaCare, making a conforming change related to Minn. Stat. § 256L.04, subd. 1b.

C. Program/Administrative Simplification

- 1. Aligning MA and MinnesotaCare for Families and Children**
Chapter 79, Article 5, Section 77 (HF 1362)
Effective July 1, 2009

- a. Development of Plan
Directs DHS to work with representatives of county agencies and advocacy organizations to develop a plan to align standards, income and asset methodologies, and procedures for families and children under MA and MinnesotaCare. Requires DHS to evaluate the impact of different approaches on: (1) the number of potential enrollees; and (2) administrative, health care, and other costs. Requires DHS to present recommendations to the legislative committees with jurisdiction over health care by September 15, 2010.
- b. Pre-Contract Reporting
Requires DHS to report to the legislative chairs of the health care finance committees: (1) before entering into any contracts for streamlined electronic enrollment and eligibility determinations for state health care programs which involve counties; and (2) if the contracts require payment from the general fund or health care access fund.

2. Application Assistance and Information Availability

Chapter 79, Article 5, Section 59 (HF 1362)
Amends Minn. Stat. § 256L.05, subd. 1
Effective July 1, 2009

Requires that application assistance be made available for applicants choosing to file an online application.

3. Application and Enrollment Process for MA and MinnesotaCare

Chapter 79, Article 5, Section 60 (HF 1362)
Amends Minn. Stat. § 256L.05, by adding subd. 1c

Chapter 173, Article 1, Section 37 (HF 1988)
Amends Minn. Stat. § 256L.05, subd. 1c, as added by Laws 2009, Chapter 79, Article 5, Section 60
Effective July 1, 2009 or upon federal approval, which must be requested by the commissioner, whichever is later

- a. Streamlined Application and Enrollment Process
Requires DHS to partner with local agencies to develop a streamlined and efficient application and enrollment process for MA and MinnesotaCare enrollees that meets specified criteria.
- b. Open Enrollment Recommendations
Directs DHS and the Department of Education to:
 - develop recommendations on the creation of an open enrollment process tied to the public education system that must: (1) be developed with consultation from program

enrollees, children's advocates and multiple other stakeholders; (2) be based on enrollment and renewal procedures best practices; (3) simplify the enrollment and renewal process, including development of an easily understandable application not to exceed four pages in length for children; and (4) establish a process: (i) to disseminate information on MA and MinnesotaCare to all children in the public education system; and (ii) for DHS to enroll the children and other eligible household members. Requires DHS; and

- provide the recommendations to the Legislature by January 15, 2010.

c. Implementation

Requires DHS and the Department of Education to:

- implement the open enrollment process by August 1, 2010, to be effective beginning with the 2010-2011 school year; and
- submit an implementation plan for the open enrollment period to the Legislature by January 15, 2010.

d. Online Application Process

Requires DHS, along with local agencies, to:

- develop an online application process for MA and MinnesotaCare; and
- submit an implementation plan for the online application process to the Legislature by January 15, 2010.

4. School Districts and Charter Schools

Chapter 79, Article 5, Section 9 (HF 1362)

Amends Minn. Stat. § 256.962, subd. 6

Effective July 1, 2009

Extends the requirement that school districts provide information to students on the availability of health coverage and how to obtain an application to charter schools. Requires those school districts and charter schools that maintain a district Web site to include a link to information on how to obtain an application for the Minnesota health care programs.

5. Renewal of Eligibility for Children

Chapter 79, Article 5, Section 62 (HF 1362)

Adds Minn. Stat. § 256L.05, subd. 3a(e) and (f)

Effective July 1, 2009, or upon federal approval, whichever is later

a. Maintenance of Eligibility

Provides that children in families with income at or below 275% of FPG, who do not submit renewal forms and related documentation for verification of continued eligibility in a timely manner remain eligible for MinnesotaCare, but must pay premiums. Requires DHS: (1) to use all means available to verify income; and (2) if DHS determines that there has been a change in income that affects premiums, to notify the family of the new premium payment due and that if premium payment not received, the child will be disenrolled effective the first day of the calendar month following the calendar month for which the premium is due.

Adds Minn. Stat. § 256L.05, subd. 3a(e)

b. Renewal Period

Provides that for children enrolled under Minn. Stat. § 256L.07, subd. 8, the first period of renewal begins the month the enrollee becomes 21 years old.

Adds Minn. Stat. § 256L.05, subd. 3a(f)

LONG-TERM CARE

A. Agency Intervention

Chapter 79, Article 5, Section 43 (HF 1362)

Adds Minn. Stat. § 256B.15, subd. 9

Effective July 1, 2009

Permits DHS – after filing and serving notice of such intervention on the other parties – to intervene as a party in any proceeding involving MA estate recovery.

B. Availability of Income for Institutionalized Persons

Chapter 79, Article 5, Section 20 (HF 1362)

Adds Minn. Stat. § 256B.0575, subd. 2

Effective July 1, 2009

Defines “reasonable expenses” and clarifies the expenses incurred for necessary medical or remedial care that may be deducted from an institutionalized person’s income as reasonable expenses.

C. Estates

1. Estates Subject to Claims

Chapter 79, Article 5, Section 39 (HF 1362)

Amends Minn. Stat. § 256B.15, subd. 1a

Effective July 1, 2009

a. Definitions

1) Estate

Deletes the definition of what is considered a person's estate from subdivision 1h and moves it to subdivision 1a of Minn. Stat. § 256B.15.

2) Other Arrangement

Defines, for the purposes of recovery in a single person's estate or the estate of a survivor of a married couple, the term "other arrangement" with respect to transfers of property or interest.

b. Recovery from an Estate

Provides that an estate, for the purposes of making a recovery by a surviving spouse, consists of all legal title and interest the recipient spouse had in jointly owned or marital property at the time of the recipient spouse's death. Provides that the recipient spouse who, at death, jointly owned property with the surviving spouse has an interest in the entire property.

2. Estates of Specific Persons Receiving MA

Chapter 79, Article 5, Section 40 (HF 1362)

Amends Minn. Stat. § 256B.15, subd. 1h

Effective July 1, 2009

Strikes paragraph (b) of subdivision 1h (which describes what constitutes the estate of a person receiving MA), relocating it to subdivision 1a of Minn. Stat. § 256B.15.

3. Estate Claims and Medicare Cost-sharing Policy

Chapter 79, Article 5, Section 38 (HF 1362)

Amends Minn. Stat. § 256B.15, subd. 1

Effective July 1, 2009

Provides that "medical assistance" does not include Medicare cost-sharing benefits for the purposes of this section pertaining to claims against estates.

4. Limitations on Claims Against Estate

Chapter 79, Article 5, Section 41 (HF 1362)

Amends Minn. Stat. § 256B.15, subd. 2

Effective July 1, 2009

Provides that a claim against the estate of a surviving spouse is payable from the full value of all of the recipient spouse's assets and interest that are part of the surviving spouse's estate. Defines conditions under which a claim is not payable. Limits claims against marital property to claims against recipients who died on or after July 1, 2009.

5. Reduction of Excess Assets

Chapter 79, Article 5, Section 18 (HF 1362)

Amends Minn. Stat. § 256B.056, subd. 3d

Effective January 1, 2011

a. By Paying Bills for Health Services

Provides that assets may only be reduced by paying bills for health services incurred during the time period specified in the rule for local agencies to act on MA applications (i.e., 45 days for persons who are not aged, blind, or disabled, 60 days for persons who are aged, blind, or disabled) beginning the month of application.

b. Required Spenddown

Requires applicants who have excess income as well as excess assets to first spend excess assets to pay health service bills. Allows applicants to meet income spenddown on remaining bills.

c. Through Designation of Burial Funds

Eliminates the ability of applicants to reduce assets through designation of burial funds in the three months prior to the month of application;

D. Liability of Husband and Wife

Chapter 79, Article 5, Section 73 (HF 1362)

Amends Minn. Stat. § 519.05

Effective July 1, 2009

Specifies that necessary medical services includes claims against an estate for provision of public assistance payments of medical care.

- E. State Medical Review Team Process Modified
Chapter 79, Article 8, Sections 12 and 17 (HF 1362)
Amends Minn. Stat. § 256B.055, subd. 7
Adds Minn. Stat. § 256.01, subd. 29
Effective July 1, 2009

Requires DHS to assist applicants for MA who do not meet other bases of eligibility but indicate a disability or chronic condition, to obtain necessary medical and other information. Provides funding for 16 DHS staff positions. Requires annual report to legislative committees, beginning February 1, 2010.

- F. Transfers and Period of Ineligibility for Long-term Care Services
Chapter 79, Article 5, Section 22 (HF 1362)
Amends Minn. Stat. § 256B.0595, subd. 2
Effective for periods of ineligibility established on or after January 1, 2011

Permits the period of ineligibility for uncompensated transfers to be eliminated if all the improperly transferred assets, or the full cash value of the assets, are returned within 12 months after the ineligibility period began.

- G. Trusts

1. **Pooled Trusts and Prohibited Transfers**
Chapter 79, Article 5, Section 21 (HF 1362)
Amends Minn. Stat. § 256B.0595, subd. 1
Effective July 1, 2009

Clarifies that pooled trusts are treated consistently with federal law relating to prohibitions on transfers. Requires evaluation of transfers into a qualifying pooled trust as a potential uncompensated transfer when the person/entity requesting MA payment of long-term care services is: (1) a person age 65 or older; (2) the person's spouse; or (3) any person, court, or administrative body on behalf of a person age 65 or older or the person's spouse.

2. **Pooled Trusts Requirements**
Chapter 173, Article 1, Section 17 (HF 1988)
Amends Minn. Stat. § 256B.056, subd. 3b
Effective for pooled trust accounts established on or after January 1, 2011

Defines pooled trust. Limits the amount of a person's contribution to a pooled trust which may be retained by the trust when the client's participation has terminated. Requires pooled trusts which do not meet new criteria to be counted toward MA asset limits.

3. Supplemental Needs Trusts and Annual Filing Requirement

Chapter 79, Article 5, Section 72 (HF 1362)

Adds Minn. Stat. § 501B.89, subd. 4

Effective for applications for medical assistance and renewals of medical assistance submitted on or after July 1, 2009

Requires the trustee of a supplemental needs trust to submit specified information to DHS at the time of a beneficiary's request for medical assistance and annually.

[Back to Top](#)

HOUSING LAW

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I. APPROPRIATIONS

Chapter 78, Article 1, Section 6, Subds. 4, 5, 6, and 9 (HF 2088)

Effective July 1, 2009

Appropriates:

- ✓ \$2,638,000 in Fiscal Year (FY) 2010 and 2011 to rental housing assistance for persons with a mental illness;
- ✓ \$7,465,000 in FY 2010 and FY 2011 to family homeless prevention and assistance programs;
- ✓ \$860,000 in FY 2010 and FY 2011 to the home ownership assistance program; and
- ✓ \$865,000 in FY 2010 and FY 2011 to the homeownership education, counseling, and training (HECAT) program.

II. FORECLOSURE LAW CHANGES

A. Additional Duty Imposed on Holder of Sheriff's Certificate to Protect Premises

Chapter 123, Section 9 (SF 1147)

Amends Minn. Stat. § 582.031

Effective August 1, 2009

Imposes upon holder of a sheriff's certificate, where the holder knows that there is prima facie evidence of abandonment, to enter the premises and make reasonable

periodic inspections, install or change the locks on all doors, install locks on all windows that do not have locks, and ensure that any existing window locks are functioning properly. Permits the holder to take additional steps to prevent waste and prevent or minimize damage from the weather, vandalism, trespass, or other illegal activity. Allows the holder to recover costs of these actions upon redemption.

B. Five Week Redemption Period

Chapter 123, Sections 11, 12, and 13 (SF 1147)

Amends Minn. Stat. § 582.032, subds. 4, 5, and 7

1. **City May Petition**

Allows a city or county to initiate or intervene in an action to reduce the redemption period to five weeks.

Effective August 1, 2009

2. **Remedy for Wrongful Finding of Abandonment**

Clarifies that Rule 60.02 (i.e., vacation for mistakes, newly discovered evidence, etc.) of the Minnesota Rules of Civil Procedure applies to findings that the failure to appear is conclusive proof of abandonment.

Effective retroactively and prospectively from May 21, 2009, and applies to orders issued before, on, or after that date

C. Foreclosure Data

Chapter 130, Section 5 (SF 1302)

Amends Minn. Stat. § 580.025

Effective August 1, 2009 for foreclosures in which the notice of pendency under section 580.032 is recorded on or after that date

Clarifies that the data requirements added in 2008 to the notice of pendency apply only to foreclosures involving one-to-four family dwellings.

D. Notice of Foreclosure

1. **Requirement to Specify Date and Time to Vacate.**

Requires that the notice of foreclosure for single-family, owner-occupied dwellings specify: (1) the date on or before which the homeowner must vacate if the mortgage is not reinstated or redeemed; and (2) the time by which the homeowner must vacate is 11:59 p.m.

Chapter 130, Section 6 (SF 1302)

Amends Minn. Stat. § 580.04

Effective August 1, 2009 for foreclosures in which the notice of pendency under section 580.032 is recorded on or after that date

2. Requirement to Add Street Address

Requires that the notice of foreclosure include the commonly used street address of the property.

Chapter 123, Section 6 (SF 1147)

Amends Minn. Stat. § 580.04

Effective August 1, 2009 and applies to notices of sale first published on or after that date

E. Notice of Opportunity for Counseling

Chapter 130, Section 4 (SF 1302)

Amends Minn. Stat. § 580.04

Effective August 1, 2009 for foreclosures in which the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded on or after that date

Clarifies, by removing a cross reference, that the applicability of the right to the notice of the opportunity of foreclosure prevention counseling is not limited to homeowners with “conventional loans,” defined as loans whose principal is \$100,000 or less.

