

2010 Session Summaries

These session summaries provide a review of the changes made by the 2010 Minnesota Legislature that affect low-income Minnesotans, providing references to specific sections of law to assist legal services advocates and attorneys, and pro bono attorneys, who serve and represent low-income Minnesotans. The Session Summaries cover changes to Minnesota law in the following substantive areas: Child Care; Consumer Law; Courts; Data Practices; Disability and Mental Health Law; Domestic Abuse; Family Law; Food Supports; Health Care; Housing Law/Real Property Law; Immigration Law; Juvenile Law; Landlord-Tenant Law; Licensing/Background Checks/Collateral Sanctions; Poverty Law; Public Benefits Law; Transportation Law; Unemployment Insurance Law; and Utilities Law.

List of Acronyms

DEED	=	Minnesota Department of Employment and Economic Development
DOA	=	Minnesota Department of Administration
DOC	=	Minnesota Department of Commerce
DHS	=	Minnesota Department of Human Services
DLI	=	Minnesota Department of Labor and Industry
DOH	=	Minnesota Department of Health
DPS	=	Minnesota Department of Public Safety
FPG	=	Federal Poverty Guideline
HUD	=	United States Department of Housing and Urban Development
MA	=	MA
MSA	=	Minnesota Supplemental Assistance
MFIP	=	Minnesota Family Investment Program
OAH	=	Minnesota Office of Administrative Hearings

CHILD CARE

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I. BUDGET ADJUSTMENTS

*First Special Session, Chapter 1, Article 23, Section 3 (HF 1)
Effective May 22, 2010*

A. FY 2010 Reduction

Makes a one-time reduction to MFIP child care assistance of \$7,832,000 in fiscal year 2010, which represents a one-time capture of child care assistance funds scheduled for redistribution among the counties.

B. FY 2011 Appropriation

Appropriates an additional \$2,579,000 in fiscal year 2011 for MFIP child care assistance grants.

II. EARLY CHILDHOOD SCREENING

*Chapter 346, Article 1, Sections 1 – 3 (SF 2505)
Amends Minn. Stat. §§ 121A.16; 121A.17, subd. 5; and 124D.10, subd. 8
Effective August 1, 2010*

Requires charter schools that elect to participate in early learning developmental screening to: (1) notify parents of the screening requirement when they submit an application for admission; and (2) comply with the statutory requirements applicable to public schools, which include screening before a child enters kindergarten and offering follow up screening if the initial screen indicates a condition that requires diagnosis or treatment. Provides that data collected through the screening process is private data.

III. ELIGIBILITY

*Chapter 346, Article 2, Sections 1 and 2 (SF 2505)
Amends Minn. Stat. §§ 119B.025, subd. 1; and 119B.09, subd. 4
Effective October 15, 2010*

Provides that income needs to be recalculated and program eligibility needs to be reconsidered only at the end of the school year (if the end of the school year is between six and 12 months since the last eligibility determination) for a parent who is: (1) under age 21; and (2) a student in a program that provides or assists with child care and provides parenting, educational, and academic support for the parent.

IV. SCHOOL READINESS

Chapter 346, Article 1, Sections 5, 7, and 8 (SF 2505)

Amends Minn. Stat. §§ 124D.141, subd. 2; and 124D.15, subd. 12

Adds Minn. Stat. § 124D.15, subd. 15

Effective August 1, 2010

A. Criteria for School Readiness Screening

Creates specific eligibility criteria for school readiness screening from a school district, if the child is: (1) three years old on September 1; (2) has completed health and developmental screening in the past 90 days; and (3) has a risk factor. *(Note: risk factors include eligibility for free or reduced lunch, homelessness, developmental needs, or that the child is an English language learner.)*

Adds Minn. Stat. § 124D.15, subd. 15

B. Fees

Requires schools to use school readiness aid for eligible children. Permits non-eligible children to participate on a fee-for-service basis.

Amends Minn. Stat. § 124D.15, subd. 12

V. STATE EARLY LEARNING ADVISORY COUNCIL

Chapter 346, Article 1, Sections 4 and 5 (SF 2505)

Amends Minn. Stat. § 124D.141, subds. 1 and 2

Effective August 1, 2010

Adds the commissioner of DOH as an advisory council member and requires the council to establish a task force to examine a multitude of issues, including: (1) streamlining resources and funding for both early learning and child care; (2) improving delivery service and choice for early learning and child care; (3) examining whether child care assistance and child protection facilities should be transferred from the DHS to the Office of Early Learning; and (4) making recommendations on a statewide school readiness report card.

CONSUMER LAW

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I. ADVERTISING BY NONLICENSED CONTRACTORS

Chapter 183, Section 2 (HF 927)
Adds Minn. Stat. § 326B.084, subd. 2
Effective August 1, 2010

Prohibits any person from offering to perform services requiring a DLI license (typically construction trade licenses) unless the person holds an active license.

II. BUSINESS SCREENING SERVICE RECORDS

Chapter 240 (SF 2322)
Amends Minn. Stat. § 332.70, subds. 1 - 4
Effective July 1, 2010

- A. Definition of “Business Screening Service”
Deletes “record information” and substitutes “criminal records” in the definition of a “business screening service,” so the definition now reads: “a business that routinely collects or disseminates criminal records.”
Amends Minn. Stat. § 332.70, subd. 1
- B. Accuracy
Limits dissemination of criminal records to only those that are “complete and accurate.” Defines a “complete and accurate” record as one that has been updated within 30 days of its receipt or has been verified as current with the source of the data within the previous 90 days. Requires notices disclosing a record collected after July 1, 2010 to include the date of collection.
Amends Minn. Stat. § 332.70, subd. 2 (Requiring complete and accurate records)
Amends Minn. Stat. §332.70, subd. 4 (Requiring disclosure of date of collection)
- C. Investigation of Disputed Records
Clarifies that a business screening service must investigate a dispute about the accuracy of a criminal record to determine whether the service’s record accurately reflects the content of the official record.
Amends Minn. Stat. § 332.70, subd. 3(a)
- D. Expunged Records
Requires a business screening service to promptly delete disputed records found to be expunged, sealed, or the subject of a pardon.
Amends Minn. Stat. § 332.70, subd. 3(b)

III. DEBT COLLECTION AGENCIES

Chapter 384, Section 93 (SF 2839)

Adds Minn. Stat. § 332.3351

Repeals Minn. Stat. §§ 332.31, subd. 7; and 332.335

Effective January 1, 2011

Repeals existing language defining and governing exempt out-of-state collection agencies and replaces it with a new section providing that a collection agency is exempt from the licensing and registration in this state if: (1) the agency's collection activities are limited to collecting debts from Minnesota residents that are not incurred in Minnesota; (2) the agency is located in another state that regulates and licenses collection agencies, but does not require a Minnesota collection agency to obtain a license to collect debts in the other state; and (3) the agency's collection activities in Minnesota are conducted by means of interstate communications.

IV. DECEPTIVE LOCAL TELEPHONE NUMBER LISTING OR ADVERTISING

Chapter 235 (HF 3277)

Adds Minn. Stat. § 325D.46, subd. 3

Effective for any telephone directory, directory assistance database, Internet website, or print advertisement provided, published, or posted on or after August 1, 2010

Makes it a deceptive trade practice under Minn. Stat. § 325D.44 to misrepresent the geographic location of a business: (1) in a telephone directory; (2) in any directory assistance database; (3) on the Internet; or (4) in print.

V. FORECLOSURE LAW

A. Equity Stripping Protections

Chapter 375, Section 11 (SF 2430)

Amends Minn. Stat. § 580.06, subd. 1

Adds Minn. Stat. § 580.06, subds. 2 and 3

Effective for sheriff's sales conducted on or after August 1, 2010, and expires on December 31, 2012

1. New Notice to Mortgagor

Requires, with certain exceptions, any person attempting to acquire fee title to the mortgagor's property directly from the mortgagor after the sheriff's sale but before the end of the redemption period to provide a notice to the mortgagor that:

- contains: (i) the date the sale occurred; (ii) the identity of the purchaser and any assignees of the purchaser; and (iii) the sheriff's sale price;
- contains a verbatim statement included in the statute: (i) describing the redemption process; (ii) noting that the property may have been sold (and thus may be redeemed) at less than the amount

remaining on the mortgage; and (iii) providing information on where to obtain foreclosure prevention counseling; and
➤ is personally delivered three days prior to entering into an agreement with the mortgagor to acquire title.
Adds Minn. Stat. § 580.06, subd. 2

2. Exceptions

Exempts the following transactions and persons from the new requirement: (1) a transaction in which either party is represented by a licensed real estate agent; (2) a transaction in which the sale price is equal to or greater than the sheriff's sale price; (3) a deed in lieu of foreclosure transaction; (4) a nonprofit lender holding a certificate of exemption from the Department of Commerce; or (5) the state or a local government or its agent.
Adds Minn. Stat. § 580.06, subd. 2

3. Private Right of Action

Makes a person who violates the notice requirement liable to an aggrieved mortgagor for the sum of: (1) actual, incidental, and consequential damages; (2) \$1,000 statutory damages; and (3) costs, disbursements, and reasonable attorney fees. Establishes a rebuttable presumption of compliance if an affidavit stating that the mortgagor received the required notice has been recorded with the county recorder or registrar of titles.
Adds Minn. Stat. § 580.06, subd. 3

B. Notice of Redemption Rights

Chapter 375, Sections 9 and 10 (SF 2430)
Amends Minn. Stat. §§ 580.03; and 580.041, subd. 2
Adds Minn. Stat. § 580.041, subd. 1c
Effective for foreclosure notices delivered on or after August 1, 2010

Requires that foreclosing parties include a new “Notice of Redemption Rights” along with the notice of foreclosure (currently required under Minn. Stat. §§ 580.03 and 580.04) and the “Foreclosure Advice Notice” (currently required under Minn. Stat. § 580.041). Requires the new notice to be: (1) in 14-point boldface type; and (2) printed on colored paper different from the color of the notice of foreclosure and the foreclosure advice notice. Provides that the Notice of Redemption Rights must: (1) explain what occurs after the foreclosure sale; (2) inform the mortgagor how to obtain information about the results of the sale; (3) warn the mortgagor to be wary of scams; and (4) provide referral information to foreclosure prevention counselors.
Amends Minn. Stat. § 580.041, subd. 2 (Content of notice)
Adds Minn. Stat. § 580.041, subd. 1c (Form of notice)

C. Postponement of Sheriff's Sale

Chapter 237 (SF 2559)

Amends Minn. Stat. § 580.07, subds. 2 and 3

Effective for foreclosure sales scheduled to occur on or after May 15, 2010

Permits mortgagors subject to a 12-month redemption period the right to postpone the sale for 11 months (effectively extending the reinstatement period), extending the 2009 legislation that permitted homeowners in foreclosure subject to a six-month redemption period the right to postpone the sheriff's sale for five months.

VI. LIVE CHECK SOLICITATION FOR GOODS AND SERVICES

Chapter 192 (SF 2439)

Adds Minn. Stat. § 325F.697

Effective August 1, 2010

A. Behavior Constituting Deceptive Trade Practice

Makes it a deceptive trade practice under Minn. Stat. § 325F.69 to solicit a Minnesota resident for the sale of a good or service by providing a live check payable to the addressee, the presentment or negotiation of which obligates the addressee to purchase a good or service.

Adds Minn. Stat. § 325F.697, subd. 2

B. Exclusion

Provides that a check from a financial institution that may be used by a consumer to activate a loan is not a "live check" for the purposes of the prohibition. (*Note: Under Minn. Stat. § 47.605, live checks used to activate loans are regulated and disclosures are required.*)

Adds Minn. Stat. § 325F.697, subd. 1

VII. MINNESOTA APPRAISAL MANAGEMENT COMPANY LICENSING AND REGULATION ACT

Chapter 347, Article 6, Sections 9 – 24 (SF 2510)

Adds Chapter 82C, specifically Minn. Stat. §§ 82C.01 - .16

Effective August 1, 2010

Covers third party entities that: (1) arrange appraisal services and; (2) are unrelated to the mortgage transaction, the clients, or the lenders. Creates a regulatory framework that, among other things: (1) requires appraisal management companies to obtain a license from DOC; and (2) prohibits appraisal management company employees, directors, officers, or agents from influencing or attempting to influence the development, reporting, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, or bribery.

VIII. MINNESOTA SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2010 (MINNESOTA S.A.F.E. ACT)

Chapter 347, Article 4 (SF 2510)

Adds Chapter 58A, specifically Minn. Stat. §§ 58A.01 - .22

Effective July 31, 2010

Two years ago, Congress passed the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act) as part of the Housing and Economic Recovery Act of 2008. To enhance consumer protection and reduce fraud, the federal S.A.F.E. Act encouraged: (1) states to establish minimum standards for the licensing and registration of state-licensed individual mortgage loan originators; and (2) the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators to establish and maintain a nationwide mortgage licensing system and registry. As a result of enacting this legislation, Minnesota may now participate in the Nationwide Mortgage Licensing System and Registry. Under the new law, DOC (which currently licenses and regulates only firms) will license and regulate residential mortgage industry employees.

A. Definition of "Mortgage Loan Originator"

Defines “mortgage loan originator” to mean an individual who, for compensation or gain or in the expectation of compensation or gain: (1) takes a residential mortgage loan application; or (2) offers or negotiates terms of a residential mortgage loan. Excludes persons who: (1) act solely as a non-independent loan processor or underwriter; or (2) are licensed real estate brokers, unless they are compensated by a lender, a mortgage broker, or other mortgage loan originator, or by an agent of any of those persons or entities.

Adds Minn. Stat. § 58A.02, subd. 7

B. State Licensing

Requires individual mortgage loan originators to be licensed by DOC and establishes grounds and procedures for issuing, denying, suspending, revoking, conditioning, or declining to renew a license. Exempts: (1) employees of depository banks; (2) individuals who negotiate loans for an immediate family member; (3) homeowners negotiating their own loans secured by their own property; (4) attorneys who negotiate the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the representation, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of any of those persons or entities; and (5) an employee of a nonprofit housing finance or housing counseling agency.