F. Notice of Postponement of Foreclosure

Chapter 130, Section 9 (SF 1302)

Amends Minn. Stat. § 580.09

Effective August 1, 2009 for notices of postponement published or served on or after that date

Requires the foreclosing party to provide notice of postponement, including the date and time if known, directly to the homeowner. Requires the notice to inform the homeowner: (1) of the date on or before which the homeowner must vacate the property if the mortgage is not reinstated or redeemed; and (2) that the time by which the homeowner must vacate is 11:59 p.m.

G. Postponement of Sheriff’s Sale and Extension of Reinstatement Period

Chapter 78, Article 8, Section 21 (HF 2088)

Amends Minn. Stat. § 580.07

Effective June 14, 2009 and applies to foreclosure sales scheduled to occur on or after that date

1. Right to Postpone

Permits a homeowner of a homesteaded property – at any time after the first publication of the notice of mortgage foreclosure sale but at least 15 days before the scheduled sale – to postpone the sale for five months, effectively replacing most of the redemption period with an extension of the reinstatement period.

2. **Procedure for Postponing**
Specifies that the homeowner may postpone the sale by: (1) executing a sworn affidavit in a form set by statute; (2) recording the affidavit with the County Recorder(s) and Registrar of Titles where the mortgage was recorded; (3) filing a copy of the recorded affidavit with the sheriff conducting the sale; (4) and delivering a copy of the recorded affidavit to the foreclosing attorney.
3. **Effect on Redemption Period**
Provides that recordation automatically reduces the redemption period to five weeks, effectively providing one additional week over and above the typical period comprising reinstatement and redemption.
4. **Limitation on Exercising Right to Postpone**
Allows, without exception, only one postponement.

H. Rights of Homeowners Subject to Judicial Foreclosure

Chapter 130, Sections 1 and 7 (SF 1302)

Amends Minn. Stat. §§ 580.021, subd. 1; and 580.041, subd. 1a

Effective August 1, 2009 for foreclosures in which the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded on or after that date

1. **Pre-Foreclosure Notice**

Extends to judicial foreclosures (foreclosures by action) the requirements to: (1) provide notice to the homeowner: (i) of the opportunity for foreclosure prevention counseling; and (ii) that the homeowner's contact information will be shared with the foreclosure counseling agency; and (2) provide notice to the counseling agency of the homeowner that will be subject to the foreclosure.

Amends Minn. Stat. § 580.021, subd. 1

2. **Foreclosure Advice Notice to Homeowners**

Extends to judicial foreclosures the requirement to provide the foreclosure advice notice to homeowners along with the notice of foreclosure.

Amends Minn. Stat. § 580.041, subd. 1a

I. Tenant Protections

1. **Rights of Tenants Living in Properties Subject to Judicial Foreclosure**

a. Foreclosure Advice Notice to Tenants

Chapter 130, Section 8 (SF 1302)

Amends Minn. Stat. § 580.042, subd. 1

Effective August 1, 2009 for foreclosures in which the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded on or after that date

Extends to judicial foreclosures the requirement to provide the foreclosure advice notice to tenants along with the notice of foreclosure.

- b. Notice that Property is in Foreclosure
Chapter 123, Section 3 (SF 1147)
Amends Minn. Stat. § 504B.151, subd. 1
Effective August 1, 2009 and applies to leases entered into on or after that date

Extends to judicial foreclosures the requirement that landlords provide notice to prospective tenants that the property is in foreclosure.

- c. Withholding Rent
Chapter 123, Section 4 (SF 1147)
Amends Minn. Stat. § 504B.178, subd. 8
Effective August 1, 2009 and applies to cancellations of contracts for deed in which the notice of cancellation is first served or published on or after August 1, 2009, and mortgage foreclosures under chapter 581 in which the lis pendens is recorded on or after that date

Extends to judicial foreclosures the right of tenants in foreclosed properties and cancelled contract for deed transactions to withhold last month's rent.

2. **Notice to Vacate**
Chapter 130, Section 1 (SF 1302)
Amends Minn. Stat. § 504B.285, subd. 1
Effective August 1, 2009

Clarifies that tenants who enter into leases prior to the notice of foreclosure are entitled to the two month notice to vacate foreclosing parties are required to send before they can evict.

III. HOME WARRANTIES

Chapter 91 (HF 420)
Amends Minn. Stat. §§ 327A.04; 327A.06; 327A.07; and 327A.08
Effective August 1, 2009, and applies to contracts entered into, or construction of dwellings or home improvements completed, on or after that date

Requires vendors and contractors to provide express warranties, eliminating the existing implied warranties. Requires the warranties to be provided to the buyer in writing. Prohibits waivers, but allows post-contract modifications pursuant to existing law. Gives homeowners, by operation of law, an implied warranty with the effect of an express warranty where the vendor or contractor fails to provide an express warranty as required.

IV. MANUFACTURED HOME RELOCATION TRUST FUND

Chapter 78, Article 8, Sections 1 – 3 (HF 2088)

Amends Minn. Stat. § 327C.095, subs. 12 and 13

Adds Minn. Stat. § 327C.03, subd. 6

Effective August 1, 2009

A. Assessment and Recoupment of Park Owners for Annual Resident Payments

1. **Assessment**

Changes the method of collection of the statutorily required \$12 annual resident payments to the fund. Eliminates the requirement that park owners collect the fee from each resident and forward it to the Department of Finance (now Minnesota Management & Budget or MMB) and eliminates MMB's obligations to post information and forms regarding the payments on its Web site. Replaces existing obligations by requiring MMB to annually assess each manufactured home park owner by mail the total amount of \$12 times each licensed lot in their park, payable on or before September 15 of each year, and notify owners by July 15 of their obligation to forward the lump sum payment.

Amends Minn. Stat. § 327C.095, subd. 12

2. **Recoupment**

Permits park owners who have been assessed for resident payments to recoup those payments either as a lump sum or by adding no more than \$1 per month to the lot rent. Requires separate itemization and clear labeling of the additional \$1 as "Minnesota Manufactured Home Relocation Trust Fund" on the lot rent statement.

Adds Minn. Stat. § 327C.03, subd. 6

B. Disputes

Provides that prevailing parties are entitled to reasonable attorney fees, court costs, and disbursements where disputes regarding owner or resident payments to the fund arise and are adjudicated in court.

Amends Minn. Stat. § 327C.095, subd. 12

C. Eligibility to Access Fund

Eliminates the provision making a manufactured home park resident ineligible to access the fund if the resident has failed to make the \$12 required annual payment.

Amends Minn. Stat. § 327C.095, subd. 12

V. RENTERS' CREDIT

Reduces expenditures for this program, through unallotment, by 27% or almost \$51 million for 2010 for rent paid in 2009.

VI. TARGETED NEIGHBORHOOD REVITALIZATION PROGRAM

Chapter 78, Article 8, Sections 6 – 20 (HF 2088)

Amends Minn. Stat. §§ 469.201, subs 2, 4, 6, 7, 10, 11, and 12; 469.202; 469.203, subs. 1, 2, and 4; 469.204, subd. 1; 469.205; and 469.207, subd. 2

Adds Minn. Stat. § 469.204, subd. 4

Effective August 1, 2009

A. Designation of Targeted Communities

Increases the median income threshold for designation of a targeted community for the Minneapolis and St. Paul Metropolitan Statistical Area from 50% to 80%. Adds and defines a new standard: an area with a disproportionate number of vacant residential buildings and mortgage foreclosures is a qualifying factor. Requires that three of four standards must now be met for the community to be eligible for the program.

Amends Minn. Stat. § 469.202, subd. 2

B. Eligible Activities

Adds the following measures as allowable activities under the program: (1) addressing vacancies and foreclosures; (2) preserving existing housing; and (3) addressing lead abatement, energy efficiencies, or other activities related to the health of a building.

Amends Minn. Stat. § 469.201, subd. 6

C. Eligible Municipalities

Adds the following municipalities to those eligible to participate in the program: (1) a statutory or home rule charter city; (2) a town; or (3) a township.

Amends Minn. Stat. § 469.201, subd. 2

D. Financing

Establishes a Targeted Community Revitalization Revolving Fund.

Adds Minn. Stat. § 469.204, subd. 4

E. Program Name

Replaces “revitalization” with “community” in all references, effectively renaming the program the Targeted Community Revitalization Program.

Amends Minn. Stat. §§ 469.201, subs.4, 10, and 12; 469.202; 469.205; and 469.207; subd. 2

- F. Requirements of Municipalities
Allows more flexibility for municipalities to meet the requirement to match state funds.
Amends Minn. Stat. § 469.203, subds. 1, 2, and 3

[Back to Top](#)

IMMIGRATION LAW

Prepared by:
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I. REAL ID PROHIBITION

Chapter 92 (HF 988)
Effective May 16, 2009

Prohibits the Department of Public Safety from taking (or planning to take) any action to comply with the federal REAL ID Act (Public Law 109-13).

[Back to Top](#)

JUVENILE LAW

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I. ALTERNATIVE DISPUTE RESOLUTION

Chapter 163, Article 2, Sections 25 and 38 (SF 1503)
Amends Minn. Stat. § 484.76, subd. 2
Adds Minn. Stat. § 260C.163, subd. 12
Effective August 1, 2009

- A. Authorization in Child Protection Hearings
Permits the court to authorize alternative dispute resolution – including family group decision making, parallel protection process, and mediation – in any Children in Need of Protection or Services (CHIPS), permanency, or Termination of Parental Rights (TPR) case where alternative dispute resolution is in the child's best interests. Permits the court to order the child to be included, where appropriate and where inclusion is in the child's best interests. Allows the alternative process, subject to the court's approval and determination that the

resolution is in the child's best interests, to be used: (1) at any point in the proceeding; and (2) to resolve all or part of the case.
Adds Minn. Stat. § 260C.163, subd. 12

- B. Removal of Prohibition Against Alternative Dispute Resolution
Removes the bar against the use of alternative dispute resolution in juvenile cases in the statutes governing the court's authority.
Amends Minn. Stat. § 484.76, subd. 2

II. AMERICAN INDIAN CHILD WELFARE SERVICES

Chapter 163, Article 2, Section 2 (SF 1503)

Amends Minn. Stat. § 256.01, subd. 14b

Effective August 1, 2009

- A. Mental Health Screenings
Authorizes tribes providing child welfare services to conduct mental health screenings for children who are living on the reservation and: (1) who are receiving protective services; (2) who are in foster care; or (3) whose parents' have had their parental rights terminated or suspended. Allows the participating tribe to access available state funds for conducting the screenings. Provides that the permissive authority granted does not alter the county's responsibility to provide services under the Children's Mental Health Act.
- B. Child Mortality Review Panels
Authorizes a tribe providing child welfare services to establish a child mortality review panel. Specifies the duties of the panel are to review fatalities or near-fatalities related to maltreatment occurring on the reservation. Requires the participating tribe, upon request, to share information on individual cases with the state child mortality panel.

III. APPROPRIATIONS

Chapter 79, Article 13, Section 3, Subd. 4(m) (HF 1362)

Effective July 1, 2009

- A. Homeless and Runaway Youth Act
Appropriates \$218,000 in fiscal year 2010 to the Homeless and Runaway Youth Act, and requires that funds be spent in the continuum of care to meet the greatest need. Increases the base appropriation by \$119,000 each year beginning July 1, 2011.
- B. Homeless Youth – Stimulus Funds
Appropriates for the biennium \$2.5 million of Homeless Prevention and Rapid Re-Housing Program funds under American Recovery and Reinvestment Act of 2009 (the federal stimulus) for agencies providing homelessness prevention and rapid re-housing to youth.

IV. BACKGROUND STUDY - PLACEMENT

Chapter 163, Article 1, Sections 5 and 9 (SF 1503)

Amends Minn. Stat. § 260C.212, subd. 4

Repeals Minn. Stat. § 260C.209, subd. 4

Effective August 1, 2009

Eliminates the requirement for the social services agency to provide copies of a background study to parents where the child is not placed with either parent. Retains: (1) the requirement of the social services agency to notify the parent that the background study will be used in its recommendation against placing the child with that parent; and (2) the parent's right to be heard regarding the study.

V. CHILD PROTECTION – SUMMONS AND NOTICE

Chapter 163, Article 2, Sections 20 - 23 (SF 1503)

Amends Minn. Stat. § 260C.151, subds. 1 - 3

Adds Minn. Stat. § 260C.151, subd. 2a

Effective August 1, 2009

A. Issuance of Summons

Clarifies that the summons in a CHIPS proceeding must be served on the child's parents, legal guardian, and any person with legal custody of the child.

Amends Minn. Stat. § 260C.151, subd. 1

B. Recipients of Notice of Pendency of CHIPS Proceeding

Clarifies that any putative father, including a man who has registered with the Father's Adoption Registry, is entitled to notice of pendency of a CHIPS proceeding. Clarifies that "notice" means written notice as required under the Rules for Juvenile Protection Procedure.

Amends Minn. Stat. § 260C.151, subd. 2 (entitlement to notice)

Amends Minn. Stat. § 260C.151, subd. 3 (meaning of "notice")

C. Termination of Parental Rights or Permanent Placement Proceeding Notice

1. Court Duty to Notify

Requires the court – after a petition for TPR or permanent placement away from a parent is filed – to: (1) establish a time for an admit/deny hearing; (2) issue a summons to require the child's parents to appear; and (3) send notice to: (i) a putative father who has registered with the Father's Adoption Registry and is entitled to notice of an adoption proceeding under state law; and (ii) a grandparent with the right to participate under Minn. Stat. § 260C.163, subd. 2.

Adds Minn. Stat. § 260C.151, subd. 2a

2. **No Court Duty to Notify**
Does not require notice to a putative father who failed to timely register with the Father's Adoption Registry, unless the man is also a presumed father or is required to receive notice under the adoption petition statute (Minn. Stat. § 259.49, subd. 1).
Adds Minn. Stat. § 260C.151, subd. 2a
3. **No Presumption of Unfitness**
Declares that there is no presumption of parental unfitness based on the fact that a putative father is not subject to (and thus did not receive) the notice and has had his parental rights terminated.
Adds Minn. Stat. § 260C.151, subd. 2a

VI. CHILDREN ON THE RUN/HABITUAL TRUANCY/ENDANGERMENT

Chapter 163, Article 2, Sections 25 - 27 (SF 1503)

Amends Minn. Stat. §§ 260C.175, subd. 1; 260C.176, subd. 1; 260C.178, subds. 1 and 3; and 260C.201, subds. 1 and 5

Effective August 1, 2009

- A. Immediate Custody
Restricts the ability of a peace officer to take immediate custody of a runaway child to a single purpose – transporting the child: (1) home; (2) to a relative's home; or (3) to another safe place.
Amends Minn. Stat. § 260C.175, subd. 1
- B. Release from Custody
Eliminates the possibility that the child will run away as a reason to prevent release. Changes suitable "person" to suitable "relative."
Amends Minn. Stat. §§ 260C.176, subd. 1; and 260C.178, subd. 1
- C. Duties, Powers, and Limitations of the Court
 1. **Duties and Powers**
 - a. Duty to Inquire
Imposes a duty on the court to inquire at each hearing after the initial hearing about reasonable efforts to place the children together as required where joint placement does not occur.
Amends Minn. Stat. § 260C.178, subd. 1
 - b. Duty to Review Orders
Requires the court to review – and permits approval or modification of -- parental visitation orders and relative and sibling visitation orders where a child is in foster care.
Amends Minn. Stat. § 260C.201, subd. 5

- c. Power to Deny Visitation
Allows the court to deny parental visitation where it is not in the child's best interests, or is not required under law because the child: (1) is danger to herself or himself or others; or (2) may be with a perpetrator of domestic abuse.
Amends Minn. Stat. § 260C.201, subd. 5

2. Limitations

- a. Inquiries Regarding Reasons for Placement
Limits the court's ability to inquire about placement with siblings if a child is placed in foster care for treatment. (Previously, court could not ask about placement with siblings if child was placed "due solely to the child's own behavior.")
Amends Minn. Stat. § 260C.178, subd. 1
- b. Power to Order to Foster Care
Eliminates court's ability to send a child to a group foster care facility where the child: (1) has run away; or (2) is habitually truant.
Amends Minn. Stat. § 260C.201, subd. 1

D. Duties Imposed on Social Services Agencies

1. Authorization for Release

Requires agencies to develop and implement a safety plan (if necessary) prior to authorizing the release of an endangered child.
Amends Minn. Stat. § 260C.176, subd. 1

2. Facilitating Visitation

Imposes a duty on a social service agency to:

- Develop a plan to facilitate visitation or ongoing contact between siblings, unless doing so is contrary to the safety or well-being of any sibling.
Amends Minn. Stat. § 260C.178, subd. 1
- Where a child is removed due to endangerment, develop and implement a parental visitation schedule parents as soon as possible after the court's order for continued placement, unless the court finds that visitation is not in the child's best interests. Specifies that the visitation plan is the same as an out-of-home placement parental visitation plan under Minn. Stat. § 260C.212, subd. 1(c)(5). Prohibits visitation where a parent has had little or no contact with the child prior to the court's order until the agency assesses the parent's ability

to provide daily care. Permits the agency to ask to defer its duty to develop a visitation plan until paternity is adjudicated or there is a positive genetic test.

Amends Minn. Stat. § 260C.178, subd. 3

VII. DEFINITION OF FOSTER CARE

Chapter 163, Article 2, Sections 14 and 17 (SF 1503)

Amends Minn. Stat §§ 260B.007, subd. 7; and 260C.007, subd. 18

Effective August 1, 2009

Creates consistent definitions of “foster care” in Chapters 260B (Delinquency) and 260C (Child Protection). Amends the definition from the child protection chapter into the delinquency chapter, and both definitions are amended to specifically provide that foster care: (1) is intended to provide for a child's safety or to access treatment; and (2) must not be used as a punishment or consequence for a child's behavior.

VIII. DEFINITION OF “PARENT”

Chapter 163, Article 2, Section 18 (SF 1503)

Amends Minn. Stat. § 260C.007, subd. 25

Effective August 1, 2009

Amends the definition of “parent” in Chapter 260C by providing that a parent is a person with a parent-child relationship as that term is defined in Minn. Stat. § 257.52 (paternity). Further excludes the term “parent” from: (1) matters under the Indian Child Welfare Act where an unwed father's paternity has not been acknowledged or established; and (2) putative fathers who do not have a presumption of paternity, unless the putative father is entitled to notice of an adoption petition.

IX. DELINQUENCY

A. Dispositions

Chapter 163, Article 2, Section 16 (SF 1503)

Amends Minn. Stat. § 260B.198, subd. 1

Effective August 1, 2009

Limits transference of legal custody to cases where the court finds the child is a danger to herself or himself, or to others.

B. Juvenile Treatment Screening Teams

Chapter 163, Article 2, Section 15 (SF 1503)

Amends Minn. Stat. § 260B.157, subd. 3

Effective August 1, 2009

Requires a juvenile treatment screening team to consider residential treatment for children with emotional disturbances, consistent with Minn. Stat. § 260.012,

which requires diligence in preventing placement and developing permanency plans.

X. FATHER'S ADOPTION REGISTRY

Chapter 163, Article 2, Sections 3 and 4 (SF 1503)

Amends Minn. Stat. § 259.52, subds. 2 and 6

Effective August 1, 2009

Exempts agencies from the requirement to search the Father's Adoption Registry if an adoption petition is pending under the Safe Place for Newborns Act (Minn. Stat. § 260C.217). Prohibits a putative father who failed to timely register with the Father's Adoption Registry from asserting an interest in a child in a termination of parental rights proceeding under Chapter 260C.

XI. INTERSTATE COMPACT FOR PLACEMENT OF CHILDREN

Chapter 163, Article 1, Sections 1 and 8 (SF 1503)

Amends Minn. Stat. § 260.93

Effective when Compact is enacted in at least 35 states

Makes primarily technical corrections and clarifications, including:

- Clarifying that interstate placement cases are not subject to the Compact where the public agency is a party to the case and the court dismisses jurisdiction;
- Establishing that, in cases subject to the Compact, testimony may be taken by telephone, audio-video conference, or other means approved by the Interstate Commission rules;
- Clarifying that communications between judicial officers is governed by the state's judicial canons and Interstate Commission rules; and
- Adding an exception for continuing jurisdiction by the sending state where: (1) birthparents in the sending state have signed the appropriate consents or relinquishments; and (2) the consent or relinquishment is certified by an attorney or agent of a private adoption agency as compliant with state laws of either the sending state or the state where the adoption will be finalized; and
- Directs DHS to notify the Revisor of Statutes when the Compact is enacted by at least 35 states.

XII. JUVENILE JUSTICE STUDY

Chapter 132, Section 2 (HF 702)

Effective August 1, 2009

Requires the existing criminal and juvenile justice information policy group to meet with other stakeholders, the Department of Corrections, Office of Justice Programs and other interested community groups to study the feasibility of collecting and reporting summary data on decisions that affect a child's status in the juvenile justice system. Requires a report to the chairs and ranking minority members of the committees overseeing juvenile justice policy by February 15, 2010.

XIII. MULTISTATE INFORMATION

Chapter 163, Article 1, Section 4 (SF 1503)
Amends Minn. Stat. § 260C.209, subd. 3
Effective August 1, 2009

Shifts responsibility from the county agency to the Department of Human Services (DHS) – in emergency unlicensed relative placements – for submitting fingerprints to the Bureau of Criminal Apprehension.

XIV. OUT-OF-HOME PLACEMENT

A. Monthly Visits

Chapter 174, Article 1, Section 8 (HF 1276)
Amends Minn. Stat. § 260C.212, subd. 4a
Effective August 1, 2009

Allows any person responsible for visitation with the child in foster care or on a trial home visit to conduct the statutorily required monthly visit. (Current law provides that only a case worker may conduct the visit.) Requires the visit to include whether the child is enrolled and attending school.

B. Placement of Multiple Siblings

Chapter 163, Article 2, Section 32 (SF 1503)
Amends Minn. Stat. § 260C.212, subd. 2
Effective August 1, 2009

Requires agencies to justify why siblings are not placed together by documenting that either: (1) joint placement would be contrary to any sibling's best interests; or (2) joint placement is not possible after reasonable efforts have been made to jointly place the siblings. Requires the agency, where joint placement is impossible, to provide frequent visitation or ongoing contact, unless the agency documents that any interaction harmful to the safety or well-being of any sibling.

C. Placement Plan

Chapter 163, Article 2, Section 31 (SF 1503)
Amends Minn. Stat. § 260C.212, subd. 1
Effective August 1, 2009

Adds new requirements that the placement plan include:

- Efforts to ensure educational stability while the child is in foster care, including: (1) enrollment in the same school, unless it is not in the child's best interests to remain in the same school, in which case the effort must be enrollment in a new school; and (2) working with educational authorities.

- Prescriptive agency efforts to ensure continuity and oversight of health care for the child, including responsibility to ensure access to health care coverage; and
- Health records, including eligibility for insurance or medical assistance.

D. Reasonable Efforts

Chapter 163, Article 2, Sections 13, 19, and 34 (SF 1503)

Amends Minn. Stat. §§ 260.012; and 260C.212, subd. 5

Adds Minn. Stat. § 260C.150

Effective August 1, 2009

1. To Prevent Placement

a. Preventing Placement

Requires the social service agency to work with the family to develop and implement a safety plan as part of “reasonable efforts” to prevent out-of-home placement.

Amends Minn. Stat. § 260.012(d)(1)

2. To Develop Permanency

a. Permanency Plans

Adds that reasonable efforts of agencies to finalize permanency plans must include: (1) providing notice to identified adult relatives of a child; and (2) placing siblings in the same home for foster care, adoption, or transfer of legal custody. Requires visitation between siblings to be based on the best interest of the child as required under current law where siblings are not placed in the same home.

Adds Minn. Stat. § 260.012(d)(4)

b. Relative Search

Requires, as part of reasonable effort to develop permanency plan, the agency to search for relatives a due diligence duty. Requires the agency to: (1) identify and notify adult relatives prior to placement or within 30 days after the child's removal from the parent; and (2) notify relatives: (i) of the need for a foster home, the option to become a placement resource, and the possible need for permanent placement; (ii) of their duty to ensure agency has their current address; (iv) that they may participate in the care and planning for the child and that they may lose that right if they fail to respond to the notice; and (v) of family foster care licensing requirements and procedures.

Amends Minn. Stat. § 260C.212, subd. 5

- c. Placement of Children with Mental Disabilities
Adds that reasonable efforts to prevent out-of-home placements for children with mental disabilities are not required where: (1) the treatment is medically necessary; (2) the level or intensity of supervision and treatment cannot be effectively and safely provided in the child's home or community; and (3) there is a determination that a residential treatment setting is the least restrictive setting for the child.
Amends Minn. Stat. § 260.012

3. To Identify and Locate Parents

- a. Determining Parentage
- 1) **Establishment of Parent-Child Relationship**
Allows a parent-child relationship to be established pursuant to the requirements of Chapter 260C and the Rules of Juvenile Court Procedure.
Adds Minn. Stat. § 260C.150, subd. 1
 - 2) **Genetic Testing**
Provides that a man with a positive genetic test is treated as if he is the child's presumed father, giving him the right to: (1) notice of the child protection proceedings; and (2) be assessed and considered for placement and day-to-day care of the child.
Adds Minn. Stat. § 260C.150, subd. 1
- b. New Due Diligence Requirements
Outlines what constitutes an agency's due diligence to identify and locate parents in a child protection proceeding (in other than cases under the Safe Place for Newborn Act. Specifies that due diligence includes:
- Asking the custodial parent to provide information about the nonresident parent;
 - Checking the county and state child support system;
 - Requesting a search of the Father's Adoption Registry 30 days after the child's birth; and
 - Any other reasonable means to identify and/or locate the nonresident parent.
- Adds Minn. Stat. § 260C.150, subd. 3*
- c. Disclosure of Private Data
Permits an agency to disclose data that is otherwise private in order to carry out these it due diligence identify parents.
Adds Minn. Stat. § 260C.150, subd. 3

d. Duties of the Court

1) **At the Initial and Subsequent Hearings**

Requires the court to inquire of any party, on the record, at both the first and any subsequent hearing whether the parents' identities and whereabouts are correctly reflected in the court petition.

Adds Minn. Stat. § 260C.150, subd. 4

2) **Taking Sworn Testimony**

Requires the court – upon request of the county attorney – to swear in an uncooperative custodial parent to offer testimony relevant to the other parent's identity.

Permits the court to issue a protective order if information is disclosed during testimony that would endanger the parent, child, or other family member.

Adds Minn. Stat. § 260C.150, subd. 5

3) **Review of Agency Efforts**

a) Elements and Timing of Required Report

Requires the agency to include a description of any parent: (1) whose identity is unknown; or (2) who has not been located in its report to the court required under the Rules of Juvenile Protection Procedure. Requires the report to be filed as soon as possible, but not later than the first review hearing.