Adds Minn. Stat. § 58A.03, subd. 1 (Requirement of license)

Adds Minn. Stat. § 58A.05 (Grounds for issuing license)

Adds Minn. Stat. § 58A.12 (Grounds for denying, suspending, revoking, conditioning, or declining to renew license)

Adds Minn. Stat. § 58A.03, subd. 2 (Exemptions)

- C. Federal Licensing and Registration
Authorizes DOC to require mortgage loan originators to also be licensed and registered through the Nationwide Mortgage Licensing System and Registry.
Adds Minn. Stat. § 58A.10
- D. Prelicensing and Relicensing Education and Testing
Establishes prelicensing and relicensing education, testing, and continuing education requirements. Requires these curricula to be reviewed and approved by the Nationwide Mortgage Licensing System and Registry. Requires that the curricula that include at least: (1) three hours of federal law and regulations; (2) three hours of ethics, which includes instruction on fraud, consumer protection, and fair lending issues; and (3) two hours of training related to lending standards for the “nontraditional mortgage product marketplace.” (*Note: A “nontraditional mortgage product” is defined as any product other than a 30-year fixed mortgage.*)
Adds Minn. Stat. § 58A.06 (Education requirement)
Adds Minn. Stat. § 58A.02, subd. 9 (Definition of “nontraditional mortgage product”)
Adds Minn. Stat. § 58A.07, subd. 1 (Testing requirement)
Adds Minn. Stat. § 58A.07, subd. 2 (Definition of “qualified test”)
Adds Minn. Stat. § 58A.09 (Relicensing, continuing education)
- E. Bond
Requires each mortgage loan originator to maintain a bond in an amount determined by the DOC reflecting the dollar amount of loans originated.
Adds Minn. Stat. § 58A.13
- F. Prohibitions
Prohibits, among others, the following acts and practices: (1) either directly or indirectly perpetrating fraud or misleading borrowers or lenders to defraud or mislead any person; (2) engaging in unfair or deceptive practices; (3) entering into a contract providing that the originator will earn a fee or commission through “best efforts” to obtain a loan even though no loan is actually obtained for the borrower; (4) advertising, making misleading statements about, or entering into a contract specifying rates or financing terms not available; (5) operating without a license; (6) failing to make required disclosures; and (7) either directly or indirectly making a payment, threat, or promise in order to influence the independent judgment of an appraiser in connection with the value of property or another person in connection with a residential mortgage loan.
Adds Minn. Stat. § 58A.16

IX. MORTGAGE LOAN ORIGINATORS

Chapter 347, Article 5, Section 3 (SF 2510)

Adds Minn. Stat. § 58.08, subd. 1a

Effective July 1, 2010

Increases the bond requirement for mortgage loan originators (i.e., the firms, not the individual employees) to a minimum of \$100,000 and maximum of \$200,000, depending on the total dollar amount of the closed residential mortgage loans originated in this state in the preceding year. Specifies that the bond must: (1) cover all mortgage loan originators who are employees or independent agents of the originator; and (2) be available for: (i) the recovery of expenses, fines, and fees levied by the DOC; and (ii) losses incurred by borrowers resulting from violations.

X. REVERSE MORTGAGES

Chapter 375, Sections 1 – 7 (SF 2430)

Amends Minn. Stat. §§ 47.58, subds. 1, 3, and 8

Adds Minn. Stat. §§ 47.58, subds. 9 – 11; and 58.19

Effective August 1, 2010

A. When Reverse Mortgage is Due

Eliminates two conditions that trigger repayment: (1) the receipt by the borrower of full payment of the principal; and (2) the sale of the property securing the loan.

Amends Minn. Stat. § 47.58, subd. 1 (Definition of reverse mortgage)

Amends Minn. Stat. § 47.58, subd. 3 (Repayment provisions)

B. Counseling

1. Requirements

Modifies, expands, and strengthens the counseling required prior to executing a reverse mortgage loan. Requires a lender, prior to accepting a final and complete application for a reverse mortgage loan or assessing any fees, to:

- Provide the prospective borrower with a list of at least three independent counseling agencies;
- Positively promote the benefits of reverse mortgage counseling to the potential borrower; and
- Receive certification that the borrower received counseling from an “independent counseling agency.”

Amends Minn. Stat. § 47.58, subd. 8

2. Definition of “Independent Counseling Agency”

Defines “independent counseling agency” as an agency, approved by HUD to provide loan counseling, which: (1) is domiciled in Minnesota; (2) has no business relationship with the lender; and (3) neither makes loans nor refers borrowers to any person or entity that makes loans.

Amends Minn. Stat. § 47.58, subd. 8

3. Definition of “Counseling”

“Counseling” is redefined to mean a session that lasts no less than one hour and includes: (1) a review of other options that are or may become available to the borrower; and (2) an explanation: (i) of the financial implication of entering into a reverse mortgage loan, including the costs of the loan; (ii) that a reverse mortgage loan may have tax consequences, affect eligibility for assistance, and have an impact on the estate and heirs of the borrower; and (iii) of the prohibitions against linking loans to the purchase of insurance products.

Amends Minn. Stat. § 47.58, subd. 8

C. Cooling Off and Rescission Periods

1. Cooling Off Period

Provides that a borrower may not be required to close or proceed with a loan within a seven-day cooling off period following the acceptance of a lender’s written commitment to make the loan.

Adds Minn. Stat. § 47.58, subd. 10

2. Rescission Period

Expressly references the three-day cooling off period provided for under the Truth in Lending Act, which may not begin until the end of the seven-day cooling off period and is triggered by the execution of the loan.

Adds Minn. Stat. § 47.58, subd. 10

D. Sales of Insurance Products in Connection with Reverse Mortgage Loans

Prohibits lenders, mortgage brokers, or mortgage originators from requiring the purchase of, entering into any agreement to make a reverse mortgage loan that obligates the borrower to purchase, or receiving compensation for providing the borrower with information relating to an annuity, investment, life insurance, or long-term care insurance product.

Adds Minn. Stat. § 47.58, subd. 11

E. Lender Default

Provides that a lender forfeits any right to repayment of the outstanding loan balance if, for a non-federally insured loan, the lender: (1) fails to make contractually required loan payments to the borrower; or (2) fails to cure a default. Provides the court with the authority to declare a non-federally insured mortgage securing a reverse mortgage loan null and void.

Adds Minn. Stat. § 47.58, subd. 9

F. Compliance with Chapter 47

Provides that both exempt and nonexempt mortgage originators or servicers making reverse mortgage loans must comply with Chapter 47.

Adds Minn. Stat. § 58.19

COURTS

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I. JUDGMENT INTEREST RATE FOR STATE AND LOCAL GOVERNMENTS

Chapter 249 (SF 2722)

Adds Minn. Stat. § 549.09, subd.12

Effective for judgments and awards finally entered on or after April 17, 2010

Exempts the State of Minnesota or political Subd.s from the 10% judgment interest rate for awards exceeding \$50,000.

II. UNIFORM ARBITRATION ACT

Chapter 264 (HF 1692)

Adds Chapter 572B, specifically Minn. Stat. §§ 572B.01 - .31

Amends Minn. Stat. §§ 80C.146, subd. 2; 122A.40, subd. 15; 122A.41, subd. 13; 179.09; 325E.37, subd. 5; 325F.665, subd. 6; 469.1762; and 572A.02, subd. 1 (conforming amendments)

Repeals Minn. Stat. §§ 572.08 - .30

Effective August 1, 2011

Revises and updates the uniform law governing arbitration, which was enacted in 1957. Among the key changes:

- Provides that the new sections govern arbitration agreements entered into after August 1, 2011 or agreements entered into before August 1, 2011 if all the parties agree to be governed by the new sections.
Adds Minn. Stat. § 572B.03
- Provides that the new sections govern arbitrations taking place after August 1, 2011 even if the agreement was entered into prior to August 1, 2011.
Adds Minn. Stat. § 572B.03
- Establishes standards for what constitutes sufficient notice.
Adds Minn. Stat. § 572B.02
- Permits, with certain exceptions, parties to waive or vary the requirements of the Act, and prohibits parties from waiving certain rights and requirements before a controversy arises that is subject to the arbitration agreement.
Adds Minn. Stat. § 572B.04

- Codifies the majority common law rule that, in the absence of an agreement to the contrary, the court decides questions of substantive arbitrability and the arbitrator decides questions of procedural arbitrability.
Adds Minn. Stat. § 572B.06
- Provides for provisional remedies (i.e., those that may be required prior to an appointment of an arbitrator) to be ordered by the court.
Adds Minn. Stat. § 572B.08
- Permits consolidation of separate arbitration proceedings.
Adds Minn. Stat. § 572B.10
- Provides express immunity of arbitrators, to the same extent as judges acting their official capacities, from: (1) civil liability; or (2) the requirement to testify or produce documents in a civil case.
Adds Minn. Stat. § 572B.14

III. **UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT**

Chapter 263 (HF 776)

Adds Minn. Stats. §§ 548.54 – .63

Repeals Minn. Stat. § 548.35

Effective for all actions commenced on or after August 1, 2010 in which the issue of recognition of a foreign-country judgment is raised.

Revises and updates the uniform law governing recognition by Minnesota courts over certain money judgments issued in any foreign country, which was enacted in 1985. Preserves the preference in favor of recognition.

A. Applicability

Adds to the definition of “foreign country” any other government whose judgments “in this state” are subject to a full faith and credit analysis to determine recognition status (e.g., tribal governments). *(Note: The purpose of the addition is to leave states free to use relevant law, whether statutory or decisional, to make the determination.)*

Adds Minn. Stat. § 548.55

B. Judicial Discretion

1. **Repugnancy to Federal Public Policy**

Gives the court additional discretion over judgments or causes of action leading to the judgment that are repugnant to the public policy of the United States. *(Note: The 1985 statute allows a court to deny recognition if the judgment or cause of action leading to the judgment is repugnant only to the public policy of the state, but not the federal government.)*

Adds Minn. Stat. § 548.57(c)(3)

2. New Grounds for Discretion

Adds two new grounds under which the court may deny recognition: (i) if the judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment; or (ii) the specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law. (*Note: Courts are prohibited from recognizing foreign-country money judgments if the foreign judicial system is not impartial or does not provide due process generally; this new ground allows the court discretion in specific cases where due process principles were not applied.*)
Adds Minn. Stat. § 548.57(c)(7) and (8)

C. Burden of Proof

Clarifies that the party resisting recognition carries the burden of proof to show the judgment meets one or more of the criteria for mandatory or discretionary nonrecognition.

Adds Minn. Stat. § 548.57(d)

D. Procedure for Recognition

Requires the issue of recognition to be raised in a court proceeding by: (1) either the plaintiff seeking recognition as an original matter; or (2) the defendant resisting recognition as a counterclaim, cross-claim, or defense.

Adds Minn. Stat. § 548.59

E. Statute of Limitations

Requires an action seeking recognition to be commenced within the earlier of: (1) the effective period of the judgment in the foreign country in which it was issued; or (2) 15 years from date the judgment became effective in the foreign country.

Adds Minn. Stat. § 548.62

DATA PRACTICES

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I. ACCESS TO RECORDS BY PAROLE AND PROBATION AUTHORITIES

Chapter 365, Article 1, Section 7 (SF 863)

Adds Minn. Stat. § 13.87, subd. 5

Effective August 1, 2010

Grants county probation and parole authorities access to criminal justice records for applicants or permit holders who are subject to supervision by the probation or parole authority.

II. ADMINISTRATIVE REMEDY FOR DATA PRACTICES VIOLATIONS

Chapter 297, Sections 1, 2, and 3 (HF 2899)

Amends Minn. Stat. §§ 13.072, subd. 2; and 13.08, subd. 4

Adds Minn. Stat. § 13.085

Effective for actions commenced on or after July 1, 2010

A. Orders to Compel Compliance

Provides an administrative forum – OAH – for adjudication of complaints alleging a violation of the Data Practices Act for which an order to compel compliance is requested. *(Note: This remedy does not apply to individuals challenging the completeness or accuracy of their own data or data requests related to the sex offender program and is an alternative remedy to the existing right to seek a district court order to compel compliance available under Minn. Stat. § 13.08, subd. 4.)*

Amends Minn. Stat. § 13.08, subd. 4

Adds Minn. Stat. § 13.085, subd. 2(a)

B. Filing Deadline

Provides that an administrative action must be filed within two years of the occurrence or failure to act, except in cases of fraud or concealment by the governmental entity.

Adds Minn. Stat. § 13.085, subd. 2(b)

C. Fee

Requires the filing of the complaint to be accompanied by a \$1,000 filing fee or guarantee bond. Provides that: (1) a “substantially prevailing complainant” is entitled to the return of the fee (minus \$50); (2) a person who “does not substantially prevail on the merits” is entitled to the return of the filing fee (minus any costs incurred by OAH); and (3) a frivolous complainant must pay the opposing party’s attorneys fees (not to exceed \$5,000) and is not entitled to the return of the fee. *(Note: There is no provision for in forma pauperis status; nothing in this new law, however, alters the existing ability to file for in forma pauperis status in a district court challenge.)*

Adds Minn. Stat. § 13.085, subd. 2(c) (Fee/bond)

Adds Minn. Stat. § 13.085, subd. 6(c) (Substantially prevailing party)

Adds Minn. Stat. § 13.085, subd. 6(d) (Party that does not substantially prevail)

Adds Minn. Stat. § 13.085, subd. 6(e) (Frivolous complainant)

D. Procedure

1. Notification to Respondent and State Agency

Requires the OAH to notify DOA of the action and provide notice and the complaint to the respondent agency.

Adds Minn. Stat. § 13.085, subd. 2(e) (Notice to Department)

Adds Minn. Stat. § 13.085, subd. 2(d) (Notice to respondent agency)

2. Probable Cause Review

Requires OAH to make a preliminary probable cause determination whether a violation of Chapter 13 has occurred within 20 business days after: (1) a response is filed; or (2) the respondent's time to file the response, including any extension, has expired.

Adds Minn. Stat. § 13.085, subd. 3(a)

3. Hearing

Requires a hearing to be scheduled within 30 days of notification of the parties if probable cause is found. Requires the hearings to be open to the public, except the ALJ retains the ability to: (1) examine government data in camera; and (2) keep existing private data private. Permits the hearing to be held by conference call or interactive audio/video if all parties consent.

Adds Minn. Stat. § 13.085, subd. 4(a) (Scheduling)

Adds Minn. Stat. § 13.085, subd. 4(c) (Consideration of evidence)

Adds Minn. Stat. § 13.085, subd. 4(c) (Use of teleconferencing)

4. Disposition

Requires the ALJ to issue a decision within 10 business days after the record closes and empowers an ALJ to, among other things: (1) issue an order to compel compliance with the Data Practices Act; and (2) levy a civil fine of \$300 for violation of the Data Practices Act.

Adds Minn. Stat. § 13.085, subd. 4(b) (Time period to render decision))

Adds Minn. Stat. § 13.085, subd. 4(a) (Powers of the ALJ)

5. Attorney Fees

Establishes a rebuttable presumption that a complainant who “substantially prevails on the merits” is entitled to reasonable attorney fees, not to exceed \$5,000.

Adds Minn. Stat. § 13.085, subd. 6(a)

E. Judicial Review

1. Availability

Subjects the ALJ’s ruling to judicial review under Chapter 14.

Adds Minn. Stat. § 13.085, subd. 5(d)

2. Effect of Ruling

Provides that the ALJ’s ruling must be given deference but is not controlling in any subsequent action brought in district court alleging the same violation and seeking damages.

Amends Minn. Stat. § 13.072, subd. 2 (Deference)

Adds Minn. Stat. § 13.085, subd. 5(e) (ALJ ruling not controlling)

F. Governmental Immunity

Holds government entities and employees immune: (1) from compensatory or exemplary damages or awards of attorneys fees if the entity or employee acts in compliance with an order issued by DOA; and (2) from civil and criminal liability for release of not public data pursuant to an ALJ order under the new administrative procedures.

Amends Minn. Stat. § 13.072, subd. 2 (Immunity for violations)

Adds Minn. Stat. § 13.085, subd. 5(f) (Immunity for release of not public data)

III. ADOPTION BACKGROUND STUDIES

Chapter 269, Article 2, Section 1 (SF 2690)

Amends Minn. Stat. § 245C.33, subd. 4

Effective August 1, 2010

Requires DHS to provide a requesting adoption agency with: (1) notice of any convictions of the subject of a background study; and (2) the date of all adoption-related background studies conducted since 2007, including the name of the initiating county or agency.