Adds Minn. Stat. § 260C.150, subd. 6

b) Findings

Permits the court to find that: (1) diligent efforts have been made (if the agency has complied with all the requirements) and further efforts to identify or locate the parent would be futile; or (2) diligent efforts have not been made or both parents have not been served with a copy of the requisite summons or notice. Requires the court to order the agency to take further steps to either identify and locate both parents (including identifying what steps must be made) or order further steps to complete service if the agency has failed in its due diligence.

Adds Minn. Stat. § 260C.150, subd. 6

4) Waiver of Notice to Nonresident Parent

Permits the court, for good cause, to waive notice to the nonresident parent if notice would endanger the parent, child, or another family member upon finding that: (1) the child remains in the care of the custodial parent; and (2) waiver is in the child's best interest.

Adds Minn. Stat. § 260C.150, subd. 5

E. Training

Chapter 174, Section 9 (HF 1276)

Amends Minn. Stat. § 260C.212, subd. 11

Effective August 1, 2009

Eliminates the requirement for foster care providers to be trained on cultural heritage and diversity laws -- including the Indian Child Welfare Act -- when the child's safety is not jeopardized and where permitted under federal law.

XV. PLACEMENT OF CHILDREN WITH DEVELOPMENTAL DISABILITY OR EMOTIONAL DISTURBANCE

Chapter 163, Article 1, Section 3 (SF 1503)

Amends Minn. Stat. § 260C.201, subd. 11

Effective August 1, 2009

Makes technical changes to the child placement statute to conform it to prior recodification and procedures related to placements of children with developmental disabilities or emotional disturbances.

XVI. RELEASE OF CHILD SUPPORT DATA

Chapter 163, Article 2, Section 1 (SF 1503)

Amends Minn. Stat. § 13.46, subd. 2

Effective August 1, 2009

Permits DHS to disclose data concerning the parents and child (relating to permanency planning) to agencies covered under titles IV-E and IV-B of the Social Security Act as necessary to establish parentage or determine who has parental rights.

XVII. TARGETED CASE MANAGEMENT - FUNDING

Chapter 79, Article 13 (HF 1362)

Effective July 1, 2009

Requires DHS to recover from counties and tribes for 2008 temporary funding for targeted case management, with half to be recovered by February 1, 2010, and the other half by February 1, 2011, unless DHS establishes a revised payment schedule. Prohibits any revised schedule from delaying payment beyond May 1, 2011. Requires any payments recovered to be deposited in the general fund.

XVIII. TRANSITION FROM FOSTER CARE

Chapter 163, Article 2, Section 35 (SF 1503)

Amends Minn. Stat. § 260C.212, subd. 7

Effective August 1, 2009

Chapter 106, Sections 1 and 2 (SF 666)

Amends Minn. Stat. § 260C.212, subd. 7

Adds Minn. Stat. § 260C.456

Effective August 1, 2009

A. Extension of Benefits

Requires social service agencies – upon request of a recipient of foster care benefits who is between the ages of 18 and 21 – to develop plans describing vocational, educational, social, and maturation needs of such recipients who: (1) received foster care benefits in the six months prior to turning 18; (2) were discharged while on runaway status after age 15; or (3) had been under state guardianship as dependent or neglected. Requires the plan ensure continuing foster care, housing, or counseling benefits to age 21, to the extent funds are available.

Adds Minn. Stat. § 260C.456

B. Review of Placement

Requires the social services agency to assist a child who is 17 or older, at the direction of the child, to develop a transition plan during 90 days prior to discharge from foster care. Requires the plan to: (1) be as detailed as the child wishes; and (2) include options on housing, health insurance, education, mentoring opportunities, continuing support services, work force supports, and employment services.

Amends Minn. Stat. § 260C.212, subd. 7

XIX. VOLUNTARY FOSTER CARE FOR TREATMENT

Chapter 163, Article 2, Sections 36 and 37 (SF 1503)

Amends Minn. Stat. §§ 260D.02, subd. 5; and 260D.03, subd. 1

Effective August 1, 2009

Requires that voluntary foster care placements for children who are emotionally disturbed or developmentally disabled must be medically necessary. Clarifies that the medical necessity screening can be a basis to authorize the agency to place the child in foster care.

XX. VIOLENCE PREVENTION PROGRAMS FOR AT-RISK YOUTH

Chapter 156 (HF 1328)

Adds Minn. Stat. § 145.958

Effective August 1, 2009 except that agency coordination requirements are effective upon the availability of funding to support coordination activities

A. Violence Prevention Programs

Permits community-based programs focused on violence prevention for at-risk youth to request “technical assistance” from the Department of Health to reduce youth violence and address the needs of at-risk youth. Establishes criteria the programs seeking assistance must meet (e.g., early intervention) and lists features the programs may contain (e.g., mentorships).

Adds Minn. Stat. § 145.958, subds. 1 and 2

B. Agency Coordination

Requires the Department of Health to work with the Departments of Human Services, Public Safety, and Education to identify and provide technical support to five programs (one of which must be in Minneapolis and one of which must be in St. Paul) that meet the established criteria and provide technical support, including applying for federal grants and private foundation funding. Requires the Department of Health to monitor the progress of the five programs selected in order to help other programs replicate successful models. Directs the Department of Health to apply for private, state and federal funds to support the required activities, and makes compliance contingent on the receipt of funding.

Adds Minn. Stat. § 145.958, subd. 3

[Back to Top](#)

LANDLORD-TENANT LAW

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I. FORECLOSURE-RELATED CHANGES

A. Foreclosure Advice Notice to Tenants

Chapter 130, Section 8 (SF 1302)

Amends Minn. Stat. § 580.042, subd. 1

Effective August 1, 2009 for foreclosures in which the notice of pendency under section 580.032 or the lis pendens for a foreclosure under chapter 581 is recorded on or after that date

Extends to judicial foreclosures the requirement to provide the foreclosure advice notice to tenants with the notice of foreclosure that was previously applicable only to foreclosures by advertisement.

B. Notice that Property is in Foreclosure

Chapter 123, Section 3 (SF 1147)

Amends Minn. Stat. § 504B.151, subd. 1

Effective August 1, 2009 and applies to leases entered into on or after that date

Extends to judicial foreclosures the requirement that landlords provide notice to prospective tenants that the property is in foreclosure that was previously applicable only to foreclosures by advertisement.

C. Notice to Vacate

Chapter 130, Section 1 (SF 1302)

Amends Minn. Stat. § 504B.285, subd. 1

Effective August 1, 2009

Clarifies that tenants who enter into leases prior to the notice of foreclosure are entitled to the two month notice to vacate foreclosing parties are required to send before they can evict. (A statute passed last session intended to expand the right to notice to tenants who entered into a lease after the notice of foreclosure may have inadvertently removed that existing right for tenants leasing prior to the notice. This amendment was intended to remove any possible ambiguity and ensure that all tenants, regardless of when in the foreclosure process they entered into a lease, are entitled to the two months' notice.)

D. Withholding Rent

Chapter 123, Section 4 (SF 1147)

Amends Minn. Stat. § 504B.178, subd. 8

Effective August 1, 2009 and applies to cancellations of contracts for deed in which the notice of cancellation is first served or published on or after August 1, 2009, and mortgage foreclosures under chapter 581 in which the lis pendens is recorded on or after that date

Extends to judicial foreclosures the right of tenants in foreclosed properties and cancelled contract for deed transactions to withhold last month's rent that was previously applicable only to foreclosures by advertisement.

II. NUISANCE LAW

Chapter 123, Sections 15 – 18 (SF 1147)

Amends Minn. Stat. §§ 617.80, subd. 7; and 617.81, subds. 2 and 4

Adds Minn. Stat. § 617.80, subd. 7a

Effective August 1, 2009

A. Definitions

1. **“Owner”**

Replaces and expands the existing definition of “owner” to mean “a person having legal title to the premises, a mortgagee or vendee in possession, a trustee in bankruptcy, a receiver, or any other person having legal ownership or control of the premises.”

Amends Minn. Stat. § 617.80, subd. 7

2. “Occupant”

Adds “occupant,” meaning a person who occupies or resides in a building or rental unit with the permission of the owner, tenant or lessee.

Adds Minn. Stat. § 617.80, subd. 7a

B. Acts Constituting Nuisance Expanded

Expands acts constituting a nuisance to include unlawful sales or gifts of alcoholic beverages committed on the premises if a group of persons is illegally drinking when the building is unoccupied.

Amends Minn. Stat. § 617.81, subd. 2

C. Notice of Possible Action

Requires notice to lessees and occupants that: (1) the prosecuting attorney intends to seek abatement of the nuisance; and (2) failure to abate could result in termination of the lease.

Amends Minn. Stat. § 617.81, subd. 4

III. RENTERS’ CREDIT

Reduces expenditures for this program, through unallotment, by 27% or almost \$51 million for 2010 for rent paid in 2009.

[Back to Top](#)

LICENSING/BACKGROUND CHECKS/COLLATERAL SANCTIONS

Prepared by:

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I. ADMISSIBILITY OF CRIMINAL RECORDS IN CIVIL SUITS

Chapter 59, Article 5, Section 6 (HF 1301)

Adds Minn. Stat. § 181.986

Effective August 1, 2009 and applies to actions commenced on or after that date

Prohibits use of criminal history records as evidence in civil actions against employers, agents, or employees for the employee’s conduct if: (1) the employee’s duties posed the same risk as other duties or employment in general; (2) before the act giving rise to the lawsuit, the employee was pardoned or the employee’s criminal records were sealed; or (3) the record is of an arrest or charges that did not result in a conviction. Expressly provides that the new section does not supersede other sections requiring criminal background checks.

Adds Minn. Stat. § 181.986, subd. 1 (Establishment of Inadmissibility)

Adds Minn. Stat. § 181.986, subd. 2 (No supersession of other laws)

II. CHILD PROTECTION -- CHILDREN’S SERVICES WORKER

Chapter 142, Article 3, Sections 6 - 8 (SF 1447)

Amends Minn. Stat. §§ 299C.61, subd. 6; and 299C.62, subds. 3 and 4

Effective August 1, 2009

Adds independent contractors to the definition of “children’s service worker.” Adds that independent contractors are subject to background studies and are afforded all the rights of children’s service workers. Requires the service provider to determine whether the worker qualifies as an independent contractor.

Amends Minn. Stat. § 299C.61, subd. 6 (definition)

Amends Minn. Stat. § 299C.62, subd. 3 (rights)

Amends Minn. Stat. § 299C.62, subd. 4 (determination of status)

III. CONSIDERATION OF CRIMINAL RECORDS IN PUBLIC EMPLOYMENT

Chapter 59, Article 5, Section 11 (HF 1301)

Adds Minn. Stat. § 364.021

Effective August 1, 2009

Prohibits a public employer from inquiring into or considering the criminal record/history of an applicant for public employment until the applicant has been selected for an interview. (This is the so-called “ban the box” bill.) Exempts the Department of Corrections or public employers having, during the hiring process: (1) a statutory duty to conduct a criminal history background check; or (2) a duty to take into account a potential employee’s criminal history. Allows public employers to notify applicants that a criminal history may disqualify the candidate.

IV. COUNTY LICENSING – CHILD CARE

Chapter 142, Article 2, Section 20 (SF 1447)

Amends Minn. Stat. § 245A.16, subd. 1

Effective August 1, 2009

Prohibits a county agency that has been designated or licensed to perform licensing functions on behalf of the Department of Human Services (DHS) from granting a variance exceeding the maximum family child care capacity of 14 children. Excepts certain residential not-for-profit agencies that are exempted under current law.

V. DATA PRACTICES – DHS LICENSING

Chapter 142, Article 1, Sections 3 and 4; and Article 2, Section 31 (SF 1447)

Amends Minn. Stat. §§ 13.46, subds. 3 and 4; and 245C.22, subd. 7

Effective August 1, 2009

A. Data on License Applicants

Adds that data collected on applicants for a license is confidential and cannot be disclosed except as set forth in existing law.

Amends Minn. Stat. § 13.46, subd. 3

B. Data on Licensees

1. **When Data Becomes Public**

a) Issuance of Orders

Provides that information will become public, rather than when the licensing change is made, instead when the order is issued: (1) for a conditional licensing; (2) to suspend a license; (3) to revoke a license; and (4) to forfeit a fine.

Amends Minn. Stat. § 13.46, subd. 4

b) Maltreatment Licensing Determinations or Disqualifications

Provides that information about a child care or foster care license holder or applicant disqualified or held responsible for maltreatment will become public when the licensing sanction or denial is issued.

Amends Minn. Stat. § 13.46, subd. 4

C. Data on Reporters of Alleged Violations and Maltreatment

Classifies reporters of alleged licensing violations and alleged maltreatment as confidential.

Amends Minn. Stat. §§ 245C.22, subd. 7; and 245C.22, subd. 7

VI. DEPARTMENT OF HUMAN SERVICES BACKGROUND STUDIES AND DISQUALIFICATIONS

Chapter 142, Article 2, Sections 25 - 30; 31 - 37; and 49 (SF 1447)

Amends Minn. Stat. §§ 245C.08, subs. 1, 2, and 4; 245C.13, subd. 2; 245C.15, subs. 1 - 4; 245C.24, subs. 2 and 3; 245C.25; 245C.27, subd. 1; and 256.045, subs. 3 and 3b

Repeals Minn. Stat. § 245C.10, subd. 1

Various Effective Dates

A. Background Studies

1. **DHS Study**

Expands DHS' background study review to include juvenile court records in all licensing cases under Minn. Stat. § 245C.03, subdivision 1, without limitation. Limits review to circumstances where "reasonable cause" exists. Requires the court to assist in the investigation by releasing records related to delinquency proceedings upon request by DHS.

Amends Minn. Stat. § 245C.08, subs. 1 and 4

Effective August 1, 2009

2. **County Agency Study**

Limits review of juvenile court records to circumstances where: (1) the subject is between 13 and 23 years old and living in the household where services will be provided; and (2) where there is reasonable cause, for anyone for whom DHS is required to conduct a background study. Removes previous limitation on juvenile records review to within the five years preceding the background study.

Amends Minn. Stat. § 245C.08, subs. 2 and 4

Effective August 1, 2009

3. Processing of Study

Requires, where more time is needed to complete a background study, that the interim notice indicate whether the subject must be under continuous, direct supervision while the results are pending.

Amends Minn. Stat. § 245C.13, subd. 2

Effective August 1, 2009

4. Payment of Fees for Study

Repeals the statute exempting the subject from paying the fees.

Repeals Minn. Stat. § 245C.10, subd. 1

Effective August 1, 2009

B. Disqualifications

1. Based on *Alford* Pleas

a) Permanent and 15-Year Disqualifications

Provides that a disqualification period begins from the date the *Alford* plea was entered in court.

Amends Minn. Stat. § 245C.15, subd. 1 (permanent disqualification)

Amends Minn. Stat. § 245C.15, subd. 2 (15-year disqualification)

Effective May 22, 2009

b) 10-Year and 7-Year Disqualifications

Provides that a disqualification period begins from the date the *Alford* plea was entered in court.

Amends Minn. Stat. § 245C.15, subd. 3 (10-year disqualification)

Amends Minn. Stat. § 245C.15, subd. 4 (7-year Disqualification)

Effective August 1, 2009

c) Fair Hearings

Adds *Alford* pleas to cases where the reconsideration decision is the final agency determination.

Amends Minn. Stat. § 245C.27, subd. 1

Effective August 1, 2009

2. Based on Voluntary Termination of Parental Rights

Eliminates voluntary termination of parental rights as a basis for permanent disqualification, codifying a decision by the Minnesota Court of Appeals striking the provision as unconstitutional. Adds voluntary termination of parental rights as a 15-year disqualification.

Amends Minn. Stat. § 245C.15, subd. 1 (permanent disqualification)

Amends Minn. Stat. § 245C.15, subd. 2 (15-year disqualification)

Effective May 22, 2009

- 3. Consolidated Maltreatment and Disqualification Reconsiderations**
Clarifies that DHS must conduct the reconsideration of a disqualification in consolidated reconsiderations of disqualifications where DHS disqualified a person for a foster care license based upon a previous county maltreatment determination.
Amends Minn. Stat. § 245C.25
Effective August 1, 2009
- 4. Disqualifying Crimes**

 - a) 15-Year Disqualification
Adds aiding an offender to the list of crimes resulting in a 15-year disqualification
Amends Minn. Stat. § 245C.15, subd. 2
Effective May 22, 2009
 - b) 10-Year Bar to Set Aside Disqualification
Adds criminal vehicular operation causing death to the list of crimes resulting in 10-year bar to set aside a disqualification.
Amends Minn. Stat. § 245C.24, subd. 3
Effective May 22, 2009
- 5. Referee Affirmation of DHS Disqualification**
Requires the risk of harm assessment currently required of a DHS referee affirming a DHS qualification to be based on the criteria for a risk of harm set aside, found at Minn. Stat. § 245C.22 (rather than the criteria for immediate risk of harm, found at Minn. Stat. § 245C.16).
Amends Minn. Stat. § 256.045, subd. 3b
Effective August 1, 2009
- 6. State Agency Hearings**
Clarifies that state agency hearings for disqualifications do not include cases where a set aside was granted after reconsideration.
Amends Minn. Stat. § 256.045, subd. 3
Effective August 1, 2009
- 7. Variance for Persons Adopted by a Foster Care Provider**
Permits DHS discretion to grant a variance to a permanent disqualification bar for a person adopted by the foster care provider where: (1) the adopted person received services in the home in the previous six months; and (2) the variance is recommended by the county responsible for any other people residing in the home and the licensing agency.
Amends Minn. Stat. § 245C.24, subd. 2
Effective May 22, 2009

VII. LICENSING EXEMPTION

Chapter 142, Article 2, Sections 12 and 13 (SF 1447)

Amends Minn. Stat. § 245A.03, subd. 2

Adds Minn. Stat. § 245A.03, subd. 8

Effective August 1, 2009

A. New Exemptions for Child Care Licensure

Adds exemptions from DHS licensing requirements under Chapter 245A for the following programs:

- Those offered by the YMCA, YWCA, and the Jewish Community Center of Greater Minneapolis or the Jewish Community Center of Greater St. Paul (JCC);
- Private chemical dependency services, if the services are not paid out of the consolidated chemical dependency treatment fund; and
- Those in nonpublic schools serving only children who are at least 33 months old for no more than four hours per day per child, if the agency is accredited by an accrediting entity that: (1) is formally recognized by the Department of Education as a nonpublic school accrediting organization; or (2) requires background studies and receives and investigates complaints about the services provided. Requires the program to provide documentation verifying accreditation upon request from DHS.

Amends Minn. Stat. § 245A.03, subd. 2

B. Permission to Seek Licensure

Permits any exempt group to apply for licensure, and requires DHS to process the application in the same manner as any non-exempt application.

Adds Minn. Stat. § 245A.03, subd. 8

VIII. LICENSING PROCEDURES AND REQUIREMENTS

Chapter 142, Article 2, Sections 14 - 18, and 23 (SF 1447)

Amends Minn. Stat. §§ 245A.04, subds. 5 and 7; 245A.05; 245A.07, subds. 1 and 3; and 245C.04, subd. 1

Effective August 1, 2009

A. Applicants – Appeal of Denial of License

Clarifies the process for serving an appeal of a licensure denial, requiring that: (1) if mailed, the appeal must be postmarked and sent to DHS within 20 calendar days after the applicant received the denial notice; and (2) if personally served, the appeal must be received by DHS within 20 calendar days after the applicant received the notice of denial.

Amends Minn. Stat. § 245A.05

B. DHS Powers

1. Expansions

- a. Access to Locations and Information
Grants DHS access to: (1) physical plant and grounds when additionally investigating maltreatment allegations; and (2) electronic records when investigating licensing cases and maltreatment allegations.
Amends Minn. Stat. § 245A.04, subd. 5
- b. Authority Denial of License
Extends DHS' authority to deny a license to a controlling individual. Expands the criteria for denial to include persons: (1) who received a disqualification that has not been set aside and where no variance has been granted; (2) over 13 years old living in a household that received a disqualification that has not been set aside and where no variance has been granted; and (3) associated with persons who may have unsupervised access to children or vulnerable adults, who received a disqualification that has not been set aside, and where no variance has been granted.
Amends Minn. Stat. § 245A.05
- c. Reissuance of License
Expands DHS' ability to reissue a license to a holder, applicant, or controlling individual who was disqualified but who obtained a variance.
Amends Minn. Stat. § 245A.04, subd. 7

2. Restrictions

- a. On Issuing a License Following a Revocation
Prohibits DHS from issuing a license for five years following a revocation. Requires revocation of other licenses where a license of a holder, applicant, or controlling individual has been revoked.
Amends Minn. Stat. § 245A.04, subd. 7
- b. On Reissuing License Where an Outstanding Debt Exists
Prohibits DHS from reissuing a license if there is outstanding debt related to a licensing fee, licensing fine, or settlement agreement concerning a delinquent payment.
Amends Minn. Stat. § 245A.04, subd. 7
- c. On Proposing Suspension, Fine, or Injunction
Eliminates DHS' authority to "propose" a suspension, fine, or injunction against a program that fails to comply with the law or rules.
Amends Minn. Stat. § 245A.07, subd. 1

C. License Holders

1. Appeal of Suspension or Revocation

Allows a license holder appealing a suspension or revocation to continue to operate until DHS issues a final order in the matter.

Amends Minn. Stat. § 245A.07, subd. 3

2. Fines

Clarifies that license holders must be fined \$200 for each violation of the background study requirements under Chapter 245C.

Amends Minn. Stat. § 245A.07, subd. 3

3. Notification to DHS

Requires a license holder to notify DHS through the online background study system or by letter when: (1) the holder returns from an absence of 45 consecutive days or longer; or (2) a program that has discontinued direct contact services for at least 45 consecutive days begins providing services again. Requires retention of a copy of the notification in the holder's program's files.

Amends Minn. Stat. § 245C.04, subd. 1

4. Transfers of Licenses

Prohibits a license from being transferred to another controlling individual in the licensed program.

Amends Minn. Stat. § 245A.04, subd. 7

IX. MALTREATMENT DETERMINATIONS

Chapter 142, Article 2, Sections 43 - 48 (SF 1447)

Amends Minn. Stat. §§ 626.556, subds. 2, 10e, and 10f; 626.557, subds. 9c and 12b; 626.5572, subd. 13

Effective August 1, 2009

A. Definition of Neglect

Modifies the definition of "neglect" to cover either the commission or omission of existing statutorily prescribed acts which occurs "other than by accidental means."

Amends Minn. Stat. § 626.556, subd. 2

B. Maltreatment of Minors

1. Applicability of Provisions

Clarifies that the provisions for both individual disqualification and facility licensure apply where maltreatment of a minor has been determined to have been committed by the person who is also the facility license holder, notwithstanding other existing provisions of law that require consideration of statutory mitigating factors.

Amends Minn. Stat. § 626.556, subd. 10e

2. **Notification of Private Agencies**
Requires a county responsible for investigating or assessing alleged maltreatment to notify the private agency of the determination in cases where a child foster care facility is licensed by a private agency. Requires the notification to include: (1) a summary of the specific reasons for the determination; and (2) identifying private data. Prohibits disclosure of the identity of the maltreatment reporter.
Amends Minn. Stat. § 626.556, subd. 10f

C. Maltreatment of Vulnerable Adults

1. **Applicability of Provisions**
Clarifies that the provisions for both individual disqualification and facility licensure apply where substantiated maltreatment of a vulnerable adult has been determined to have been committed by the person who is also the facility license holder.
Amends Minn. Stat. § 626.557, subd. 9c
2. **Identity of Reporter**
Requires the name of the maltreatment reporter to be kept confidential after an assessment of allegations of maltreatment of a vulnerable adult.
Amends Minn. Stat. § 626.557, subd. 12b
3. **Lead Agency**
Designates the Department of Health as an additional lead agency for residential facilities federally certified as intermediate care facilities for persons with developmental disabilities in cases involving alleging maltreatment of a vulnerable adult. Removes DHS as the lead agency for personal care provider organizations.
Amends Minn. Stat. § 626.5572, subd. 13

X. **MULTIPLE LICENSES**

Chapter 142, Article 2, Section 24 (SF 1447)
Amends Minn. Stat. § 245C.07
Effective May 22, 2009

Requires separate background studies for each program for license holders, applicants, or entities owning multiple programs licensed by DHS, the Department of Health or Department of Corrections for foster care or adoption. Requires a license holder for multiple programs who closes one or more programs to immediately notify DHS which staff will be transferred to another location so that the background studies on those individuals can be paired with the active program.

XI. NOTICE TO STUDENTS AT POST-SECONDARY INSTITUTIONS

Chapter 95, Article 2, Section 2 (SF 2083)

Adds Minn. Stat. § 135A.157

Effective August 1, 2009

Requires post-secondary institutions to notify accepted students -- at or before acceptance of admission, and at or before the time the student selects a major -- that criminal arrests, charges, or convictions may impact the student's employment possibilities in specific careers, and may limit the student's ability to receive financial aid. Expressly provides that there is no liability for failure to provide the notice.

XII. POLICIES ON HIRING PRACTICES

Chapter 59, Article 5, Section 11 (HF 1301)

Effective August 1, 2009

Permits the Department of Administration, the Minnesota State Colleges and Universities, the University of Minnesota, and statutory and home rule charter cities to adopt policies that address the goal of improving employment for local residents or former criminal offenders.

XIII. SCHOOL BACKGROUND CHECKS

Chapter 115 (HF 523)

Amends Minn. Stat. § 123B.03, subd. 1a

Effective May 20, 2009

Modifies the scope of mandatory school board or other hiring authority background checks. Expands the scope to include all past disciplinary actions, not just sexual misconduct or attempted sexual misconduct occurred between the teacher and a student. Limits the scope to exclude actions based on court-ordered child support or maintenance payment arrearages.

XIV. USE OF CRIMINAL HISTORY DATA

Chapter 59, Article 6, Sections 1 - 5, 21, 22, and 24 (HF 1301)

Amends Minn. Stat. §§ 13.87, subd.1; 84.027, subd. 17; 122A.18, subd. 8; 123B.03, subd. 1; 246.13, subd. 2; 518.165, subd. 5; 524.5-118, subd. 2; and 628.69, subd. 6

Effective August 1, 2009

A. Definitional Change

Narrows the definition of "criminal history data" to only data maintained in criminal history records compiled by the Bureau of Criminal Apprehension and eliminates all other information disseminated through the criminal justice information system, including, but not limited to fingerprints, photographs, identification data, arrest data, prosecution data, criminal court data, custody data, and supervision data.