IV. BUSINESS SCREENING SERVICE RECORDS

Chapter 240 (SF 2322)

Amends Minn. Stat. § 332.70, subs. 1 - 4

Effective July 1, 2010

A. Definition of “Business Screening Service”

Deletes “record information” and substitutes “criminal records” in the definition of a “business screening service,” so the definition now reads: “a business that routinely collects or disseminates criminal records.”

Amends Minn. Stat. § 332.70, subd. 1

B. Accuracy

Limits dissemination of criminal records to only those that are “complete and accurate.” Defines a “complete and accurate” record as one that has been updated within 30 days of its receipt or has been verified as current with the source of the data within the previous 90 days. Requires notices disclosing a record collected after July 1, 2010 to include the date of collection.

Amends Minn. Stat. § 332.70, subd. 2 (Requiring complete and accurate records)

Amends Minn. Stat. § 332.70, subd. 4 (Requiring disclosure of date of collection)

C. Investigation of Disputed Records

Clarifies that a business screening service must investigate a dispute about the accuracy of a criminal record to determine whether the service’s record accurately reflects the content of the official record.

Amends Minn. Stat. § 332.70, subd. 3(a)

D. Expunged Records

Requires a business screening service to promptly delete disputed records found to be expunged, sealed, or the subject of a pardon.

Amends Minn. Stat. § 332.70, subd. 3(b)

V. COMMENTS ON STATE GRANTS

Chapter 365, Article 1, Section 9 (SF 863)

Adds Minn. Stat. § 16B.97, subd. 5

Effective August 1, 2010

Protects by classifying as private, nonpublic data comments made regarding: (1) potential fraud and waste in state grant process; or (2) executive agencies violating the grant governance policies. Provides the state agency that is the subject of the comments access to the private data.

VI. DISCLOSURE OF PRIVATE EDUCATIONAL DATA

Chapter 230 (SF 2425)

Amends Minn. Stat. § 13.32, subd. 3

Effective August 1, 2010

Includes mental health emergencies within the definition of health emergencies (as that term is defined in federal law) for the purposes of permitted disclosure of private data on students maintained by a public educational agency or institution.

VII. DOMESTIC ABUSE AND SEXUAL ATTACK PROGRAM EMPLOYEES

Chapter 299, Section 1 (SF 2437)

Adds Minn. Stat. § 13.823

Effective August 1, 2010

Exempts employees and volunteers of domestic abuse and sexual attack programs (including programs that provide shelter care) who are not under the direct supervision of a government entity from the requirements of Chapter 13 (the Data Practices Act) provisions. *(Note: This provision essentially protects programs that receive funding, such as grants, from being required to disclose personnel or policy data.)*

VIII. ORDERS FOR PROTECTION AND NO CONTACT ORDERS

Chapter 299, Sections 2 and 3 (SF 2437)

Adds Minn. Stat. §§ 13.871, subd. 13; and 299C.46, subd. 6(c)

Effective August 1, 2010

Classifies data from orders for protection or no contact orders and data entered by law enforcement to assist in the enforcement of those orders are classified as private data. Permits data about the offender to be shared with the victim for purposes of enforcement of the order.

IX. PERSONNEL DATA

Chapter 365, Article 1, Sections 3, 4, and 11 (SF 863)

Amends Minn. Stat. §§ 13.43, subds. 1 and 2; and 179A.04, subd. 3

Various effective dates

A. Expansion of Public Data for Government Employees/Contractors

Adds “terms and conditions of employment” and “work-related continuing education” to the types of data classified as public.

Amends Minn. Stat. § 13.43, subd. 2(a)

Effective August 1, 2010

- B. Reversal of Disciplinary Action by Arbitrator
Provides that where an arbitrator sustains a grievance and reverses a disciplinary action, the action is not public.
Amends Minn. Stat. § 13.43, subd. 2(b)
Effective August 1, 2010
- C. Reporting of Disciplinary Action Grievances Denied
Requires the Bureau of Mediation Services to make available disciplinary actions in which the arbitrator denies a grievance, upholding the action.
Amends Minn. Stat. § 179A.04, subd. 3
Effective for issued on or after August 1, 2010

X. RELEASE OF FINANCIAL RECORDS

Chapter 214 (HF 3139)
Adds Minn. Stat. § 13A.02, subd. 1
Effective retroactively to August 1, 2009

Gives government authorities access to the financial records of any customer of a financial institution if the records are disclosed in response to a judicial or administrative subpoena.

XI. TEMPORARY DATA CLASSIFICATION

Chapter 365, Article 1, Section 12; Article 2, Sections 1 - 7 (SF 863)
Amends Minn. Stat. § 13.06, subds. 1, 3, 4, 5, and 7
Adds Minn. Stat. § 13.06, subds. 4a and 6a
Repeals Minn. Stat. § 13.06, subd. 2; and Minn. Rules, part 1205.1800
Effective August 1, 2010

Amends provisions governing how DOA permits state agencies to temporarily classify data on individuals as private or confidential, or data not on individuals as nonpublic or protected nonpublic.

A. Effective Dates

1. Temporary Classification Upon Application

Changes effective date of classification as proposed by the submitting agency from date of filing to date of receipt of the application by DOA.

Amends Minn. Stat. § 13.06, subd. 1(b)

2. Classification Upon Decision

Changes the effective date for data to become public from 20 days after date of the decision to 20 days after the responsible authority receives the disapproval.

Amends Minn. Stat. § 13.06, subd. 5(a)

3. Attorney General Review

Changes the date by which the Attorney General must review and determine whether to approve or disapprove of DOA's determination on the application from within 25 days after the date of the decision to within 25 days of receipt of the record.

Amends Minn. Stat. § 13.06, subd. 5(b)

B. Requirements for Temporary Classification

Adds the "well-being or reputation" of the person whose data is subject to the classification as grounds for a temporary classification as private, but requires the applicant to clearly show a compelling need for the protection.

Amends Minn. Stat. § 13.06, subd. 3

C. Additional Application Request

Provides that an application may include a request DOA determine that the classification applies to similar governmental entities.

Amends Minn. Stat. § 13.06, subd. 4

D. Withdrawal of Application

Adds that an application may be withdrawn prior to a decision on temporary classification.

Adds Minn. Stat. § 13.06, subd. 4a

E. Use and Dissemination of the Data

Adds that, during the period of temporary classification, an agency may seek permission from DOA for a new or different use or dissemination of the data pursuant to Minn. Stat. § 13.05, subd. 4 (which includes use by informed consent, and dissemination to other entities specifically authorized to see the data).

Adds Minn. Stat. § 13.06, subd. 6a

F. Legislative Review

Amends expiration date for temporary classification from June 1 to August 1 of the year following submission to the legislature.

Amends Minn. Stat. § 13.06, subd. 7

DISABILITY AND MENTAL HEALTH LAW

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I. BUDGET CHANGES FOR DISABILITY AND MENTAL HEALTH SERVICES

A. Adult Mental Health Funding

First Special Session, Chapter 1, Article 25, Section 3, subd. 8(d) (HF 1) and Chapter 215, Article 5, Section 3, subd. 5 (HF 1671) and

Chapter 200, Article 2, Section 1, subd. 6(a) (SF 460)

Rider Language

Effective July 1, 2010

1. **Reductions**

Reduces:

- Adult mental health grants over the next two years by \$12.7.
- Funding for housing support services by \$3.3 million for FY 2010.
- Mental health counseling to farm families by \$6,000 for FY 2011.
- Adult Mental Health Specialty Care Grant by \$800,000 for the FY 2010.

2. **Eliminations**

Eliminates:

- Grants for culturally specific treatment for FY 2011, saving \$300,000.
- Funding for FY 2010 for crisis intervention team training for police officers, saving \$200,000.

B. Centers for Independent Living and State Services for the Blind

Chapter 215, Article 7, Section 3, subd. 3(b) and 3(c) (HF 1671)

Amends Laws of 2009, Chapter 78, Article 1

Effective July 1, 2010

Reduces funding for Centers for Independent Living by \$190,000 over the next two years. Cuts State Services for the Blind by \$119,000 for FY 2011.

C. Children and Community Services (CCSA) Block Grant

First Special Session, Chapter 1, Article 25, Section 3, subd. 4(d) (HF 1)

Rider Language

Effective July 1, 2010

Reduces the CSSA block grants to counties by: (1) \$35.1 million over the next two years; and (2) \$6.4 million in the following biennium.

(Note: these grants fund child welfare, protective services for children and adults, mental health services, services for persons with disabilities and seniors.)

- D. Children's Mental Health Grant and Services
First Special Session, Chapter 1, Article 25, Section 3, subd. 4(f) (HF 1) and Chapter 200, Article 1, Section 7 (SF 460)
Amends Minn. Stat. § 256B.0947, subd. 1
Rider Language
Effective July 1, 2010

Eliminates specialty grants for children's mental health. Delays Youth Assertiveness Community Treatment Team (ACT) until November 2011, resulting in a cut of \$2.9 million.

- E. Continuing Care Grants
First Special Session, Chapter 1, Article 15, Section 3 (HF 1)
Rider Language
Effective July 1, 2010 and expires on June 30, 2012

Reduces grants for aging, deaf and hard of hearing, and other disability services by \$2.5 million over the next two years. Requires that the adjustments are one time and not to be applied to the base funding for these programs in the future. Ratifies the Governor's unallotment of these grants.

- F. Developmental Disabilities (DD) Waiver Funding
First Special Session, Chapter 1, Article 15, Section 3, subd. 6(c) (HF 1)
Rider Language
Effective January 1, 2010 and expires on June 30, 2011

Ratifies the Governor's unallotment of the DD waiver one percent growth factor.

- G. Disability Home and Community Waiver Funding Cuts
First Special Session, Chapter 1, Article 25, Section 3, subd. 8(c) (HF 1)
Rider Language
Effective July 1, 2010

➤ Imposes additional caseload limits for home and community waiver programs for: (1) persons eligible for nursing facility care (CADI); (2) those who have a traumatic brain injury (TBI); and (3) persons with developmental disabilities.

- Reduces: (1) the CADI waiver funding from serving 95 new persons per month to serving 60 per month (which translates to 720 per year); (2) the TBI waiver funding from serving 12.5 new persons per month to serving six new persons per month (which translates to 72 per year); and (3) the DD waiver from serving 15 persons per month to serving six persons per month (which translates to 72 per year). Results in a cut of \$13.7 million in state funding, and a total (state and federal Medicaid) funding cut of over \$27 million, for home and community waiver services over three years.
- Reduces the state's savings from the waiver cuts due to more people with disabilities likely to be institutionalized because of community services reduction.
- Increases funding for long-term care facilities by \$7 million in state and federal funding. Increases home care services which would substitute for home and community waived services by nearly \$4 million in state and federal funding.

H. Extended Employment for Persons with Serious Mental Illness

Chapter 215, Article 17, Section 3, subd. 3(d) (HF 1671)

Amends Laws of 2009, Chapter 78, Article 1

Effective July 1, 2010

Reduces the Extended Employment Program for persons with serious mental illness.

I. ICF/MR Occupancy Rate Adjustment

First Special Session, Chapter 1, Article 15, Section 3, subd. 6(b) and Article 25, Section 3, subd. 8(b) (HF 1)

Rider Language

Effective July 1, 2009 and expires on June 30, 2013

Suspends new applications for occupancy rate adjustments for unoccupied short-term beds retroactively as part of the ratification of the Governor's unallotment. Extends the unallotment period one year beyond the Governor's original provision.

J. ICF/MR Variable Rates

First Special Session, Chapter 1, Article 15, Section 3, subd. 6(b) (HF 1)

Rider Language

Effective retroactively to July 1, 2009

Suspends for one year ICF/MR variable rates under Minn. Stat. § 256B.5013, subd. 1. Ratifies the Governor's unallotment of this provision.

K. Medical Supplies Payment

First Special Session, Chapter 1, Article 16, Section 14 (HF 1)
Amends Minn. Stat. § 256B.0625, subd. 31
Effective July 1, 2010

Allows DHS to pay less for medical supplies than the Medicare payment rate.

L. Personal Care Assistant (PCA) Monthly Work Hour Limit

First Special Session, Chapter 1, Article 15, Section 7, subd. 11(a)(10) (HF 1)
Amends Minn. Stat. § 256B.0659, subd. 11
Effective July 1, 2010

Makes permanent the Governor's unallotment of PCA staff work hours from 310 hours of work per month to a limit of 275 hours. Cuts PCA service availability, projected to save \$2.1 million in state funds for the current biennium (over \$4 million in PCA services) and \$3.2 million in the 2012-2013 biennium (\$6.5 million in PCA services).

M. Private Duty Nursing Services Coverage

First Special Session, Chapter 1, Article 19, Section 1 (HF 1)
Amends Minn. Stat. § 256B.0625, subd. 7
Effective July 1, 2010

Requires health plans regulated by the state (as opposed to self-insured, federally regulated plans) to cover private duty nursing services if hospital care is covered for a person's specific conditions and the person also has MA. Saves MA \$818,000 in state funding for this biennium and \$8.6 million in the next biennium because some current MA recipients will get private duty nursing coverage from their private insurance.

N. Quality Assurance

First Special Session, Chapter 1, Article 25, Section 3, subd. 8(g) (HF 1)
Rider Language
Effective July 1, 2010

Funds quality assurance for \$100,000 on a one-time basis in order to continue efforts to expand on the Region 10 quality assurance model across the state to improve the quality of long-term and community support services for persons with disabilities through the Quality Commission.

- O. State-Operated Services
First Special Session, Chapter 1, Article 19, Sections 4, 5, 6, and 7, and Article 25, Section 3, subd. 10(a) (HF 1)
Adds Minn. Stat. §§ 246.125; 246.128; 246.129; and 246.18
Effective July 1, 2010

Maintains the six state-operated dental clinics and state-operated services (SOS) facilities, and appropriates \$7.18 million dollars for this biennium for SOS. Establishes a task force in order to redesign SOS to better meet the needs of persons currently served.

II. COMMUNITY SERVICES POLICY CHANGES

- A. Certified Assessors
Chapter 352, Article 1, Section 17 (SF 2933)
Amends Minn. Stat. § 256B.0911, subd. 2b
Effective August 1, 2010

Allows lead agencies (e.g., counties, health plans and tribes) to contract with certified assessors to complete assessments on behalf of the lead agency if in compliance with DHS policies.

- B. Children's Residential Treatment Facilities License Requirement
Chapter 329, Section 10 (SF 2935)
Amends Minn. Stat. § 245A.30
Effective August 1, 2010

Provides that a residential treatment facility that accepts children from other states will not be licensed in Minnesota without an agreement that the other state pay for educational and medical expenses.

- C. Class F Home Care Provider
Chapter 246, Section 2 (SF 2923)
Amends Minn. Stat. § 144A.45, subd. 4
Effective August 1, 2010

Clarifies that Class F home care providers can receive Medicaid reimbursement without being Medicare certified.

- D. Consumer-Directed Community Support Services
Chapter 352, Article 1, Sections 18, 19, and 20 (SF 2933)
Amends Minn. Stat. § 256B.0911, subs. 3a, 3b, and 4d
Effective August 1, 2010

Requires written recommendations for consumers in the assessment and support planning process to include consumer-directed options. Adds referrals to home and community-based waiver services and consumer-directed options to referrals required as part of the long-term care consultation for transition assistance to persons residing in a nursing facility, hospital, regional treatment center, or intermediate care facility who request assistance.

- E. Family License Holder
Chapter 352, Article 1, Section 5, and Article 2, Section 15 (SF 2933)
Amends Minn. Stat. §§ 245A.03 and 256B.092, subd. 4d
Repeals Minn. Stat. § 256B.0919, subd. 4
Effective May 16, 2010

Permits a family member to be licensed to provide services through the Home and Community Waiver for Persons with Developmental Disabilities under limited circumstances, including that the license holder: (1) maintain a license under both Chapter 245B and the Adult Foster Care Licensure rule; and (2) not be the guardian of the person receiving supported living services.

- F. Foster Care Audio And Video Data Retention Policy
Chapter 352, Article 1, Section 6 (SF 2933)
Amends Minn. Stat. § 245A.11, subd. 7b
Effective August 1, 2010

Provides an exception to the five-day data retention requirement of video and audio recordings in lieu of supervision in adult foster homes under specific circumstances related to alleged maltreatment or maltreatment investigations.

- G. Home Care License Enforcement
Chapter 246, Section 5 (SF 2923)
Amends Minn. Stat. § 144A.46, subd. 3
Effective August 1, 2010

Adds specific actions for DOH to use in enforcement actions involving home care license holders.

III. DISCLOSURE OF PRIVATE EDUCATIONAL DATA

Chapter 230 (SF 2425)

Amends Minn. Stat. § 13.32, subd. 3

Effective August 1, 2010

Defines health emergencies to include mental health emergencies for the purposes of permitted disclosure of private data on students maintained by a public educational agency or institution.

IV. HEALTH CARE AND MENTAL HEALTH CHANGES

(NOTE: Substantial changes were made to state health coverage programs, including the elimination of the General Assistance Medical Care. Information on these changes is found in the HEALTH LAW section.)

A. Children's Psychiatric Hospital for Hennepin County

Chapter 198 (SF 2743)

Amends Minn. Stat. § 144.551, subd. 1

Effective March 27, 2010

Changes a 2009 provision to allow the establishment of a 20-bed inpatient psychiatric hospital for children and adolescents in the western two-thirds of Hennepin County.

B. Community Health Workers

Chapter 303, Section 4 (SF 2912)

Amends Minn. Stat. § 256B.0625, subd. 49

Effective August 1, 2010

Adds all licensed mental health professionals, including professional clinical counselors, to those qualified to supervise community health workers.

C. Dental Benefits/Services

Chapter 310, Article 7, Section 1 (SF 3027)

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

Effective July 1, 2010

Expands coverage for use of panoramic x-rays in some circumstances, including for those who need the procedure due to developmental disability or medical condition. Clarifies that MA covers medically necessary dental services for pregnant women as well as children. Specifies that application of sealants are covered once every five years per permanent molar and orthodontia is eligible for coverage for children only.

D. Dental Critical Access Providers

First Special Session, Chapter 1, Article 16, Section 27 (HF 1)
Amends Minn. Stat. § 256B.76, subd. 4
Effective July 1, 2010

Modifies the criteria DHS must use to determine which dentists and dental clinics are critical access dental providers. Requires DHS to designate the following as critical access providers: (1) certain nonprofit community clinics; (2) federally qualified health centers, rural health clinics; (3) county owned and operated hospital-based dental clinics; (4) a dental clinic or dental group owned and operated by a nonprofit operation with more than 10,000 patient encounters per year with patients who are uninsured or covered by MA, GAMC, or MinnesotaCare; and (5) a dental clinic associated with an oral health or dental education program operated by the University of Minnesota or an institution within the MnSCU system.

E. Dental Diagnostic, Screening, and Preventive Services for Children

Chapter 307, Section 1 (SF 633)
Amends Minn. Stat. § 256B.0625, subd. 14 by adding (d) and (e)
Effective August 1, 2010

Requires DHS to encourage a primary care health care provider to perform primary caries preventive services as part of a child or teen checkup or during an episodic care visit. Requires primary caries preventive services to include: (1) a general visual examination of the child's mouth; (2) a risk assessment; and (3) the application of a fluoride varnish beginning at age 1 to those children who are assessed as being high risk. Requires parental consent prior to administering a fluoride treatment. Requires the provider to give the child's parent or legal guardian information regarding caries etiology and prevention and dental homes.

F. Epilepsy Drugs

Chapter 289, Section 1 (HF 1320)
Amends Minn. Stat. § 151.06, subd. 1
Effective August 1, 2010

Requires the Board of Pharmacy to adopt United States Food and Drug Administration (FDA) standards if the FDA determines that substitution of epilepsy and seizure medication would be harmful to patients. Provides that the Board must report to appropriate legislative committees if the change would increase states costs.

- G. Indian Health Service Involvement in Children's Mental Health
Chapter 303, Section 1 (SF 2912)
Amends Minn. Stat. § 245.4885, subd. 1
Effective date August 1, 2010

Provides for Indian Health Service or Tribal Health Service facility involvement in determining the appropriate level of care when tribal money is used to pay for children's mental health treatment.

- H. MA for Employed Persons with Disabilities (MA-EPD)
First Special Session, Chapter 1, Article 17, Section 9 (HF 1)
Amends Minn. Stat. § 256B.057, subd. 9
Effective January 1, 2011

Requires, beginning two years before a person's 65th birthday, annual notice of the change in income and asset rules that will take place for an MA-EPD recipient when the recipient reaches age 65.

- I. MA Rehabilitative Services
First Special Session, Chapter 1, Article 16, Sections 8, 9, and 10 (HF 1)
Amends Minn. Stat. § 256B.0625, subs. 8, 8a, 8b
Effective July 1, 2010 for fee-for-service and January 1, 2011 for managed care

Tightens the limit on the number of therapy visits allowed before prior authorization is required for occupational therapy (OT), physical therapy (PT), and speech and language services.

- J. Mental Health Emergencies at Colleges
Chapter 230 (SF 2425)
Amends Minn. Stat. § 13.32, subd. 3
Effective August 1, 2010

Clarifies that parents of a student experiencing a mental health crisis while attending college can be notified just as if the student experienced any other type of medical emergency.

- K. Mental Health Urgent Care and Consultation
Chapter 200, Article 1, Section 1 (SF 460)
Adds Minn. Stat. § 245.4862
Effective July 1, 2010

Establishes a new mental health urgent care service and psychiatric consultation to provide rapid access for individuals who are at risk of being hospitalized or unable to receive timely services. Allows the service to be provided by interactive video if access is problem. Phases in the new service beginning with adults in Hennepin and Ramsey Counties and children statewide.

L. Minnesota Comprehensive Health Association Coverage of Mental Health Residential Treatment

Chapter 363 (SF 2879)
Amends Minn. Stat. § 62E.12
Effective August 1, 2010

Limits coverage of mental health services in an out-of-state residential treatment program to treatment which is: (1) medically necessary; (2) unavailable in Minnesota; and (3) based on a referral by a medical practitioner licensed in Minnesota.

M. Minnesota Disability Health Option (MNDHO)

First Special Session, Chapter 1, Article 25, Section 3, subd. 8(g) (HF 1)
Rider Language
Effective January 1, 2011

Terminates the MNDHO integrated managed care plan on January 1, 2011 and reduces associated funding, projected to save \$2.3 million in state funds for this biennium and \$3.6 million for the next. Provides \$250,000 for counties involved with transition of approximately 900 enrollees from MNDHO to county managed home and community waiver services. (*Note: the termination of MNDHO results in loss of federal Medicaid match used to fund MNDHO services and affects nearly 2,000 persons with disabilities in the seven-county metro area, about 1,000 of whom will have to transfer to county-managed home and community-based services.*)

N. Parent Fees for Children with Significant Disabilities

First Special Session, Chapter 1, Article 17, Section 6 (HF 1)
Amends Minn. Stat. § 252.27, subd. 2a
Effective July 1, 2010

Increases parent fees for approximately 4,000 families over the next 12 months. Raises fees on a sliding scale basis beginning at \$50,000 per year for a family of four (\$4 per month increase), rising to 13.5 percent of adjusted gross income for families at 900% of the federal poverty level. Requires parents to pay approximately \$3.9 million over three years, which saves the state \$1.755 million, with the rest going to the Federal government.

O. Reimbursement for Mental Health Assessment

Chapter 303, Section 6 (SF 2912)
Amends Minn. Stat. § 256B.761
Effective August 1, 2010

Directs DHS to establish three levels of payment for mental health diagnostic assessment, based on three levels of complexity. Makes the new rate structure effective January 1, 2011, or upon federal approval, whichever is later.

- P. State Medical Review Teams (SMRT)
Chapter 261, Section 1 (HF 3405)
Amends Minn. Stat. § 256.01, subd. 29
Effective August 1, 2010

Establishes a time limit of 90 days for appeals of a disability determination by the SMRT. Requires DHS to report to the Legislature annually, including information on the length of time between appeal requests and decisions issued.

- Q. Use of Anti-Psychotic and Attention Deficit Hyperactive Disorder (ADHD) Medications for Children
Chapter 200, Article 1, Section 5 (HF 460)
Amends Minn. Stat. § 256B.0625, subd. 13j
Effective April 1, 2010

Authorizes the appointment of an interdisciplinary work group to guide consultation and provide advice on the use of anti-psychotic and ADHD medications for children and when collaborative psychiatric consultation ought to be required. Requires prior authorization and consultation beginning July 1, 2011 when prescriptions of these medications are outside recommended dosages, with certain exceptions for children in crisis.

V. HOUSING

- A. Group Residential Housing (GRH) Reduction
First Special Session, Chapter 1, Article 15, Section 13 (HF 1)
Rider Language
Effective retroactively from November 1, 2009

Reduces the supplemental service rate for group residential housing by 5%, except for GRH facilities also licensed as nursing homes. Ratifies Governor's unallotment.

- B. Special Needs Housing Subsidy
Chapter 352, Article 1, Section 22 (SF 2933)
Amends Minn. Stat. § 256D.44, subd. 5
Effective August 1, 2010 and expires on June 30, 2012

Qualifies provider-owned housing to receive special needs payments under MSA. Limits special needs housing payments in multifamily buildings to those in which recipients occupy no more than 50% of the apartments.

- C. State Building Code Accessibility Standards Enforcement
Chapter 347, Article 3, Section 18
Amends Minn. Stat. § 326B.16
Effective July 1, 2010

Applies the State Building Code requirements for persons with disabilities across the state. Requires municipalities which have not adopted the State Building Code to enforce the requirements for persons with disabilities. Authorizes the DLI to enforce the State Building Code in a municipality not properly administering the code provisions applying to persons with disabilities.

VI. PERSONAL CARE ASSISTANCE (PCA) SERVICES AND HOME CARE POLICY CHANGES

- A. Personal Care Assistance

1. Background Study Requirements

Chapter 352, Article 1, Section 12 (SF 2933)
Amends Minn. Stat. § 256B.0659, subd. 11
Effective retroactively from July 1, 2009

Provides an exception to the requirement that a personal care assistant must initiate a new background study when: (1) the PCA changes employers under circumstances related to home care services provider termination; (2) there exists a need to protect a recipient's health and safety; and (3) other specific conditions are met.

2. Definitions

- a. Wages and Benefits

Chapter 352, Article 2, Section 2 (SF 2933)
Adds Minn. Stat. § 256B.0659, subd. 1(r)
Effective August 1, 2010

Adds a definition of wages and benefits to clarify PCA agency responsibilities to provide 72.5% of Medicaid revenue in wages and benefits to PCA staff.

- b. Extended Personal Care Services

Chapter 352, Article 2, Section 2 (SF 2933)
Adds Minn. Stat. § 256B.0659, subd. 1(g)
Effective August 1, 2010

Allows, under the disability and elderly home and community-based waivers, provision of PCA services beyond the amount,

duration, and frequency of state plan PCA services for participants who need assistance periodically during the week but less than daily and those who need PCA hours beyond the amount authorized under the state plan assessment under certain circumstances.

- c. Dependency
Chapter 352, Article 2, Section 4 (SF 2933)
Amends Minn. Stat. § 256B.0659, subd. 4
Effective August 1, 2010

Expands the definition of dependency for PCA assessment to include a person's need for assistance intermittently during the week on the days the activity is completed (rather than requiring a need for assistance daily).

- 3. Instrumental Activities of Daily Living for Children**
Chapter 352, Article 2, Section 3 (SF 2933)
Amends Minn. Stat. § 256B.0659, subd. 3
Effective August 1, 2010

Provides an exception to the exclusion of payment for instrumental activities of daily living (IADLs) for children when immediate attention is needed for health or hygiene reasons integral to personal care services and the need is identified in the service plan.

- 4. PCA Choice Option Changes**
Chapter 352, Article 2, Sections 8, 9 and 10 (SF 2933)
Amends Minn. Stat. §256B.069, subds. 18, 19, and 20
Effective August 1, 2010

Requires that a recipient's responsibility to hire, train, schedule, and terminate a PCA be governed by the terms of the written agreement with the PCA choice agency. Removes the authority to recruit, hire, schedule, and terminate a qualified professional from the PCA Choice Option. Clarifies that: (1) the PCA Choice Option written agreement is between the provider agency and the recipient or the responsible party; and (2) the agreement must be: (i) completed annually; and (ii) provided to the recipient or responsible party, each personal care assistant, and the qualified professional.

5. PCA Supervision by Qualified Professionals

Chapter 352, Article 2, Section 7 (SF 2933)

Amends Minn. Stat. §256B.069, subd. 14

Effective August 1, 2010

Clarifies that the initial evaluation of a PCA – but not subsequent evaluations – must be conducted by direct observation of each PCA.

Allows supervision after the first 180 days of a recipient’s PCA service to alternate between unscheduled phone or Internet technology and in-person visits, unless in-person visits are required in the care plan.

6. Provider Agencies Requirements

a. Initial Enrollment

Chapter 352, Article 1, Section 15 (SF 2933)

Amends Minn. Stat. § 256B.0659, subd. 21

Effective August 1, 2010

Adds a new requirement of proof of liability insurance for initial enrollment in MA program as a PCA agency.

b. Marketing

Chapter 352, Article 2, Section 12 (SF 2933)

Amends Minn. Stat. §256B.069, subd. 24

August 1, 2010

Deletes language on marketing restrictions to clarify that agencies are not allowed to engage in agency-initiated direct contact or in-person marketing, either by phone or other electronic means, to potential recipients, guardians, or family members.

c. No Limitation of Future Employment of PCA Staff

Chapter 352, Article 2, Section 11 (SF 2933)

Amends Minn. Stat. §256B.069, subd. 21

Effective May 15, 2010

Adds a new condition of enrollment for PCA providers requiring agencies to assure that future employment of PCA employees with PCA recipient or other PCA agencies will not be impeded or restricted. Requires an agency not to take action on any existing agreements, regardless of the date signed, that restricts the right of an employee to obtain employment with other providers.

- d. Serving Persons Using Ventilators
Chapter 352, Article 2, Section 13 (SF 2933)
Amends Minn. Stat. §256B.069, subd. 27
Effective August 1, 2010

Requires training and documentation demonstrating the agency's ability to supervise the PCA, the recipient, and the responsible party in the care of a person who is ventilator-dependent. Prohibits a PCA from providing, and requires licensed or registered health care professional to provide, the following services for a person who uses a ventilator: (1) clinical services; (2) assessment; (3) evaluation; or (4) clinical education. Limits a PCA to tasks associated with ventilator maintenance that are approved by the Board of Medical Practice, in consultation with respiratory care practitioner advisory counsel and DS

- 7. **Provision of Service During Pendency of Appeals**
Chapter 352, Article 2, Section 14 (SF 2933)
Amends Minn. Stat. §256B.069, subd. 30
Effective August 1, 2010

Requires DHS, upon a recipient request, to provide a service agreement authorizing PCA hours of service at the previous level during the pendency of appeal.