Amends Minn. Stat. § 13.87, subd.1

B. Conforming Changes

Amends several sections of law permitting or requiring background checks to reflect the modified definition of criminal history data, including sections of law relating to: (1) volunteer instructor applicants for safety training and education programs conducted by the Department of Public Safety; (2) licenses issued by the Board of Teaching and the Department of Education; (3) anyone offered employment in a school and any paid or volunteers (except student volunteers) given the opportunity to provide athletic coaching services or other extracurricular academic coaching services to a school; (4) access by DHS to data on persons receiving state-operated services; (5) background studies of guardians ad litem; (6) a court-ordered background study of guardians and conservators in probate matters; and (7) county attorneys filing the required pretrial diversion program report with the Bureau of Criminal Apprehension.

Amends Minn. Stat. § 84.027, subd. 17 (volunteer instructor applicants)

Amends Minn. Stat. § 122A.18, subd. 8 (teaching licenses)

Amends Minn. Stat. § 123B.03, subd. 1 (school employees and coaches)

Amends Minn. Stat. § 246.13, subd. 2 (access to data by DHS)

Amends Minn. Stat. § 518.165, subd. 5 (study on guardians ad litem)

Amends Minn. Stat. § 524.5-118, subd. 2 (study on guardians and conservators)

Amends Minn. Stat. § 628.69, subd. 6 (county attorney reports)

[Back to Top](#)

MENTAL HEALTH

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I. ADULT FOSTER CARE BED LICENSES

Chapter 79, Article 1, Section 3 (HF 1362)

Amends Minn. Stat. § 245A.11, subd. 2a

Effective July 1, 2009

Permits the number of adult foster care beds to be increased from four to five if: (1) there is a rate reduction; (2) the increase does not impact overall number of Adult Foster Care beds; and (3) some additional conditions are met.

II. ANOKA-METRO REGIONAL TREATMENT CENTER RESTRUCTURING

Chapter 79, Article 3, Section 18 (HF1362)

Effective August 1, 2009

Requires the Department of Human Services (DHS) to restructure services provided to patients at the Anoka-Metro Regional Treatment Center, based on a plan developed by “community partners.” Requires stakeholder input and planning for the transition to

be completed by October 1, 2009. Directs DHS to submit an initial report to the Legislature by November 30, 2009. Requires state employees to be used in – and prohibits layoffs as a result of – the restructuring.

III. ALTERNATE OVERNIGHT SUPERVISION TECHNOLOGY

Chapter 79, Article 1, Section 4 (HF 1362)

Adds Minn. Stat. § 245A.11, subd. 7a

Effective August 1, 2009

Allows an adult foster care license to include supervision technology in lieu of overnight staff under specified conditions, including signed informed consent of residents and inclusion of technology in service plans, emergency provisions including response times, documentation of incidents, and assured privacy and data protections.

IV. EXPULSION OF A CHILD WITH A DISABILITY

Chapter 96, Article 3, Section 3 (HF 2)

Amends Minn. Stat. § 121A.43

Effective August 1, 2009

Permits suspension of a child with a disability, consistent with federal and state law. Requires a meeting of a child's individualized education program team when the child has been suspended for more than five consecutive school days or 10 cumulative school days in the same school year. Provides that suspension does not involve a recommendation for expulsion or exclusion or other change of placement. Requires a child with a disability whose suspension exceeds five consecutive school days to be provided with alternative educational services. Requires a determination prior to expulsion or exclusion whether the behavior: (1) was caused by, or had a direct and substantial relationship to, the child's disability; and (2) whether the child's conduct was a direct result of a failure to implement the individualized education program.

V. MAINTENANCE OF EFFORT (MOE)

Chapter 167, Section 2 (HF 1504)

Amends Minn. Stat. § 245.4835, subd. 1

Effective August 1, 2009

Permits counties to adjust MOE in proportion to reductions in: (1) population; and (2) until December 31, 2011, revenues received from state and federal sources.

VI. PEER SPECIALISTS

Chapter 167, Section 12 (HF 1054)

Amends Minn. Stat. § 256B.0624, subd. 8

Effective August 1, 2009

Adds crisis stabilization to the services peer specialists can perform, in addition to Adult Rehabilitative Mental Health Services, Assertive Community Treatment and Intensive Residential Treatment Services.

VII. RESTRICTIVE PROCEDURES IN SCHOOLS

Chapter 96, Article 3, Sections 9 - 11 (HF 2)

Adds Minn. Stat. §§ 125A.094; 125A.0941; and 125A.0942

Effective August 1, 2011

A. Definitions

1. **Emergency**

Defines emergency as a situation where immediate intervention is necessary to: (1) protect a child or other individual from physical injury; or (2) prevent serious property damage.

Adds Minn. Stat. § 125A.0941(b)

2. **Restrictive Procedures**

Defines restrictive procedures as seclusion and physical holding in emergencies only.

Adds Minn. Stat. § 125A.0941(e)

3. **Seclusion**

Defines seclusion as confining a child alone in a room from which egress is barred.

Adds Minn. Stat. § 125A.0941(f)

4. **Physical Holding**

Defines physical holding as physical intervention intended to hold a child immobile or to limit a child's movement and where body contact is the only source of physical restraint.

Adds Minn. Stat. § 125A.0941(c)

B. Standards for Restrictive Procedures

Requires, among other things, that: (1) restrictive procedures be the least intrusive intervention to respond to the emergency; (2) the child be directly observed during the course of the procedures; and (3) the school document each use of the procedures. Provides that restrictions end when the threat of harm ends. Requires same day notification to parents. Limits implementation of the procedures to licensed, trained staff. Prohibits, among other things: (1) withholding food; (2) preventing bathroom access; and (3) physical holding that restricts the child's ability to breathe.

Adds Minn. Stat. § 125A.0942

VIII. STATE-COUNTY RESULTS, ACCOUNTABILITY, AND SERVICE DELIVERY REFORM ACT

Chapter 79, Article 9 (HF 1362)

Adds Chapter 402A, specifically, Minn. Stat. §§ 402A.01 – 402A.50

Effective August 1, 2009

Creates a Steering Committee on Performance and Outcome Reforms. Directs the Steering Committee to: (1) develop a uniform process to establish and review performance and outcome standards for all essential human services based on the current level of resources available; (2) develop reporting and accountability measures; and (3) recommend statutes and rules for elimination. Establishes benchmark dates by which certain tasks must be performed. Requires membership on the Steering Committee to include, among others: (1) the commissioner and two staff members from DHS; (2) two county commissioners; (3) two county human service directors; and (4) consumers and advocates. Permits county consortiums to combine to become designated “service delivery authorities.” Authorizes the DHS to impose specified remedial requirements on underperforming counties. Appropriates \$350,000 for implementation. (*Note: see Unallotment Impacts below.*)

IX. UNALLOTMENT IMPACTS

The following were unallotted by the Governor:

- A. Adult Mental Health Grants
Reduces adult mental health grants by \$8,770,000.
- B. Children and Community Services Act (CCSA) Block Grant
Reduces CCSA block grant by 25%.
- C. State-County Results, Accountability, and Service Delivery Reform Act
Eliminates the \$350,000 appropriated for implementation of this Act.
- D. State-Operated Services
Requires, as a result of unallotment, additional changes leading to a \$5 million reduction in expenses and an improvement in collection. Requires the development and implementation of a plan to best meet the established needs of state-operated services clients.

X. WARDS AND PROTECTED PERSONS

Chapter 150 (HF 804)

Amends Minn. Stat. §§ 260C.331, subd. 1; 524.5-102, subd. 7; 524.5-309; 524.5-310; 524.5-315; 524.5-316; 524.5-317; 524.5-406; 524.5-409; 524.5-414; and 524.5-420

Adds Minn. Stat. §§ 524.5-102, subd. 13a; 524.5-119; and 524.5-120

Effective August 1, 2009

- A. Bill of Rights for Wards and Protected Persons
Cumulates individual rights into a “bill of rights” which emphasizes that wards retain civil and personal rights not specifically transferred to guardians and that

the court is responsible for enforcing those rights. Clarifies that wards, protected persons, and interested parties may seek not just termination or modification, but other appropriate relief.

Adds Minn. Stat. § 524.5-120

B. Court Review

Requires court review where the ward's attorney is also representing the interests of the guardian or conservator in a concurrent proceeding and there is a potential conflict.

Amends Minn. Stat. § 524.5-304

C. Informational Statement

Requires guardians to file an annual informational statement with the district court updating the five-year criminal background check

Amends Minn. Stat. § 524.5-304

D. Interested Person Status

Enables representatives of a state ombudsman's office or the federal protection and advocacy system to be interested parties.

Amends Minn. Stat. § 524.5-102, subd. 7

E. Registration

Requires centralized registration of all guardians and conservators by July 1, 2013.

Adds Minn. Stat. § 524.5-119

F. Reporting

Requires timely filing of annual reports with copies and notices provided to wards and to involved parties who are of record with the court.

Amends Minn. Stat. § 524.5-316

[Back to Top](#)

PUBLIC BENEFITS LAW

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I. EARLY LEARNING STUDY

Chapter 96, Article 6, Section 10 (HF 2)

Effective August 1, 2009

Requires the Department of Human Services (DHS) and the Department of Education to study how to: (1) transition basic sliding fee child care, Minnesota Family Investment Program (MFIP) child care, and child care development grants to the Department of

Education; and (2) develop an early learning system with one set of standards. Requires a report to the Legislature by February 15, 2010.

II. FUNDING FOR COUNTY PROVISION OF HUMAN SERVICES

Chapter 88, Article 2, Section 48 (HF 1298)

Effective May 17, 2009

Directs DHS to develop a proposal to transition from current maintenance of effort and matching fund requirements to a new consolidated local county property tax contribution across all mandated health and human services. Directs DHS to consult with: (1) county representatives; (2) organizations representing recipients; and (3) the Department of Revenue. Among the criteria the group is directed to consider are: (1) predictability; (2) ease of administration; (3) maintenance of current levels of service; and (4) ensuring equal access by citizens. Requires a report to the Governor and legislative committees with jurisdiction over health and human services by February 1, 2010.

III. MAINTENANCE OF EFFORT - MORATORIUM ON NEW REQUIREMENTS

Chapter 88, Article 2, Section 21 (HF 1298)

Adds Minn. Stat. § 257.77

Effective May 17, 2009

Places moratorium on any new or increased maintenance of effort (MOE) or matching fund requirements for counties, cities or towns until July 1, 2011. Applies to any new requirements or changes to existing requirements passed after January 1, 2009. Does not apply to a changed MOE or matching fund requirement if it has a federal spending requirement that would cost the state money if not implemented.

IV. MFIP

A. Consolidated Fund

1. Emergency Assistance

Chapter 79, Article 13, Section 3, Subd. 1 (HF 1362)

Effective July 1, 2009

Appropriates \$25 million of stimulus funds under the American Recovery and Reinvestment Act of 2009 to the MFIP consolidated fund for county emergency assistance payments. Requires counties to supplement existing emergency assistance funding levels.

2. Funding Cut

Chapter 173, Article 2, Section 1

Effective July 1, 2009

Reduces the Temporary Assistance for Needy Families appropriation

to the MFIP consolidated fund by \$1,854,000 in fiscal years 2010 and 2011.

B. Diversionsary Work Program (DWP)

1. **Eligibility**

Chapter 79, Article 2, Section 31 (HF 1362)
Amends Minn. Stat. § 256J.95, subd. 12
Effective March 1, 2010

Clarifies that a participant is not required to participate in DWP if the participant: (1) is eligible for family stabilization services (FSS); and (2) possesses the necessary documentation to support eligibility. Provides that only one parent in a two-parent family needs to be determined to be unlikely to benefit from the diversionsary work program to be converted to MFIP.

2. **Written Referral**

Chapter 79, Article 2, Section 32 (HF 1362)
Amends Minn. Stat. § 256J.95, subd. 13
Effective August 2, 2009

Eliminates the requirement that the county provide the date, time, and location of the scheduled employment services interview in a client's written referral to DWP employment services.

C. DWP & MFIP Exemption for Caregiver with Young Children

Chapter 79, Article 2, Sections 21, 24, 29, and 30 (HF 1362)
Amends Minn. Stat. §§ 256J.561, subd. 3; 256J.575, subd. 4; and 256J.95, subds. 3 and 11
Effective March 1, 2010

Raises the age limit from 12 weeks to 12 months of a child of a caregiver-participant that will qualify the caregiver-participant for an exemption from participating in MFIP employment services and DWP.

D. Family Stabilization Services

1. **Current Assessment**

Chapter 79, Article 2, Section 26 (HF 1362)
Amends Minn. Stat. § 256J.575, subd. 7
Effective August 1, 2009

Clarifies that, prior to a sanction, there must be a current assessment by a behavioral health or medical professional, confirming the participant in all ways had the ability to comply with the Family Stabilization Plan.

2. Documentation

Chapter 79, Article 2, Section 23 (HF 1362)
Amends Minn. Stat. § 256J.575, subd. 3; Chapter 173, Article 1, Section 34
Effective July 1, 2009

Requires the provider to assist the participant in obtaining the necessary documentation to determine eligibility.

3. Eligibility

a. Older Minnesotans

Chapter 79, Article 2, Section 23 (HF 1362)
Amends Minn. Stat. § 256J.575, subd. 3
Effective July 1, 2009

Makes MFIP participants who are 60 or older automatically eligible for FSS.

b. Written Stabilization Plan Not Required

Chapter 79, Article 2, Section 25 (HF 1362)
Amends Minn. Stat. § 256J.575, subd. 6
Effective August 2, 2009

Clarifies that an MFIP participant who is eligible for FSS maintains eligibility without a written Family Stabilization Plan.

4. Food Stamp Employment and Training Expenses

Chapter 79, Article 13, Section 3 (HF 1362)
Effective July 1, 2009

Requires DHS to apply for the maximum allowable federal matching funds for state expenditures made on behalf of FSS program participants voluntarily engaged in food stamp employment and training activities.

5. Good Cause

Chapter 79, Article 2, Section 22 (HF 1362)
Amends Minn. Stat. § 256J.57, subd. 1
Effective July 1, 2009

Prohibits a county agency or employment services provider from imposing a sanction on an MFIP participant where the documentation needed to determine if a participant is eligible for FSS is not available, but the provider: (1) has information the participant may qualify; and (2) the participant is cooperating with the county's efforts to obtain the necessary documentation.

- 6. Notice**
Chapter 79, Article 2, Section 26 (HF 1362)
Amends Minn. Stat. § 256J.575, subd. 7
Effective August 1, 2009

Requires the county agency or employment services provider to inform an FSS participant of the right to bring an advocate to a face-to-face meeting prior to being sanctioned.

- 7. Sanctions**
Chapter 79, Article 2, Section 26 (HF 1362)
Amends Minn. Stat. § 256J.575, subd. 7
Effective August 1, 2009

Requires the county agency or employment services provider to follow the sanction protections in the FSS statute at the time the worker has information that an MFIP participant may be eligible for FSS.

- E. Hardship Extensions
Chapter 79, Article 2, Sections 14 and 15 (HF 1362)
Amends Minn. Stat. § 256J.425, subds. 2 and 3
Adds Minn. Stat. § 256J.425, subd. 3(b)
Effective August 1, 2009

- 1. Criteria Clarification for Qualification**
Allows an MFIP participant to qualify for a hardship extension if the participant's condition "severely limits the person's ability to obtain or maintain suitable employment." (Current language requires the condition to "prevent the person from obtaining or retaining employment.")
Amends Minn. Stat. § 256J.425, subds. 2 and 3
- 2. Definition of "Severely Limits"**
Defines "severely limits" to mean "that a qualified professional has determined that the person's condition prevents the person from working 20 or more hours per week."
Adds Minn. Stat. § 256J.425, subd. 3(b)

- F. Integrated Services
Chapter 79, Article 13, Section 3 (HF 1362)
Effective July 1, 2010

Eliminates the funding for integrated services projects for hard-to-serve MFIP participants in 2010 and 2011.

- G. Public Health Home Visitors
Chapter 79, Article 2, Sections 8 and 17 (HF 1362)
Amends Minn. Stat. § 256J.49, subd. 4
Adds Minn. Stat. § 145A.17, subd. 4(a)
Effective August 1, 2009

Allows county agencies and public health departments to work together in using home visitors as MFIP employment and training service providers for MFIP participants who are: (1) ill; (2) incapacitated; or (3) minor caregivers. Allows the home visitors to provide outreach to MFIP families who are sanctioned or who have reached the 60-month time limit.

- H. Setoff Hearing
Chapter 79, Article 2, Sections 9 and 34 (HF 1362)
Amends Minn. Stat. § 256.045, subd. 3
Adds Minn. Stat. § 270A.09, subd. 1b
Effective August 2, 2009

1. Provision for Hearing

Allows a state agency hearing to be held for any person with an outstanding debt resulting from receipt of public assistance, medical care, or the federal Food Stamp Act who is contesting a setoff claim by DHS or a county agency. Limits the scope of the appeal to the validity of the claimant agency's intention to request a setoff of a refund under chapter 270A against the debt.

Amends Minn. Stat. § 256.045, subd. 3

2. Procedures for Hearing

Provides that hearings must be conducted in the same manner as an appeal under Minn. Stat. §§ 256.045 (Administrative and Judicial Review of Human Service Matters) and 256.0451 (Hearing Procedures).

Adds Minn. Stat. § 270A.09, subd. 1b

- I. Supported Work
Chapter 173, Article 2, Section 1
Effective July 1, 2009

Appropriates \$4.7 million in fiscal year 2010 and 2011 to DHS for supported work for MFIP participants. Specifies that supported work includes paid transitional work experience and a continuum of employment assistance, including, in addition to extensive case management and referral services: (1) outreach and recruitment; (2) program orientation and intake; (3) testing and assessment; (4) job development and marketing; (5) preworksite training; (6) supported worksite experience; (7) job coaching; and (8) postplacement follow-up.

- J. Transitional Standard
Chapter 79, Article 2, Section 13 (HF 1362)
Amends Minn. Stat. § 256J.24, subd. 5
Effective retroactively from April 1, 2009

Adjusts the MFIP transitional standard and food portion to reflect the federal food stamp increase and changes to the 2009 federal poverty guideline.

- K. Work Participation Bonus
Chapter 79, Article 2, Section 27 (HF 1362)
Amends Minn. Stat. § 256J.621
Effective July 1, 2009

Reduces the monthly MFIP work participation cash bonus that is to go into effect on October 1, 2009 from \$75 to \$50.

- L. Work-Study
Chapter 95, Article 1, Section 3, Subd. 22 (SF 2083)
Effective July 1, 2009

Provides that work-study jobs funded by a TANF appropriation do not require employer matching funds.

[Back to Top](#)

TAX LAW

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- I. DEPENDENT CARE CREDIT**
Chapter 88, Article 1, Section 9 (HF 1298)
Amends Minn. Stat. § 290.067, subd. 2a
Effective for taxable years beginning after December 31, 2008

Adds unemployment insurance to the calculation of income for the purposes of determining the state's dependent care credit.

- II. FUNDING FOR COUNTY PROVISION OF HUMAN SERVICES**
Chapter 88, Article 2, Section 48 (HF 1298)
Effective May 17, 2009

Directs DHS to develop a proposal to transition from current maintenance of effort and matching fund requirements to a new consolidated local county property tax

contribution across all mandated health and human services. Directs DHS to consult with: (1) county representatives; (2) organizations representing recipients; and (3) the Department of Revenue. Among the criteria the group is directed to consider are: (1) predictability; (2) ease of administration; (3) maintenance of current levels of service; and (4) ensuring equal access by citizens. Requires a report to the Governor and legislative committees with jurisdiction over health and human services by February 1, 2010.

III. HOMESTEAD AND RENTERS CREDIT CALCULATION

Chapter 88, Article 1, Section 11 (HF 1298)

Amends Minn. Stat. § 290A.03, subd. 3

Effective for property tax refunds based on property taxes payable after December 31, 2009, and rent paid after December 31, 2008, and thereafter

Adds unemployment insurance to the calculation of income for the purposes of determining the state's homestead and renters' credit.

IV. RENTERS' CREDIT APPROPRIATION

Reduces expenditures for this program, through unallotment, by 27% or almost \$51 million for 2010 for rent paid in 2009.

V. SENIOR CITIZENS' PROPERTY TAX DEFERRAL PROGRAM

Chapter 88, Article 2, Section 26 (HF 1298)

Amends Minn. Stat. § 290B.03, subd. 1

Effective July 1, 2009, and thereafter

Relaxes the qualifications for the deferral program. Requires only one spouse, not both spouses, to be at least 65 years old at the time the first property tax deferral is granted, but adds that the other spouse must be at least 62 years old.

VI. TAX PREPARER REGULATION

Chapter 88, Article 11, Sections 3 and 4; and Article 12 (HF 1298)

Amends Minn. Stat. §§ 270C.445; and 270C.446, subds. 2 and 5

Adds Minn. Stat. § 270C.445, subds. 2(g), 2(h), 2(i), 3a, 4a, 4b, and 5b

Various effective dates

A. Applicability

Expands the applicability of the Refund Anticipation Loan (RAL) protections to those who "facilitate" transactions. Defines "facilitate" broadly to mean: a person, individually or in conjunction or cooperation with another, who (1) accepts an application for a refund anticipation loan; (2) pays the proceeds, through direct deposit, a negotiable instrument, or any other means, of a refund anticipation loan to a client; or (3) offers, arranges, processes,

provides, or in any other manner acts to allow the making of, a refund anticipation loan.

Adds Minn. Stat. § 270C.445, subd. 2(h)

Effective August 1, 2009

B. Exemption

Exempts nonprofit organizations providing tax preparation services under the Internal Revenue Service Volunteer Income Tax Assistance (VITA) Program or Tax Counseling for the Elderly (TCE) Program from compliance with standards of conduct and disclosure requirements.

Amends Minn. Stat. § 270C.445, subd. 1

Effective August 1, 2009

C. New Standards

Adds seven standards to the 12 existing ones, including prohibitions against: (1) commingling client and preparer funds; (2) failing to act in the client's best interests; (3) failing to disclose all material facts of which the preparer has knowledge which might reasonably affect the client's rights and interests; (4) violating state and federal debt collection laws; and (5) including specified anti-consumer provisions in contracts.

Amends Minn. Stat. § 270C.445, subd. 3

Effective August 1, 2009

D. Refund Anticipation Loans and Refund Anticipation Checks (RACs)

1. Contracts

a. Written Contracts Required

Requires all contracts for RALs and RACs to be in writing.

Adds Minn. Stat. § 270C.445, subd. 3a

Effective August 1, 2009

b. Deduction from Refunds Limited

Prohibits any provision that, directly or indirectly, allows for a deduction for any amount other than the fees for tax preparation and the RAL or RAC.

Adds Minn. Stat. § 270C.445, subd. 3a

Effective August 1, 2009

c. Mandatory Arbitration Limited

Requires that tax preparers permit clients to opt out of mandatory arbitration clauses. Voids any arbitration ruling if the dispute involves a violation of Minnesota statutes governing tax preparers. Requires disclosure of client rights involving mandatory arbitration.

Adds Minn. Stat. § 270C.445, subd. 3a

Effective August 1, 2009

- d. Right to Rescind
Provides taxpayers with the right to rescind a RAL on or before the close of business of the next business day after it was taken. Makes rescission effective when the client: (1) provides written notification to the tax preparer of the rescission, and, if applicable, (2) either returns the original check issued for the loan, or tenders the amount of the loan. Allows the tax preparer to charge a fee to rescind only if the preparer has already opened an account at a bank to receive an electronic transfer of the refund. Limits the rescission fee to the amount the bank charges the tax preparer.
Adds Minn. Stat. § 270C.445, subd. 5b
Effective August 1, 2009

2. Disclosures

- a. Addition to Itemized Bill Disclosure
Requires tax preparers to separately itemize each fee associated with a RAC.
Amends Minn. Stat. § 270C.445, subd. 5
Effective August 1, 2009
- b. Language Requirement
Mandates that all required disclosures be made in the client's primary language, if the tax preparer advertises in that language.
Amends Minn. Stat. § 270C.445, subd. 4
Effective August 1, 2009
- c. New RAC Disclosure Required
Adds a disclosure requirement if the tax preparer offers a RAC, informing the client, among other things, that the client is not obligated to take a RAC to get a refund.
Adds Minn. Stat. § 270C.445, subd. 4b
Effective August 1, 2009
- E. Private Right of Action
Adds statutory damages of twice the sum of: (i) the tax preparation fees; and (ii) if the plaintiff violated any of the provisions governing RALs, all interest and fees for the loan. Provides that a private action taken under Minn. Stat. § 8.31 is in the public interest.
Amends Minn. Stat. § 270C.445, subd. 7
Effective August 1, 2009

F. Publication of Convicted Tax Preparers

1. **Limit on Publication**

Clarifies that the Department of Revenue must publish the names of tax preparers who have failed to file or pay taxes or committed other fraudulent acts only if they do so in their capacity as tax preparers.

Amends Minn. Stat. § 270.446, subd. 2

Effective May 17, 2009

2. **Removal from Published List**

Requires the Department of Revenue to remove from the list a tax preparer who has satisfied all sentences imposed. Clarifies that all conditions for removal must be demonstrated to the Department of Revenue.

Amends Minn. Stat. § 270.446, subd. 5

Effective May 17, 2009

[Back to Top](#)

TRANSPORTATION LAW

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I. **DISCOUNT TRANSIT PASSES PILOT PROGRAM**

Chapter 36, Article 3, Section 27 (HF 1309)

Effective September 1, 2009

Directs the Metropolitan Council to establish a pilot program and policies to sell transit passes at a 50 percent discount to: (1) a Minneapolis-based nonprofit that provides a homeless shelter, a homeless street outreach program, and sober housing to American Indian women recovering from chemical dependency; and (2) a Minneapolis-based nonprofit that provides transitional apartments for homeless families and walk-in services for single adults, including meals and a food shelf. Requires that the discount passes are for use by homeless individuals. Terminates the pilot program on March 15, 2011. Requires the Metropolitan Council to report to the Legislature by January 15, 2011.

[Back to Top](#)

UNEMPLOYMENT INSURANCE (UI) LAW

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I. APPEALS HEARINGS

Chapter 78, Article 4, Section 34 (HF 2088)

Amends Minn. Stat. § 268.105, subd. 1

Effective August 2, 2009 and applies to all department determinations and unemployment law judge decisions issued on or after that date

A. Affidavits

Provides that an affidavit or written statement based on personal knowledge and signed under penalty of perjury is competent evidence of the facts contained in it. Permits the veracity of statements contained within the document or the credibility of the witness making the statement to be disputed with other documents or testimony. Provides that the production of such documents or testimony may be compelled by subpoena.
Amends Minn. Stat. § 268.105, subd. 1(b)

B. Hearings

Requires the unemployment law judge, at the outset of the hearing, to fully explain: (1) how the hearing will be conducted; (2) that the applicant has the right to request that the hearing be rescheduled so that documents or witnesses can be subpoenaed; (3) that the facts will be determined based on a preponderance of the evidence; and (4) in clear and simple language, the meaning of the term "preponderance of the evidence."
Amends Minn. Stat. § 268.105, subd. 1(b)

C. Notices

Requires the Department of Employment and Economic Development (DEED), upon a timely appeal, to send a notice setting forth the parties' rights and responsibilities. Requires the notice to explain: (1) that the facts will be determined by an unemployment law judge based upon a preponderance of the evidence; and (2) in clear and simple language, the meaning of "preponderance of the evidence."
Amends Minn. Stat. § 268.105, subd. 1(a)

II. APPLICATION FOR BENEFITS

A. Backdating

Chapter 78, Article 3, Section 6 (HF 2088)

Amends Minn. Stat. § 268.07, subd. 3(b)

Effective August 2, 2009 and applies to all department determinations and unemployment law judge decisions issued on or after that date

Allows an application for unemployment benefits to be backdated one calendar week if the applicant requests the backdating at the time the application is filed. Clarifies that an application may be backdated only if the applicant had no employment during the period of the backdating.