- 8. **Recipient Protection**
Chapter 352, Article 1, Section 9 (SF 2933)
Amends Minn. Stat. § 256B.0651, subd. 17
Effective August 1, 2010

Requires home care services providers to take steps to assist recipients when services are terminated due to provider sanctions, suspension, or termination. Authorizes DHS to assist affected and assure transition to other services.

- 9. **Training Requirements**

- a. For Owners, Managers, and Supervisors
Chapter 352, Article 2, Section 11 (SF 2933)
Amends Minn. Stat. §256B.069, subd. 21
Effective August 1, 2010

- 1) **Mandatory Training**
Requires new owners, managers, and supervisors involved in day-to-day operations of a PCA agency (except those in

Medicare certified home health agencies) to complete mandatory DHS training before beginning work for the agency.

2) Exemption for Staff Transferring to Another Agency
Clarifies that owners, managers, and supervisors who have completed the training and moved to another agency do not have to undergo the training for three years.

3) Training in Other Languages
Requires DHS, by September 1, 2010, to provide the required training for owners, managers, and supervisors in languages other than English, with accommodations needed for those with disabilities, to be provided online or by electronic remote connection and allow for competency testing.

b. For PCA's
Chapter 352, Article 2, Section 5 (SF 2933)
Amends Minn. Stat. § 256B.0659, subd. 11
Effective August 1, 2010

Requires PCA training to be available in languages other than English and to those who need accommodations due to disability. Prohibits DHS from disallowing the number of hours a PCA works unless the PCA violates the law.

c. For Qualified Professionals
Chapter 352, Article 2, Section 6 (SF 2933)
Amends Minn. Stat. §256B.069, subd. 13
Effective August 1, 2010

Requires training for qualified professionals to be available: (1) in languages other than English; (2) for those who need accommodations due to disability; and (3) online or by electronic remote connection. Provides for competency testing to demonstrate an understanding of PCA training without in-person attendance. Allows a qualified professional to be employed without meeting the training requirements until the training is offered online or through a remote electronic connection. Exempts a qualified professional employed by a Medicare certified agency. Requires DHS to verify the identity of persons who complete competency testing electronically.

10. Unemployment Exclusion for Family Member Employed as PCA

Chapter 347, Article 2, Sections 1 and 2 (SF 2933)

Amends Minn. Stat. § 268.035, subds. 19 and 20

Effective July 1, 2010

Adds family members employed as a PCA to the list of those excluded from unemployment insurance coverage. Defines immediate family member as an individual's spouse, parent, stepparent, son or daughter, stepson or stepdaughter, or grandson or granddaughter.

B. Home Care Policy – Home Health Aids

Chapter 352, Article 2, Section 1 (SF 2933)

Amends Minn. Stat. § 256B.0653, subd. 3

Effective August 1, 2010

Requires that MA-covered home health aides assure that a recipient gets to medical appointments if the Care Plan so identifies.

VII. REIMBURSEMENT FOR MENTAL HEALTH SERVICES

Chapter 303, Section 6 (SF 2912)

Amends Minn. Stat. § 256B.761

Effective August 1, 2010

Directs DHS to establish three levels of payment for mental health diagnostic assessment, based on three levels of complexity. The new rate structure is effective January 1, 2011, or upon federal approval, whichever is later.

VIII. RIGHTS AND PROTECTIONS

A. Accessibility

1. Continuing Education

Chapter 271, Section 3 (SF 1246)

Adds Minn. Stat. § 263A.43

Effective January 1, 2013 and

Chapter 347, Article 1, Section 23 (SF 2510)

Amends Minn. Stat. § 263A.43 as added by Laws 2010, Chapter 271, Section 3

Effective August 1, 2010

Requires the following to be made accessible within a reasonable period of time to persons with disabilities, including the availability of reasonable modifications, upon request, any continuing education or professional development course or activity approved or administered by: (1) the state;

(2) political subsds; (3) the University of Minnesota; or (4) the Minnesota state colleges and universities. Provides a private right of action and relief in the form of: (1) a penalty of \$500 per violation with a cap of \$15,000; (2) reasonable attorneys fees (and caps attorneys fees for a class action at \$15,000); (3) costs; and (4) a statute of limitations of one year from the occurrence of the violation.

2. Public Records

Chapter 271, Section 2 (SF 1246)

Adds Minn. Stat. § 363A.42

Effective January 1, 2013 and

Chapter 347, Article 1, Section 22 (SF 2510)

Amends Minn. Stat. § 363A.42 as added by Laws 2010, Chapter 271, Section 3 Effective August 1, 2010

Requires public records to be available within a reasonable time period for persons with disabilities, upon request, consistent with state and federal laws requiring reasonable modifications. Provides a private right of action and relief in the form of: (1) a penalty of \$500 per violation with a cap of \$15,000; (2) reasonable attorneys fees (and caps attorneys fees for a class action at \$15,000); (3) costs; and (4) a statute of limitations of one year from the occurrence of the violation.

B. Apology for Institutionalization

Resolution 4 (HF 1680)

Effective August 1, 2010

Makes Minnesota the sixth state to issue an apology by the State of Minnesota to persons with mental illness and developmental and other disabilities for harmful practices and wrongful institutionalization which resulted in segregation and isolation from families, communities and society.

C. Federal Match for Advocating Change Together

First Special Session, Chapter 1, Article 17, Section 16 (HF 1)

Uncodified Language

Effective July 1, 2010

Requires DHS to seek a federal financial match for grants to Advocating Change Together to establish a statewide advocacy network for persons with developmental disabilities. Requires a report to relevant legislative chairs of budget committees by December 15, 2010 describing the results of the application for federal matching funds.

- D. Guardianship and Health Care Agents
Chapter 254 (HF 3128)
Amends Minn. Stat. § 145C.09 and multiple sections of Chapter 524.5-101 - .5-502
Effective August 1, 2010

Changes a number of provisions regarding guardianship and health care directives, including: (1) permitting a court to declare a person's health care directive unenforceable if the health care directive was executed through fraud or coercion; (2) allowing protected persons under guardianship to execute a health care directive if that power has not been delegated to a guardian or health care agent as part of the guardianship; and (3) establishing that a court-ordered guardianship with the power to make medical decisions supersedes a prior health care directive.

- E. Housing With Services

1. Consumer Information

First Special Session, Chapter 1, Article 17, Sections 1-3, 5 and 8 (HF 1)
Amends Minn. Stat. §§ 144D.03, subd. 2; 144D.04, subd. 2; 144G.06; and 256.975, subd. 7
Adds Minn. Stat. § 144D.08
Effective July 1, 2010

Requires housing with services establishments to provide specific additional information to the DOH through the registration process and in the form of a uniform consumer information guide. Specifies that information provided will allow price comparisons and separate charges for rent and charges for services to allow comparison of long-term care options.

2. Information Upon Lease Termination

First Special Session, Chapter 1, Article 17, Section 4 (HF 1)
Adds Minn. Stat. § 144D.09
Effective July 1, 2010

Requires housing with services providers to include with notice of termination of lease information on how to contact the Ombudsman for Long-Term Care.

- F. Maltreatment of Children in Schools
Chapter 276 (HF 3157)
Amends Minn. Stat. § 626.556, subds. 7 and 10d
Effective August 1, 2010

Requires the Department of Education to inform a child's parents within 10 days of a child becoming the subject of an investigation into allegations of maltreatment at school. Allows schools to inform parents of children who are witnesses in maltreatment investigations.

- G. Rehabilitation Counselors for the Blind Certification and Qualifications Requirements
Chapter 271, Section 1 (SF 1246)
Adds Minn. Stat. § 248.07, subd. 14b
Effective for persons hired January 1, 2011

Establishes new requirements for certification as a rehabilitation counselor for the blind, including: (1) completion of a minimum of six weeks intensive training; (2) additional training required by the Director for the State Services for the Blind; and (3) continuing education requirements.

- H. Service Animals
Chapter 292, Section 3 (SF 2990)
Amends Minn. Stat. § 343.21
Effective August 1, 2010

Provides a cause of action against a person who harms a service animal, permitting the victim to recover restitution, lost wages, and other related costs (including replacement of the service animal and retraining).

- I. Vulnerable Adult Reports
Chapter 352, Article 1, Section 23 (SF 2933)
Amends Minn. Stat. § 626.557, subd. 9a
Effective August 1, 2010

Requires common entry points (CEPs) to refer all reports of alleged or suspected maltreatment to the appropriate lead agency as soon as possible for a determination on whether to initiate an investigation.

IX. SENIORS

- A. Customized Living Rate
First Special Session, Chapter 1, Article 17, Section 11 (HF 1)
Adds Minn. Stat. § 256B.0915 subd.3i
Effective July 1, 2010

Reduces rate limits by 5% for: (1) customized living services; and (2) 24-hour customized living services. Modifies customized living under the Elderly Waiver, resulting in savings of \$13.7 million over the next four years. Reduces services by approximately \$8 million in state and federal funding because it is assumed some of the people affected will remain in nursing facilities because they cannot live in housing with services settings given the cuts. *(Note: As with the disability home and community waiver cuts, these funds are matched by federal Medicaid funds and thus the funding reduction for services is over twice the amount of the state savings.)*

- B. Elderly Waiver Conversions Due to PCA Changes
Chapter 352, Article 1, Section 25 (SF 2933)
Uncodified Language
Effective August 1, 2010

Clarifies that recipients of PCA service with an MT home care rating are eligible to convert to the Elderly Waiver using the monthly spending under the PCA program that was in place as of January 1, 2010.

- C. Essential Community Supports Delay
First Special Session, Chapter 1, Article 17, Section 14 (HF 1)
Amends Minn. Stat. § 256B.0917, subd. 14
Effective July 1, 2010

Delays implementation of the Essential Community Supports Program associated with the tightening of nursing facility level of care for six months, until July 1, 2011.

- D. Nursing Facility Level of Care (LOC)

1. **Clarification**
Chapter 352, Article 1, Section 1 (SF 2933)
Amends Minn. Stat. § 144.0724, subd. 11
Effective August 1, 2010

Adds language clarifying that clinical monitoring at least once per day is one of the criteria to be used to determine nursing facility LOC. Covers circumstances in which the data first quarterly assessment for nursing facility LOC extends beyond the first 90 days of a resident's nursing facility stay. Provides that the LOC criteria are determined 90 days after admission or on the first quarterly assessment, whichever is later.

2. **Delay**
First Special Session, Chapter 1, Article 24, Section 12 (HF 1)
Amends Minn. Stat. § 144.0724, subd. 11
Effective July 1, 2010

Delays the implementation of the tightening of nursing facility LOC criteria for six months until July 1, 2011.

- E. Program of All Inclusive Care for the Elderly (PACE)
First Special Session, Chapter 1, Article 17, Section 13 and Article 25, Section 3, subd. 9 (HF 1)
Amends Minn. Stat. § 256B.69, subd. 23
Effective July 1, 2010

Provides for the development of PACE in Minnesota by appropriating funding to the Department of Human Services for actuary and administrative work. Requires the department to work with stakeholders to develop financing mechanisms for state fiscal year 2013 and beyond, and report to legislators by January 15, 2011 on progress to develop financing.

X. TASK FORCES AND REPORTS

- A. Case Management Recommendations
Chapter 352, Article 1, Section 27 (SF 2933)
Uncodified Language
Effective May 16, 2010

Requires DHS to: (1) provide recommendations and language for proposed legislation; and (2) consult with existing stakeholder groups in developing recommendations.

- B. Consumer Directed Community Supports
Chapter 352, Article 1, Section 26 (SF 2933)
Uncodified Language
Effective May 16, 2010

Requires DHS to consult with stakeholders on the development of individualized budgets for home and community based services consumer directed community supports.

- C. Consumer Satisfaction Data
Chapter 329, Sections 21 and 22 (SF 2935)
Uncodified Language
Effective January 1, 2012

Requires DHS and DOC to submit, by February 15 each year, a memorandum annually to the Governor and relevant legislative committees on: (1) the number of calls to each Department's Help Lines by consumers and citizens; (2) problems identified, resolved, referred to counties and elsewhere; (3) unresolved calls; and (4) calls without merit. Requires the agencies to publish the results on their respective websites no later than March 1 each year.

- D. Evaluation of Ongoing Studies and Reports
First Special Session, Chapter 1, Article 16, Section 1 (HF 1)
Adds Minn. Stat. § 256.01, subd. 30
Effective July 1, 2010

Directs DHS to review all ongoing studies, reports, and program evaluations completed for FY 2006 - FY 2010. Requires recommendations to the Legislature every five years concerning duplicative, unnecessary, or obsolete reports.

- E. License Moratorium for Adult Foster Care Study
Chapter 352, Article 1, Section 4 (SF 2933)
Amends Minn. Stat. § 245A.03, subd. 7
Effective August 1, 2010

Requires DHS to include specific information in a study on the effects of the license moratorium.

- F. Report Regarding Programs and Services for People with Disabilities
First Special Session, Chapter 1, Article 17, Section 7 (HF 1)
Adds Minn. Stat. § 256.4825
Effective July 1, 2010

Allows the Minnesota Council on Disability, the Consortium for Citizens with Disabilities, and ARC of Minnesota to submit an annual report to the Legislature reviewing the goals of programs and services for persons with disabilities, beginning January 15, 2012. Requires various state agencies to provide existing public information and reports to assist in the preparation of the review of services and funding.

- G. Single Set of Standards for Services for Persons with Disabilities
Chapter 352, Article 1, Section 24 (SF 2933)
Amends Laws of Minnesota 2009, Chapter 79, Article 8, Section 81
Effective August 1, 2010

Changes the name of the report from a single set of standards to “quality outcome standards” governing services for persons with disabilities under home and community waivers. Requires submission of the report and plans to the appropriate legislative committees by January 15, 2012.

XI. TRANSPORTATION

A. Complete Streets

Chapter 351, Sections 52 and 72 (SF 2540)

Adds Minn. Stat. § 174.75 and Uncodified Language

Effective August 1, 2010

Establishes the “complete streets” standard for planning, design implementation, and operation of roads in Minnesota to promote safety and accessibility for all users of all ages and abilities. Requires three reports to relevant legislative committees, to be submitted between January 15, 2011 and January 15, 2014, to summarize implementation steps and improvements as well as barriers to the complete streets policy.

B. Minnesota Council on Transportation Access

Chapter 351, Section 51 (SF 2540)

Adds Minn. Stat. § 174.285

Effective July 1, 2010 and expires June 30, 2014

Establishes the Minnesota Council on Transportation Access to evaluate and make recommendations to improve transportation for the “transit public,” including: (1) persons with mental or physical disabilities; and (2) low income persons who are seniors or are dependent upon others for transportation services. Provides broad stakeholder membership and requires a report to the Governor and relevant legislative committees by January 15 of each year, beginning in 2012.

C. Special Medical Transportation Frequency of Level of Need Determination

First Special Session, Chapter 1, Article 16, Section 4 (HF 1)

Amends Minn. Stat. § 256B.04, subd. 14a

Effective July 1, 2010

Changes frequency of level-of-need eligibility determinations for special transportation from semi-annual to annual, unless there is a change in condition.

DOMESTIC ABUSE

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I. BAIL

Chapter 299, Sections 9 and 10 (SF 2437)
Amends Minn. Stat. § 629.72, subd. 1
Adds Minn. Stat. § 629.471, subd. 3a
Effective for crimes committed on or after August 1, 2010

Increases the statutory bail cap from six times the maximum fine to 10 times the maximum fine for violations of an Order for Protection or misdemeanor and gross misdemeanor domestic assault.

II. COMPANION ANIMAL PROTECTION

Chapter 299, Sections 4 and 5 (SF 2437)
Amends Minn. Stat. § 518B.01, subds. 6 and 7
Effective August 1, 2010

Expands the jurisdiction of the court in ex parte and permanent orders for protection petitions to: (1) direct the care of a companion animal owned, possessed, or kept by either party or by either party's child; and (2) restrain a party from injuring or threaten to injure a companion animal in the other party's residence as an indirect means of threatening the other party.

III. CRIMINAL JUSTICE DATA COMMUNICATION NETWORK

Chapter 299, Section 3 (SF 2437)
Amends Minn. Stat. § 299C.46, subd. 6
Effective August 1, 2010

A. Definition of No Contact Order

Expands and clarifies the definition of the no contact orders that must be part of the Criminal Justice Network to include domestic abuse no contact orders.
Amends Minn. Stat. § 299C.46, subd. 6(a)

B. Expansion of Orders Included in the Data Communication Network

Requires the Criminal Justice Data Communication Network to include orders for protection and no contact orders (including domestic abuse no contact orders) against both adults and juveniles. Provides that: (1) these orders are classified as private data; and (2) data in the order about the offender may only be shared with the victim for purposes of enforcement.

Amends Minn. Stat. § 299C.46, subd. 6(b)

IV. DOMESTIC ABUSE AND SEXUAL ATTACK PROGRAM EMPLOYEES

Chapter 299, Section 1 (SF 2437)

Adds Minn. Stat. § 13.823

Effective August 1, 2010

Exempts employees and volunteers of domestic abuse and sexual attack programs (including programs that provide shelter care) who are not under the direct supervision of a government entity from the requirements of Chapter 13 (the Data Practices Act) provisions. *(Note: This provision is designed to protect programs that receive funding, such as grants, from being required to disclose personnel information or policy data through a data practices request.)*

V. ELECTRONIC MONITORING

Chapter 299, Section 12 (SF 2437)

Amends Minn. Stat. § 629.72, subd. 2a

Effective August 1, 2010 and expires January 15, 2014

Permits the chief judge of a judicial district to appoint and convene an advisory group to develop standards for the use of electronic monitoring and global positioning system (GPS) devices to protect victims of domestic abuse and for evaluating the effectiveness of electronic monitoring. Permits the chief judge to conduct a pilot project implementing the standards.

VI. EX PARTE ORDER FOR PROTECTION

Chapter 299, Section 5 (SF 2437)

Amends Minn. Stat. § 518B.01, subd. 7

Effective August 1, 2010

Extends protection under an ex parte Order for Protection to a reasonable area surrounding a dwelling. Requires the “reasonable area” to be specifically described in the ex parte order. *(Note: This protection already exists under law governing the permanent Order for Protection.)*

VII. HARASSMENT/STALKING

Chapter 299, Section 8 (SF 2437)

Amends Minn. Stat. § 609.749

Effective for crimes committed on or after August 1, 2010

A. New Definition: Stalking

Replaces “harass” with “stalking.” Eliminates the specific element of intent. Clarifies that the relationship between the actor and the victim is irrelevant if the actor caused the victim to feel frightened, threatened, oppressed, persecuted, or intimidated.

Amends Minn. Stat. § 609.749, subd. 1

B. Expansion of Crime of Stalking

Expands stalking to include: (1) stalking through third parties; (2) sending text messages; and (3) communicating via assistive devices for the visually or hearing impaired, or communicating through any available technologies or other objects.

Amends Minn. Stat. § 609.749, subd. 2

C. Arrests

Permits a law enforcement officer to make a warrantless arrest for any violation of the stalking law, except making false allegations against a law enforcement officer.

Adds Minn. Stat. § 609.749, subd. 1c

D. Venue

1. **Where Violations Occur in Multiple Counties**

Provides for prosecution for all violations in any one county when multiple violations occur in multiple counties.

Adds Minn. Stat. § 609.749, subd. 1b(a)

2. **Calls**

Clarifies that the venue for prosecution may be where any call was made or received.

Adds Minn. Stat. § 609.749, subd. 1b(b)

3. **Cell Phone, E-mail**

Clarifies that the venue for prosecution may be where the actor or victim resides if the violation was made by cell phone, e-mail, or communications with other technologies.

Adds Minn. Stat. § 609.749, subd. 1b(b)

4. **Letters, Telegrams, Messages or Packages**
Clarifies that the venue for prosecution may be where any letter, telegram, message, package, or other object is sent or received.
Adds Minn. Stat. § 609.749, subd. 1b(b)
5. **Safe at Home Program**
Clarifies that the venue for prosecution for a victim participating in the Safe at Home Program may be the location of the victim's designated address.
Adds Minn. Stat. § 609.749, subd. 1b(b)

VIII. NO CONTACT ORDERS

Chapter 299, Sections 11 and 13 (SF 2437)

Amends Minn. Stat. § 609.72, subd. 1

Adds Minn. Stat. § 629.75

Repeals Minn. Stat. § 518B.01, subd. 22

Effective August 1, 2010

- A. Recodification
Moves the domestic abuse no contact order (DANCO) from Chapter 518B to Chapter 629, making a DANCO a criminal, rather than civil, order.
Amends Minn. Stat. § 629.72, subd. 1
- B. Juvenile Hearings
Expands the DANCO to juvenile delinquency hearings for domestic abuse. Provides that a DANCO may be issued in a juvenile case for: (1) stalking against a family member; (2) violation of an Order for Protection; or (3) violation of a prior DANCO.
Adds Minn. Stat. § 629.75, subd. 1(a)
- C. Enhancement of Violations
Extends existing provisions for enhancing violation of a DANCO to prior juvenile proceedings for a qualified domestic violence-related offense.
Adds Minn. Stat. § 629.75, subd. 2
- D. Issuance of a DANCO
Clarifies that a DANCO:
 - Can be issued as part of an underlying criminal case, either as a pretrial order or as a postconviction probationary order, provided that if issued as a postconviction order, the underlying offense must be for domestic abuse, stalking against a family member, or violation of a prior Order for Protection or DANCO;
 - Is independent of any condition of pretrial release (i.e. bail) or probation; and
 - Must be issued as part of a separate proceeding held immediately after the proceeding that determines pretrial release or sentencing issues.*Adds Minn. Stat. § 629.75, subd. 1(b)*

IX. ORDERS FOR PROTECTION AND NO CONTACT ORDERS

Chapter 299, Sections 2 and 3 (SF 2437)

Adds Minn. Stat. §§ 13.871, subd. 13; and 299C.46, subd. 6(c)

Effective August 1, 2010

Classifies data from orders for protection or no contact orders and data entered by law enforcement to assist in the enforcement of those orders are classified as private data. Permits data about the offender to be shared with the victim for purposes of enforcement of the order.

X. WITNESS TAMPERING

Chapter 299, Sections 6 and 7 (SF 2437)

Amends Minn. Stat. § 609.498, subd. 3

Adds Minn. Stat. § 609.498, subd. 2a

Effective for crimes committed on or after August 1, 2010

Creates a misdemeanor-level witness tampering offense requiring a person to either: (1) intentionally attempt to dissuade or prevent, or actually dissuade or prevent, another from testifying or providing information to law enforcement; or (2) by means of intimidation, attempt to influence, or actually influence, another to testify falsely or provide false information to law enforcement. Provides that: (1) intimidation can be proven by a specific act or totality of the circumstances; and (2) coercion is not an element of the offense. (*Note: Current law provides for a felony and gross misdemeanor level offense, which requires an element of coercion.*)

FAMILY LAW

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I. CHILD SUPPORT

A. Administrative Redirection

Chapter 238, Sections 2 and 3 (SF 2562)

Amends Minn. Stat. § 518A.46, subd. 5

Adds Minn. Stat. § 518A.46, subd. 7

Effective January 1, 2011

1. **When Authorized**

Permits a public authority to administratively redirect basic support, medical support, and child care support to a caregiver when: (1) there is a voluntary placement of the child with the caregiver; (2) a court-ordered placement does not address child support; or (3) the caregiver receives public assistance. Provides that only a proportional amount of child support can be redirected if not all children are placed.

Amends Minn. Stat. § 518A.46, subd. 5

2. **Notice Required**

Requires the public authority to provide notice of the redirection to the child support obligee, the obligor, and the caregiver.

Adds Minn. Stat. § 518A.46, subd. 7(a)

3. **Right to Contest**

Gives either an obligor or obligee the right to contest the redirection, but only on the grounds that: (1) the child no longer resides with the caregiver; (2) an out-of-home placement plan requires all of the child support to stay in the home; or (3) the redirection is not in the best interests of the child.

Provides that the redirection commences the first day of the month following the time period to contest the redirection if neither party contests.

Adds Minn. Stat. § 518A.46, subd. 7(c) (Right/Grounds to contest)

Adds Minn. Stat. § 518A.46, subd. 7(e) (Commencement of redirection)

4. **Process to Contest**

Requires the obligor or obligee to, within 30 days of the redirection notice, ask the public authority to schedule a hearing. Provides that the public authority must: (1) hold the hearing at the earliest practicable time, but no

later than 30 days after the public authority receives a request for hearing; (2) provide notice to the obligor and obligee within 14 days of the hearing; and (3) schedule the hearing before a child support magistrate (or a district court judge if no magistrate is available). Specifies that child support is not redirected while a hearing outcome is pending.

Adds Minn. Stat. § 518A.46, subd. 7(d)

5. Duration

Specifies that the redirection continues until the public authority determines that: (1) the caregiver no longer receives public assistance; (2) the voluntary placement agreement expires; or (3) the court-ordered placement is no longer in effect.

Adds Minn. Stat. § 518A.46, subd. 7(f)

6. Termination

Requires the public authority, upon termination of the redirection, to: (1) notify the obligee, the obligor, and the caregiver; and (2) send the child support to the obligee beginning the first day of the month that falls at least 14 days after the redirection termination notice is sent.

Adds Minn. Stat. § 518A.46, subd. 7(g)

B. Judgments

Chapter 238, Sections 4 – 7 (SF 2562) (Substantive Provisions)

Amends Minn. Stat. §§ 541.04; and 548.09, subd. 1

Repeals Minn. Stat. § 548.092

and

Chapter 371, Section 5 (SF 3361) (Effective Date)

Amends Laws 2010, Chapter 238, Section 7

Effective July 1, 2011

Extends child support judgments from 10 years to 20 years. Repeals existing law that that makes current judgments effective retroactively for 10 years.

C. Locating Parties

Chapter 238, Section 1 (SF 2562)

Amends Minn. Stat. § 256.978, subd. 2

Effective August 1, 2010

Permits county to access home and work telephone numbers, cell phone numbers, and email addresses for the purposes of locating parties.

II. MINNESOTA COUPLES ON THE BRINK PROJECT

First Special Session, Chapter 1, Article 19, Sections 2 and 17 (HF 1)
Amends Minn. Stat. § 517.08, subd. 1b
Effective July 1, 2010

Asks the University of Minnesota, within the limits of available funding, to develop and implement a “Minnesota Couples on the Brink” project. Specifies the purpose is to develop and disseminate best practices for promoting reconciliation to couples considering or pursuing divorce who choose to pursue reconciliation.

III. STATE GUARDIAN AD LITEM BOARD

Chapter 309 (SF 2880)
Amends Minn. Stat. §§ 257.69, subd. 2; 260B.331, subd. 6; 260C.331, subds. 3 and 6;
and 518.165, subd. 3
Adds Minn. Stat. § 480.35
Effective July 1, 2010

A. Establishment

Establishes a State Guardian Ad Litem board, modeled after the Board of Public Defense and placed under the control of the judicial branch, for guardians appointed in family and juvenile court matters.

B. Duties

Specifies the Board’s duties to include: (1) establishing procedures to distribute legislative appropriations to the guardian ad litem program; and (2) establishing guardian ad litem program standards, administrative policies, procedures, and rules consistent with existing law and court rules. Permits the Board to: (1) make recommendations for legislation; and (2) establish an advisory board, which, if established, expires June 30, 2014.

C. Status of Board Records

Subjects records of the State Guardian Ad Litem Program to existing Rules of Public Access for Records of the Judicial Branch.

D. Oversight During Transition

Provides that until the board’s establishment, which must occur no later than October 1, 2010: (1) the state court administrator and judicial district offices continue to provide administrative support and management oversight services; and (2) existing judicial branch policies for guardians ad litem continue to apply.

IV. UNIFORM PROBATE CODE

Chapter 334, Sections 5 - 13 (SF 2527)

Amends Minn. Stat. §§ 524.1-201; and 524.2-114

Adds Minn. Stat. §§ 524.2-116 - 2.122

Effective:

With respect to the rights of successors of decedents dying on or after August 1, 2010 August 1, 2010.

With respect to any instruments executed before August 1, 2010, unless there is a clear indication of contrary intent in the instrument.

Makes changes to the Uniform Probate Code relative to inheritance from children or bequests to children.

A Definitions

1. Updated Terminology

Adds definitions to reflect modern familial relationships and birthing techniques, including, among other terms: (1) “assisted reproduction”; (2) “birth mother”; (3) “functioned as the parent of the child” (4) “genetic parent”; (5) “gestational agreement”; (6) “intended parent”; and (7) third-party donor.”

Amends Minn. Stat. § 524.1-201

2. “Incapacity”

Defines “incapacity” to mean the “inability of an individual to function as a parent of a child because of the individual's physical or mental condition.”

Adds Minn. Stat. § 524.1-201

B. Adoptions

1. Child/Adopting Parents Relationship

Provides that the parent-child relationship is between the child and the adopting parent(s).

Adds Minn. Stat. § 524.2-119

2. Child/Stepparent Relationship

Provides that the parent-child relationship where a child is adopted by the spouse of either genetic parent is between child and the genetic parent whose spouse adopted the child. Further provides that a parent-child relationship exists for inheritance purposes only with other genetic parent if the other genetic parent is deceased.

Adds Minn. Stat. § 524.2-119

- C. Assisted Reproduction
Provides rules for intestate succession in cases of assisted reproduction.
Adds Minn. Stat. § 524.2-120
- D. Gestational Agreements/Equitable Adoption
Clarifies that the Uniform Probate Code does not affect: (1) other state law regarding gestational agreements; or (2) the doctrine of equitable adoption.
Adds Minn. Stat. § 524.2-121 (Gestational agreements)
Adds Minn. Stat. § 524.2-122 (Equitable adoption)
- E. Prohibition on Inheritance/Termination of Parental Rights
Bars a parent from inheriting from or through a deceased child if: (1) the parent has had parental rights terminated; (2) by a showing of clear and convincing evidence, the parent, immediately before the child's death, could have had parental rights terminated.
Amends Minn. Stat. § 524.2-114

FOOD SUPPORTS

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I. FOOD SHELF FUNDING

First Special Session, Chapter 1, Article 25, Section 2 (HF 1)
Effective July 1, 2010

A. Summer Feeding Programs

Appropriates \$400,000 to Hunger Solutions Minnesota's food shelf network for the children's summer feeding programs.