B. Provision of Wage Detail

Chapter 15, Section 5 (SF 1197)

Amends Minn. Stat. § 268.07, subd. 1

Effective for applications for unemployment benefits filed effective on or after August 2, 2009

Requires an employer to provide wage detail information on a UI applicant within five calendar days of request by DEED when: (1) the applicant is using an alternate base period; and (2) wage detail was not yet required to have been filed by the employer.

III. BASE PERIOD CALCULATION

Chapter 1, Section 1 (SF 4)

Amends Minn. Stat. § 268.035, subd. 4

Effective for applications for unemployment benefits filed effective on or after July 1, 2009

Changes the base period wage calculation for a UI benefits determination to, depending on the application date, either: (1) the last four completed calendar quarters; or (2) the first four of the last five completed calendar quarters.

IV. BENEFITS EXTENSION

Chapter 1, Section 2 (SF 4)

Effective February 1, 2009, and expires on June 30, 2010

Provides for an emergency UI payment to a significant group of applicants who did not qualify for the federal UI benefits extension solely because they did not have enough wage credits due to the methodology by which “base period” was calculated. Makes benefits payable in the same amount and duration as provided under the federal UI extension. Provides that no benefits shall be paid under this section for a week beginning after the expiration date.

V. ELIGIBILITY REQUIREMENTS

- A. Requirement that Applicant be “Able to Work”
Chapter 78, Article 4, Section 51 (HF 2088)
Repeals Minn. Stat. § 268.085, subd. 14
Effective August 1, 2009

Repeals the definition of “able to work.”

- B. Requirement that Applicant be “Available for Suitable Employment”

1. **Criteria for Discontinuance of Classes**

Chapter 15, Section 7 (SF 1197)
Amends Minn. Stat. § 268.085, subd. 15
Effective for determinations and appeal decisions issued on or after April 8, 2009

Provides that, to be considered "available for suitable employment," a student who has regularly scheduled classes must be willing to discontinue classes to accept suitable employment when: (1) class attendance restricts the applicant from accepting suitable employment; and (2) the applicant is unable to change the scheduled class or make other arrangements that excuse the applicant from attending class. Provides that this requirement is inapplicable if the applicant is in reemployment assistance training.

2. **Location of Suitable Employment**

Chapter 78, Article 3, Section 9 (HF 2088)
Amends Minn. Stat. § 268.085, subd. 15
Effective August 2, 2009 and applies to all department determinations and unemployment law judge decisions issued on or after that date

Removes the requirements that: (a) suitable employment be “in the labor market area”; and (b) an applicant must have transportation “throughout the labor market area” to be considered available for suitable employment.

- C. Part-time Hours and Suitable Employment
Chapter 15, Section 4 (SF 1197)
Amends Minn. Stat. § 268.035, subd. 23(a)
Effective August 2, 2009

Clarifies that full-time employment is not considered suitable employment for an applicant if the majority of the applicant’s weeks of employment in the base period included part-time hours.

D. For Workers Voluntarily Unemployed

Chapter 78, Article 3, Section 10 (HF 2088)

Adds Minn. Stat. § 268.088

Effective August 2, 2009 and applies to all department determinations and unemployment law judge decisions issued on or after that date

Provides that an applicant who chooses to become temporarily unemployed in order to avoid the layoff of another employee is eligible for unemployment benefits if: (1) the election is authorized under a collective bargaining agreement or written employer policy; (2) the employer has accepted the applicant's choice; (3) the employer certifies in writing to DEED that the applicant's election prevented another employee from being laid off; and (4) the employer and employee expect the unemployment is temporary. Requires the applicant must meet all other benefit eligibility requirements, including being available for suitable employment with a different employer.

VI. EMPLOYER-AGENT APPEALS

Chapter 78, Article 3, Section 13 (HF 2088)

Amends Minn. Stat. § 268.103

Effective April 1, 2010 and applies to all department determinations and unemployment law judge decisions issued on or after that date

Provides that an appeal filed by an agent on behalf of an employer must be filed online. Provides that any other method will not constitute an appeal.

VII. EXCEPTIONS TO INELIGIBILITY FOR A QUIT

Chapter 15, Section 8 (SF 1197)

Amends Minn. Stat. § 268.095, subd. 1

Adds Minn. Stat. § 268.035, subd. 19a

Effective for determinations made on or after August 2, 2009

A. Quit Exceptions

Provides that an applicant may retain eligibility for UI: (1) when the applicant quits employment to care for an immediate family member who is ill, injured, or disabled; (2) where domestic violence in an applicant's immediate family member necessitated the quit; or (3) where the applicant quit to relocate to accompany a spouse whose job change made it impractical to commute. Requires the applicant to inform the employer of the problem and request accommodation

Amends Minn. Stat. § 268.095, subd. 1

B. Definition of "Immediate Family Member"

Defines "immediate family member" as an applicant's spouse, parent, stepparent, son or daughter, stepson or stepdaughter, or grandson or granddaughter.

Adds Minn. Stat. § 268.035, subd. 19a

VIII. EXCEPTIONS TO MISCONDUCT

Chapter 15, Section 9 (SF 1197)

Amends Minn. Stat. § 268.095, subd. 6

Effective for determinations made on or after August 2, 2009

Provides the following conduct is not misconduct for purposes of determining eligibility for unemployment: (1) conduct that was a consequence of an applicant's mental illness or impairment; (2) absence, without proper notice to the employer, to care for an immediate family member who is ill, injured, or disabled; and (3) conduct necessitated due to domestic abuse experienced by an immediate family member.

IX. IRS FEES

Chapter 78, Article 3, Section 14 (HF 2088)

Amends Minn. Stat. § 268.18, subd. 4a

Effective August 2, 2009 and applies to all department determinations and unemployment law judge decisions issued on or after that date

Provides that any fee assessed by the IRS to DEED for offsetting a fraud overpayment from a federal tax refund may be added to the total amount due the UI applicant. Requires the offset amount to be placed in the trust fund and credited to the total amount due from the applicant.

X. OATHS AND SUBPOENAS

Chapter 78, Article 4, Section 37 (HF 2088)

Amends Minn. Stat. § 268.105, subd. 4

Effective August 2, 2009 and applies to all department determinations and unemployment law judge decisions issued on or after that date

Requires an unemployment law judge to give full consideration to – and prohibits a judge from unreasonably denying – a request for a subpoena. Requires a judge initially denying a subpoena request to, on the judge's own motion: (1) reconsider that request during the evidentiary hearing; and (2) rule on whether the request was properly denied. Requires the evidentiary hearing to be continued for issuance of the subpoena if the request was improperly denied.

XI. PENSION OR RETIREMENT LUMP SUMS

Chapter 78, Article 3, Section 7 (HF 2088)

Amends Minn. Stat. § 268.05, subd. 3

Effective retroactively from December 1, 2008

Provides that an applicant is not considered to have received a pension, retirement, or annuity payment if it was: (1) paid in a lump sum; and (2) an early distribution for which the applicant paid an early distribution penalty.

XII. QUIT DUE TO INJURY OR ILLNESS

Chapter 78, Article 3, Section 11 (HF 2088)

Amends Minn. Stat. § 268.095, subd. 1

Effective August 2, 2009 and applies to all department determinations and unemployment law judge decisions issued on or after that date

Changes the test for gaining an exception when an applicant quits because of a serious illness or injury from whether the person is “able to work” to whether the person is “available for suitable employment.”

XIII. QUITTING A TEMPORARY AGENCY

Chapter 78, Article 3, Section 12 (HF 2088)

Amends Minn. Stat. § 268.095, subd. 2

Effective August 2, 2009 and applies to all department determinations and unemployment law judge decisions issued on or after that date

Provides that an applicant is considered to have quit employment with the staffing service if the applicant accepts employment with the client of the service within the existing five-day statutory period. Provides that quitting under these circumstances meets the requirements for an exception to ineligibility.

XIV. REEMPLOYMENT ASSISTANCE TRAINING

Chapter 15, Section 3 (SF 1197)

Amends Minn. Stat. § 268.035, subd. 21a

Effective for determinations and appeal decisions issued on or after April 8, 2009

Modifies the definition of reemployment assistance training to include situations where a reasonable opportunity for suitable employment for the applicant does not exist in the labor market area and additional training will assist the applicant in obtaining suitable employment. Clarifies that training must be vocational or short-term academic training directed to an occupation or skill that will “substantially enhance” the employment opportunities available in the applicant's labor market area.

XV. STANDARD OF PROOF

A. Burden of Proof Clarified

Chapter 78, Article 3, Section 5 (HF 2088)

Amends Minn. Stat. § 268.069, subd. 2

Effective August 2, 2009 and applies to all department determinations and unemployment law judge decisions issued on or after that date

Deletes the requirement that an applicant's entitlement to unemployment benefits must be determined “without regard to any burden of proof.”

B. Legislative Intent/Statutory Construction Articulated

Chapter 78, Article 4, Section 1 (HF 2088)

Amends Minn. Stat. § 268.031

Effective August 2, 2009 and applies to all department determinations and unemployment law judge decisions issued on or after that date

Declares that the unemployment benefits chapter: (1) is remedial in nature; and (2) must be applied in favor of awarding benefits. Directs an adjudicator to narrowly construe any statutory provision that would preclude an applicant from receiving benefits. Specifies that any legal conclusion resulting in an applicant being ineligible for unemployment benefits must be fully supported by the facts.

XVI. WITHDRAWAL OF A BENEFIT ACCOUNT

Chapter 78, Article 3, Section 6 (HF 2088)

Amends Minn. Stat. § 268.07, subd. 3b

Effective August 2, 2009 and applies to all department determinations and unemployment law judge decisions issued on or after that date

Clarifies that a benefits account may be withdrawn only if the applicant has not been paid any unemployment benefits on the account. Clarifies that a determination of eligibility or ineligibility that was sent before the withdrawal: (1) remains in effect; and (2) is not voided by the withdrawal.

[Back to Top](#)

UTILITIES LAW

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I. FEDERAL ENERGY STIMULUS

Chapter 138 (SF 657)

Effective May 22, 2009

Allocates \$134 million in federal stimulus funds for weatherization and an additional \$62 million for energy efficiency, and renewable energy projects, representing almost a ten-fold increase over annual federal weatherization funding.

- A. Training for Low-Income Persons
Article 6, Section 3 (5) and (6)
Article 5, Section 1, Subds. 1 and 2
- Sets aside: (1) \$1 million to ensure access to and affordability of training for low-income persons for residential weatherization jobs and commercial energy efficiency and renewable energy-related trades; and (2) \$1 million to recruit individuals who are unemployed – especially targeting communities experiencing disproportionately high rates of unemployment, including, but not limited to, low-income, youth, rural, or tribal communities – to be trained for energy projects.
- B. Contracts
Article 1, Section 1, Subd. 4
Requires the contract bidding process, to the extent practicable, to comply with state law governing procurement of services from businesses owned by persons of color, women, and persons with disabilities.
- C. Income Eligibility for Weatherization
Article 2, Section 1, Subd. 4
Provides that the income eligibility for weatherization must be established at the highest level allowed under federal law.
- D. Notice of Contract and Employment Opportunities
Article 5, Section 1, Subd. 1
Requires the dissemination of information about contract and employment opportunities, with particular effort to publicize opportunities to community organizations, nongovernmental organizations, and media outlets that target disadvantaged groups, including, but not limited to, low-income, rural, tribal communities, and communities of color.
- E. Outreach
Article 2, Section 5
Requires the Department of Commerce to award grants to conduct outreach and ensure coverage of households in low-income areas, small cities, and rural communities, and must reach all regions of the state.
- F. Weatherization of Abandoned and Foreclosed Properties
Article 2, Section 1, Subd. 6
Requires the Department of Commerce to seek a federal waiver to enable it to use funds to weatherize abandoned and foreclosed homes.
- G. Weatherization of Rental Units
Article 2, Section 1, Subd. 2
Requires the Department of Commerce to attempt to increase the number of rental units weatherized.

II. LIABILITY FOR UNAUTHORIZED USE OF CELL PHONES

Chapter 54 (SF 298)

Adds Minn. Stat. § 325F.696

Effective August 1, 2009

A. No Liability for Unauthorized Use

Excuses charges for unauthorized use of a customer's cell phone. Establishes a rebuttable presumption that any use of a phone after the provider has been notified that the phone is lost or stolen is unauthorized, provided that the customer agreed to suspend use of the phone.

Adds Minn. Stat. § 325F.696, subd. 1

B. Unauthorized Use Defined

Defines "unauthorized use" as use by a person other than the customer who does not have actual, implied, or apparent authority for the use.

Adds Minn. Stat. § 325F.696, subd. 2

[Back to Top](#)