B. Emergency Food Shelf Funding

Increases, on a one-time emergency basis, food shelf funding by \$63,000.

II. MINNESOTA FOOD ASSISTANCE PROGRAM

First Special Session, Chapter 1, Article 25, Section 2 (HF 1)
Appropriations Article
Effective July 1, 2010

Appropriates \$150,000 in one-time additional funds to the state-funded Minnesota Food Assistance Program (food support for legal non-citizens).

III. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) (FOOD STAMPS)

First Special Session, Chapter 1, Article 18, Section 1 (HF 1)
Amends Minn. Stat. § 256D.0515
Effective November 1, 2010

Eliminates the \$7,000 asset limit for SNAP. Increases the gross income test from 130% to 165% of FPG.

IV. SNAP FOR CHILDREN WITH ALLERGIES

First Special Session, Chapter 1, Article 21, Section 4 (HF 1)
Effective August 1, 2010

Requires DHS to seek a federal waiver to increase SNAP income eligibility to 375% of FPG for children with severe food allergies, including allergies to wheat and gluten.

HEALTH LAW

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I. FEDERAL HEALTH CARE REFORM

*On March 23, 2010 landmark federal health care reform legislation – the **Patient Protection and Affordable Care Act (PPACA)** – was enacted. Public Law 111-148 and as amended by the Health Care Education and Reconciliation Act of 2010, Public Law 111-152. See www.healthcare.gov. The following provisions from the federal health care reform legislation have been included here because they have 2010 effective dates and/or are issues of particular interest in Minnesota.*

- A. American Health Benefit Insurance Exchanges
Creates Health Insurance Exchanges in each state to assist individuals and small employers in purchasing health insurance. Enables people to comparison shop for standardized health insurance packages and facilitates enrollment in coverage, including those eligible for Medicaid. Makes available premium subsidies and cost-sharing tax credits to families with incomes between 133-400% of the federal poverty guidelines (FPG) to help ensure people of all incomes can obtain affordable coverage through an Exchange.
Effective January 1, 2014
- B. Eliminating Pre-Existing Condition Exclusions for Children under 19
Prohibits all employer plans and new plans in the individual insurance market from imposing pre-existing condition exclusions on children's coverage. Includes both benefit limitations and outright coverage denials. This protection will be extended to all age groups starting in 2014.
Effective September 23, 2010
- C. Individual Mandate
With some exceptions, requires all individuals to have health insurance or pay a yearly financial penalty.
Effective January 1, 2014
- D. Insurance Coverage Extended for Dependents
Requires all plans in the individual market and new employer plans that provide dependent coverage for children to continue to make that coverage available up to age 26, but for existing employer plans, applies only to young people not offered their own employer-provided coverage.
Effective September 23, 2010

- E. Medicaid (MA) Flexibility for States
Beginning January 1, 2014, states must extend MA to certain individuals with incomes up to 133% of FPG's, with the federal government providing 100% of the funding. Gives Minnesota the option of implementing early MA coverage for childless adults as early as April 1, 2010 through a state plan amendment. (See also *Health Care Reform in Minnesota*).
Various effective dates
- F. Federal High Risk Pools–Pre-existing Condition Insurance Plan (PCIP)
Offers insurance coverage for those who have been previously denied health coverage due to a pre-existing condition. Ends in 2014, when insurance providers will be prohibited from denying coverage for these individuals. (See also *Health Care Reform in Minnesota – MCHA*).
Effective July 1, 2010

II. HEALTH CARE REFORM IN MINNESOTA

A. Immediate Changes

1. **Demonstration Projects and Grants**

First Special Session, Chapter 1, Article 22, Section 3 (HF 1)
Effective July 1, 2010

Requires Department of Human Services (DHS) to seek participation in certain demonstration projects or apply for grants as described in federal health care reform legislation, including: (1) evaluation of integrated care around hospitalization; (2) Medicaid global payment; (3) pediatric accountable care organizations; (4) Medicaid emergency psychiatric care; and (5) grants to provide incentives for prevention of chronic diseases. DHS must report to legislature on the status of projects/grant applications.

2. **Health Homes and Coordinated Care**

First Special Session, Chapter 1, Article 22, Section 2 (HF 1)
Adds Minn. Stat. § 256B.0756
Effective January 1, 2011, or upon federal approval, whichever is later

Modifies health home provisions to comply with the federal requirements of the state option to provide health homes for certain enrollees with chronic conditions. Defines eligibility and the health home services provided. Establishes health teams to support the patient-centered health home and provide the services described. Requires DHS to submit a State plan amendment by January 1, 2011.

3. Minnesota Comprehensive Health Association (MCHA) and Relationship to Temporary Federal High-Risk Pool (Pre-Existing Condition Insurance Plan (PCIP))

First Special Session, Chapter 1, Article 22, Section 1 (HF 1)

Adds Minn. Stat. § 62E.20

Effective July 1, 2010 and as of the date a federal qualified high risk pool begins to provide coverage in Minnesota.

Clarifies the relationship between MCHA and the PCIP and specifies requirements for coordination of these insurance products with state health care programs. Requires the Department of Commerce and MCHA to ensure that applicants are referred to the state public health programs if deemed potentially eligible for those programs. Requires DHS to provide information about coverage under both the federal PCIP and MCHA to applicants determined to be ineligible for coverage under MA or MinnesotaCare.

B. Medical Assistance (MA) State Option for Childless Adults

Provides authority for the current or subsequent governor, contingent upon the issuance of an executive order by January 15, 2011, to expand MA eligibility to childless adults with incomes below 75% of the FPG.

1. Future Implementation State MA Option

Eligibility

First Special Session, Chapter 1, Article 16, Sections 5-7 (HF 1)

Effective July 1, 2010

a. Criteria

Allows MA to be paid for a person over age 21 and under age 65, who is not: (1) pregnant; (2) entitled to Medicare; (3) an adult in a MinnesotaCare family with children; and (4) otherwise eligible for MA.

Amends Minn. Stat. § 256B.055 by adding subd. 15

b. No Asset Limit

Provides that no asset limit applies to persons eligible under section 256B.055, subd. 15, which defines individuals newly eligible for MA under federal law.

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

- c. Income Standard
Establishes the income standard for childless adults eligible for MA under section 256B.055, subd.15, at 75% of FPG.
Amends Minn. Stat. § 256B.056, subd. 4

2. Effective Date

First Special Session, Chapter 1, Article 16, Section 48 (HF 1)
Effective May 22, 2010

Specifies that the current governor must direct by executive order that DHS implement these early MA enrollment sections in order for expansion of MA coverage for childless adults to take effect. Provides that, if the current governor does not issue an order, the succeeding governor, from the start of that governor's term until January 15, 2011, may implement the sections. Requires the governor to consider the following factors when determining whether to issue an executive order: (1) cost of implementation and the availability of funds; (2) potential for increased federal funding; (3) effect of implementation on access to health care services; and (4) alternative approaches that may be available to pursue policy goals.

3. State Plan Amendment; Requirement to Seek Federal Approval

First Special Session, Chapter 1, Article 16, Section 46 (HF 1)
Effective May 22, 2010

Requires DHS to submit: (1) a state plan amendment to receive federal funds for MA coverage of childless adults with income less than or equal to 75% of FPG, with an effective date of July 1, 2010; and (2) a waiver request or amendment to the MinnesotaCare waiver to receive federal funds for MA coverage for single adults and households without children.

4. Repealer

First Special Session, Chapter 1, Article 16, Section 47 (HF 1)
Effective May 22, 2010

Repeals: (1) provisions pertaining to the General Assistance Medical Care program (§ 256D.03) contingent upon implementation of MA coverage for childless adults; and (2) sections of *Chapter 200, Article 1, Section 12* (the modified GAMC program) contingent upon implementation of MA coverage for this same group.

III. OTHER HEALTH CARE POLICY

A. COBRA State Premium Subsidy

First Special Session, Chapter 1, Article 16, Section 39 (HF 1), amending Laws 2009, Chapter 79, Article 5, Section 78, Subdivision 5 Effective July 1, 2010

Extends: (1) the expiration date for the state premium subsidy program for COBRA continuation coverage from December 31, 2010 to August 31, 2011; and (2) the exemption from the four-month uninsured requirement to February 28, 2012, to reflect the extension of the federal premium subsidy program for continuation coverage.

B. Consumer Protection Standards for Long-Term Care Partnership Policies

*Chapter 310, Article 4, Section 2 (SF 3027)
Adds Minn. Stat. § 62S.312
Effective August 1, 2010*

Requires:

- Long-term care insurance policies to meet the requirements for being tax qualified as defined in Section 7702B(b) of the Internal Revenue Code and meet certain consumer protection requirements in Section 6021(a)(1)(B)(5)(A) of the Deficit Reduction Act of 2005, Public Law 109-171, which are taken from the National Association of Insurance Commissioners (NAIC) Model Act and Regulation of 2000;
- Insurance carriers to certify for each policy form to be included in the long-term care partnership that the form complies with the requirements of the NAIC Model Act and Regulation of 2000.

C. State Medical Review Team

*Chapter 261, Section 1 (HF 3405)
Amends Minn. Stat. § 256.01, subd. 29
Effective August 1, 2010*

Requires DHS to provide information to the legislature on the length of time taken for written decisions to be made on appeals of SMRT disability determinations. Requires appeals of disability determinations made by the SMRT to be decided according to statutory timelines for other appeals within DHS programs, and provides that appeals that do not receive a written decision within these timelines must be immediately reviewed by the chief appeals referee.

IV. CHANGES TO SPECIFIC MINNESOTA HEALTH CARE PROGRAMS

A. All Minnesota Health Care Programs

1. **Income Standards for Eligibility**

Chapter 310, Article 16, Sections 1-3 (SF 3027)

Amends Minn. Stat. 2009 Supplement § 256B.056, subd. 1c

Amends Minn. Stat. 2009 Supplement § 256D.03, subd. 3 (b)

Amends Minn. Stat. § 256L.04, subd. 7b

Effective July 1, 2010

Clarifies that DHS must annually adjust the income standards under MA, GAMC, and MinnesotaCare each July 1 by the update of the FPG (following publication by the United States Department of Health and Human Services), except that the adjusted income standards for these programs must not go below those in effect on July 1, 2009.

B. General Assistance Medical Care (GAMC)

Chapter 200, Article 1, Section 6, 10, 11, 12, 16, 44 (SF 460)

Amends Minn. Stat. §§ 256L.05, subd 3c; 256B.69, subd. 20; and 256D.03, subd. 3 and 3b

Adds Minn. Stat. § 256D.031

Various effective dates

and

First Special Session, Chapter 1, Article 16, Sections 21, 30, 31, 40 (HF 1), amending Laws 2010, Chapter 200, Article 1, Sections 11, 12, 44

Various Effective Dates

Note: Following the governor's line-item veto of funding for the GAMC program in May, 2009, legislation was enacted in 2010 that continues the program, but at a greatly reduced funding level. This modified GAMC program became law on March 26, 2010 as [Chapter 200](#). Additional changes to GAMC were enacted into law on May 21, 2010 in Article 16 of the only bill considered in the special session [First Special Session, Chapter 1](#). However, the majority of changes to the GAMC program were enacted in Chapter 200.

These changes have resulted in a scaled-back GAMC program with similar eligibility requirements, but which provides significantly reduced health services delivered through a hospital-based Coordinated Care Delivery System (CCDS) model. A temporary uncompensated care pool for reimbursement for non-CCDS hospitals and a prescription drug reimbursement pool are also established within the new GAMC program.

1. Administration

Amends Minn. Stat. § 256D.03, subd. 3

Effective for services rendered on or after April 1, 2010

Provides that the GAMC program is administered according to a new section, 256D.031, unless otherwise stated. Funds outpatient prescription drug coverage, which continues to be administered under section 256D.03, subd. 3, from the new outpatient prescription drug pool (section 256D.031) beginning June 1, 2010. Provides that outpatient prescription drug coverage does not include drugs administered in a clinic or other outpatient setting.

2. Modified GAMC Program

Adds Minn. Stat. § 256D.031

Effective April 1, 2010

Note: This new section establishes a modified general assistance medical care program beginning April 1, 2010.

a. Eligibility

1) Income and Assets

Establishes income and asset eligibility for the redesigned GAMC program. Does not change eligibility, but eliminates the hospital-only coverage for individuals with income greater than 75% of FPG but not exceeding 175% of FPG.

2) Loss of Eligibility

Enumerates individuals who are no longer eligible for the GAMC program, including those who: (i) have private health coverage; (ii) are in a county correctional or detention facility or admitted as an inpatient to a hospital on a criminal hold order; (iii) reside in the sex offender program; (iv) fail to cooperate with a county agency to meet the requirements of MA; and (v) do not cooperate with a county or state agency in determining a disability for supplemental security income (SSI) or Social Security Disability Income (SSDI).

3) Eligibility and Enrollment Procedures

Clarifies that there are no changes in eligibility and enrollment procedures from the previous program. Provides that eligibility for GAMC: (i) extends for a six-month

period, unless a change that affects eligibility is reported; and (ii) may be renewed for additional six-month periods. Provides that, during each six-month period, recipients who continue to meet the eligibility requirements are not eligible for enrollment in MinnesotaCare.

b. Services

1) **Medically Necessary Services**

a) Services Covered

Specifies the medically necessary services provided under GAMC (subd. 4). Provides that covered prescription drugs include those administered in a clinic or other outpatient setting. (See also CCDS option for providing alternate set of health care services below.)

b) Co-Payments

Specifies the co-payments for medically necessary services covered under the program remain the same. Continues to prohibit providers from denying services to recipients who are unable to pay the co-payment.

2) **Outpatient Prescription Drug Pool**

Effective June 1, 2010, establishes an outpatient prescription drug pool for outpatient prescription drugs dispensed to recipients. Subjects drug coverage to the availability of funds in the pool. Requires DHS to make recommendations to the Legislative Advisory Commission on how to address the shortfall if expenditures for the pool are forecasted to exceed the appropriation.

3) **New Service Delivery Model-Coordinated Care Delivery System**

Effective June 1, 2010

a) Contracts with Qualifying Hospitals

Effective June 1, 2010, requires DHS to contract with qualifying hospitals or groups of hospitals to deliver services through a coordinated care delivery system (CCDS) to GAMC recipients who enroll in a CCDS. Reimburses hospitals choosing to participate in the CCDS model through capped block grants.

- b) Services Provided
Requires that the health care services provided by a CCDS must include either the services listed in Minn. Stat. § 256D.031, subd. 4 or a set of comprehensive and medically necessary health services that a recipient might reasonably require to be maintained in good health and that has been approved by DHS.
- c) Voluntary Enrollment
Allows GAMC applicants and recipients to voluntarily enroll in any available CCDS. Allows applicants or recipients to choose among any of the available CCDS's if more than one CCDS is available. Requires recipients to receive all nonemergency services through their CCDS. Makes recipients enrolled in a CCDS ineligible to enroll in MinnesotaCare during their GAMC enrollment period if they continue to meet the GAMC eligibility requirements.
- d) Enrollment Capped
Caps enrollment in each CCDS using a formula based on previous numbers of GAMC enrollees using that hospital system in 2008. (*Note: First Special Session, Chapter 1, Article 16, Section 40 (HF 1), amending Laws 2010, Chapter 200, Article 1, Section 12, subd. 6 (SF 460)*)
- e) CCDS Requirements
Requires a CCDS to: (1) provide the covered services to recipients enrolled in the system; (2) monitor enrollment and ensure quality of care; (3) with the counties, coordinate the delivery of health care services with other homeless prevention supportive housing or rent subsidy programs; and (4) adopt innovative and cost-effective methods of care delivery and coordination.
- f) Limitations
Permits a CCDS hospital to: (1) limit the provider network and to require recipients to seek services only through the network; and (2) require a recipient to seek a referral before seeking services.

Provides that a system is not required to provide payment to a provider who is not employed by or under contract with the system for services provided to a recipient, except in cases of an emergency.

g) Appeals

Grants a recipient enrolled in a CCDS the right to appeal in accordance with Minn. Stat. § 256.045.

h) Consultation with Other Government Service Providers

Requires hospitals participating in a CCDS to consult with counties, county veteran's service officers, and the Veterans Administration to identify other programs for which GAMC recipients are qualified.

4) Temporary Uncompensated Care Pool (UCP)

Creates a temporary UCP for reimbursement to hospitals serving GAMC enrollees but who have not contracted with DHS for designation as a CCDS. Between June 1, 2010, and February 28, 2011, permits applicants and recipients who are not enrolled in a CCDS to seek services from a hospital eligible for reimbursement under the temporary UCP. After February 28, 2011, requires all services to be received through a CCDS.

5) Retroactive Coverage of GAMC Services

Amends Minn. Stat. § 256D.03, subd. 3

Effective retroactively from April 1, 2010 through May 31, 2010

Clarifies that for the period April 1, 2010 to May 31, 2010, general assistance medical care covers the services listed in subd. 4 of Minn. Stat. § 256D.03 (GAMC). (*Note: First Special Session, Chapter 1, Article 16, Section 30 (HF 1), amending Chapter 200, article 1, section 11 (SF 460)*)

6) Retroactive Coverage for MinnesotaCare

Amends Minn. Stat. § 256L.05, subd. 3c

Effective June 1, 2010

GAMC recipients may qualify for retroactive coverage of MinnesotaCare, but only at their 6 month renewal.

7) Ombudsperson

*Amends Minn. Stat. § 256B.69, subd. 20
Effective June 1, 2010*

Requires DHS to designate an ombudsperson to advocate for persons enrolled in GAMC and the new CCDS system. Requires the ombudsperson to utilize the state appeal process and assist enrollees to access medically necessary services. Requires the local agency to inform recipients about the ombudsperson program at time of enrollment in a CCDS.

8) Reimbursement Under Other State Health Care Programs

*Amends Minn. Stat. § 256B.0644 by adding (d)
Effective June 1, 2010*

Prohibits any hospital or provider that is participating in a CCDS system or receives payments under the UCP from refusing to provide services to any patient enrolled in GAMC. (*Note: the language in (d) prohibiting the provider from refusing to provide services was deleted per First Special Session, Chapter 1, Article 16, Section 18 (HF 1)*).

9) Repealer

*First Special Session, Chapter 1, Article 16, Section 44 (HF 1)
Amends Chapter 200, Article 1, Section 21
Effective retroactively from April 1, 2010*

Changes the effective date for the repeal of Minn. Stat. § 256D.03, subd. 4 (covered benefits under the old GAMC program) from April 1 to June 1, 2010. Changes the effective date for the repeal of sections dealing with MinnesotaCare enrollees transitioned from GAMC, from January 1, 2011, to July 1, 2010.

Third-Party Payments Cooperation Requirement Eliminated

*First Special Session, Chapter 1, Article 16, Section 31 (HF 1)
Amends Minn. Stat. § 256D.03, subd. 3b
Effective July 1, 2010*

Eliminates requirement that person enrolled in GAMC coverage cooperate with state in obtaining third-party payments (cost-effective insurance).

*** See Disability Law Section for GAMC Chapter 200 provisions relating to Mental Health Changes*

C. MA

1. Eligibility

Infants and Automatic Eligibility

Chapter 310, Article 3, Section 1 (SF 3027)

Amends Minn. Stat. § 256B.055, subd. 10

Effective July 1, 2010

Clarifies that one year of automatic eligibility for newborns of MA or MinnesotaCare eligible mothers is allowed, whether or not the newborn resides with the mother.

Infants and Pregnant Women

Chapter 310, Article 3, Section 2 (SF 3027)

Amends Minn. Stat. § 256B.057, subd. 1(d)

Effective July 1, 2010

Makes technical changes and clarifies that eligibility for MA for an infant born to a mother eligible for MA continues without redetermination until the child's first birthday, whether or not the child remains in the woman's household.

2. Services/Benefits

Asthma Demonstration Project

First Special Session, Chapter 1, Article 16, Section 38 (HF 1)

Amends Laws 2009, Chapter 79, Article 5, Section 75, subd. 1

Effective July 1, 2010

Expands coverage under the asthma demonstration project for certain American Indian children to include home environmental assessments for triggers of asthma and in-home asthma education. Limits visits to two per child and sets the home visit payment rate. Requires durable medical equipment to be covered if the item is medically "useful" rather than medically "necessary" to reduce asthma symptoms.

Birth Center Services

First Special Session, Chapter 1, Article 16, Section 15 (HF 1)

Amends Minn. Stat. § 256B.0625 by adding subd. 54

Effective July 1, 2010

Provides that MA covers services provided in a licensed birth center by a licensed health professional if the service would otherwise be covered if provided in a hospital. Establishes payment rates for facility, nursery, and professional services. Denies coverage for services provided by an unlicensed traditional midwife. Directs DHS to apply for any necessary federal waivers to allow birth centers and birth center providers to be reimbursed.

Chiropractic Services

First Special Session, Chapter 1, Article 16, Section 11 (HF 1)

Amends Minn. Stat. § 256B.0625 by adding subd. 8d

Effective July 1, 2010

Limits payment for chiropractic services to one annual evaluation and 12 visits per year unless prior authorization of additional visits is obtained.

Co-payments

First Special Session, Chapter 1, Article 16, Section 16 (HF 1)

Amends Minn. Stat. § 256B.061, subd. 1

Effective January 1, 2011

Reduces the MA co-payment for nonemergency visits to a hospital-based emergency room from \$6 to \$3.50.

Dental Benefits/Services

Chapter 310, Article 7, Section 1 (SF 3027)

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

Effective July 1, 2010

Expands coverage for use of panoramic x-rays in some circumstances. Clarifies that MA covers medically necessary dental services for pregnant women as well as children. Specifies that application of sealants are covered once every five years per permanent molar and orthodontia is eligible for coverage for children only.

Dental Critical Access Providers

First Special Session, Chapter 1, Article 16, Section 27 (HF 1)

Amends Minn. Stat. § 256B.76, subd. 4

Effective July 1, 2010

Modifies the criteria DHS must use to determine which dentists and dental clinics are critical access dental providers. Requires DHS to designate the following as critical access providers:

- (1) certain nonprofit community clinics;
- (2) federally qualified health centers, rural health clinics;
- (3) county owned and operated hospital-based dental clinics;
- (4) a dental clinic or dental group owned and operated by a nonprofit operation with more than 10,000 patient encounters per year with patients who are uninsured or covered by MA, GAMC, or MinnesotaCare; and
- (5) a dental clinic associated with an oral health or dental education program operated by the University of Minnesota or an institution within the MnSCU system.

Dental Diagnostic, Screening, and Preventive Services for Children

Chapter 307, Section 1 (SF 633)

Amends Minn. Stat. § 256B.0625, subd. 14 by adding (d) and (e)

Effective August 1, 2010

Requires DHS to encourage a primary care health care provider to perform primary caries (cavity) preventive services as part of a child or teen checkup or during an episodic care visit. Primary caries preventive services must include: (1) a general visual examination of the child's mouth; (2) a risk assessment; and (3) the application of a fluoride varnish beginning at age one to those children who are assessed as being high risk. Parental consent is required prior to administering a fluoride treatment. The provider should provide the child's parent or legal guardian with information regarding caries etiology and prevention and dental homes.

Oral Language Interpreter Services

First Special Session, Chapter 1, Article 16, Section 13 (HF 1)

Amends Minn. Stat. § 256B.0625, subd. 18a(d)

Effective January 1, 2011

Provides that MA will cover face-to-face oral language interpreter services only if the interpreter used by the provider is listed in the registry or roster established by MDH under § 144.058.

Prior Authorization for Health Services Notice

Chapter 310, Article 8, Section 1 (SF 3027)

Amends Minn. Stat. § 256B.0625, subd. 25

Effective August 1, 2010

Requires DHS to publish in the Minnesota health care programs provider manual and on DHS's website: (1) a list of health services that require prior authorization; and (2) the criteria and standards used to select health services on the list. Deletes the previous requirement that the list be published in the State Register.

D. MINNESOTACARE

1. Eligibility

Firefighters and Ambulance Attendants

First Special Session, Chapter 1, Article 16, Section 35 (HF 1)

Amends Minn. Stat. § 256L.07 by adding subd. 9

Effective April 1, 2011

Makes a qualified volunteer firefighter or ambulance attendant eligible for MinnesotaCare without meeting other eligibility requirements, provided the enrollee pays premiums. Specifies that the benefit set is the same as that available for childless adults.

Retroactive Coverage

Chapter 200, Article 1, Section 16

Amends Minn. Stat. § 256L.05, subd. 3c

Effective June 1, 2010

GAMC recipients may qualify for retroactive coverage of MinnesotaCare, but only at their 6 month renewal.

2. Benefits

Co-payments and Coinsurance

First Special Session, Chapter 1, Article 16, Section 33 (HF 1)

Amends Minn. Stat. § 256L.03, subd. 5

Effective July 1, 2010

Provides that the MinnesotaCare co-payment for nonemergency visits to a hospital-based emergency room is reduced from \$6 to \$3.50, effective January 1, 2011. Clarifies that reimbursements to providers will not be increased due to this reduction in the nonemergency visit co-payment.

HOUSING LAW / REAL PROPERTY LAW

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I. AFFORDABLE HOUSING IN COMPREHENSIVE PLANS

Chapter 347, Article 1, Section 24 (SF 2510)

Adds Minn. Stat. § 462.355, subd. 3

Effective August 1, 2010

Provides that passage of amendments to a municipal comprehensive plan permitting affordable housing development requires only a simple majority. (*Note: Other resolutions to amend or adopt a comprehensive plan require a two-thirds vote.*)

II. CONTRACTS FOR DEED (TECHNICAL CORRECTIONS)

Chapter 233, Section 1 (HF 2823)

Amends Minn. Stat. § 507.235, subd. 1a

Effective for contracts for deed acknowledged on or after April 16, 2010

Removes an incorrect reference in the definitions of “contract for deed” and “residential real property,” redefining the terms as follows:

- “Contract for deed” means an executory contract for the conveyance of residential real property under which the seller provides financing for the purchase of the residential real property and under which the purchaser does or has a right to go into possession. Contract for deed does not include: (i) a purchase agreement; (ii) an earnest money contract; (iii) an exercised option or a lease, including a lease with an option to purchase; or (iv) a mortgage, as defined in section 287.01; and
- “Residential real property” means real property occupied, or intended to be occupied, by one to four families, if the purchaser intends to occupy the real property. Residential real property does not include property subject to a family farm security loan or a transaction subject to sections 583.20 to 583.32 (i.e., the Farmer-Lender Mediation Program).

III. CONVEYANCES OF STATE LAND TO TRIBAL GOVERNMENTS

Chapter 226 (HF 2956)

Amends Minn. Stat. § 161.44, subd. 1

Effective April 11, 2010

Permits the Minnesota Department of Transportation to convey and quitclaim to Indian tribal governments any lands (or portions of lands) owned in fee by the state for trunk highway purposes (including those on which improvements were made) if the lands are no longer needed for those purposes.

IV. FORECLOSURE LAW

A. Equity Stripping Protections

Chapter 375, Section 11 (SF 2430)

Amends Minn. Stat. § 580.06, subd. 1

Adds Minn. Stat. § 580.06, subds. 2 and 3

Effective for sheriff's sales conducted on or after August 1, 2010, and expires on December 31, 2012

1. **New Notice to Mortgagor**

Requires, with certain exceptions, any person attempting to acquire fee title to the mortgagor's property directly from the mortgagor after the sheriff's sale but before the end of the redemption period to provide a notice to the mortgagor that:

- contains: (i) the date the sale occurred; (ii) the identity of the purchaser and any assignees of the purchaser; and (iii) the sheriff's sale price;
- contains a verbatim statement included in the statute: (i) describing the redemption process; (ii) noting that the property may have been sold (and thus may be redeemed) at less than the amount remaining on the mortgage; and (iii) providing information on where to obtain foreclosure prevention counseling; and
- is personally delivered three days prior to entering into an agreement with the mortgagor to acquire title.

Adds Minn. Stat. § 580.06, subd. 2

2. **Exceptions**

Exempts the following transactions and persons from the new requirement: (1) a transaction in which either party is represented by a licensed real estate agent; (2) a transaction in which the sale price is equal to or greater than the sheriff's sale price; (3) a deed in lieu of foreclosure transaction; (4) a nonprofit lender holding a certificate of exemption from DOC; or (5) the state or a local government or its agent.

Adds Minn. Stat. § 580.06, subd. 2

3. Private Right of Action

Makes a person who violates the notice requirement liable to an aggrieved mortgagor for the sum of: (1) actual, incidental, and consequential damages; (2) \$1,000 statutory damages; and (3) costs, disbursements, and reasonable attorney fees. Establishes a rebuttable presumption of compliance if an affidavit stating that the mortgagor received the required notice has been recorded with the county recorder or registrar of titles.

Adds Minn. Stat. § 580.06, subd. 3

B. Notice of Redemption Rights

Chapter 375, Sections 9 and 10 (SF 2430)

Amends Minn. Stat. §§ 580.03; and 580.041, subd. 2

Adds Minn. Stat. § 580.041, subd. 1c

Effective for foreclosure notices delivered on or after August 1, 2010

Requires that foreclosing parties include a new “Notice of Redemption Rights” along with the notice of foreclosure (currently required under Minn. Stat. §§ 580.03 and 580.04) and the “Foreclosure Advice Notice” (currently required under Minn. Stat. § 580.041). Requires the new notice to be: (1) in 14-point boldface type; and (2) printed on colored paper different from the color of the notice of foreclosure and the foreclosure advice notice. Provides that the Notice of Redemption Rights must: (1) explain what occurs after the foreclosure sale; (2) inform the mortgagor how to obtain information about the results of the sale; (3) warn the mortgagor to be wary of scams; and (4) provide referral information to foreclosure prevention counselors.

Amends Minn. Stat. § 580.041, subd. 2 (Content of notice)

Adds Minn. Stat. § 580.041, subd. 1c (Form of notice)

C. Postponement of Sheriff’s Sale

Chapter 237 (SF 2559)

Amends Minn. Stat. § 580.07, subds. 2 and 3

Effective for foreclosure sales scheduled to occur on or after May 15, 2010

Permits mortgagors subject to a 12-month redemption period the right to postpone the sale for 11 months (effectively extending the reinstatement period), extending the 2009 legislation that permitted homeowners in foreclosure subject to a six-month redemption period the right to postpone the sheriff’s sale for five months.

V. MINNESOTA APPRAISAL MANAGEMENT COMPANY LICENSING AND REGULATION ACT

Chapter 347, Article 6, Sections 9 – 24 (SF 2510)

Adds Chapter 82C, specifically Minn. Stat. §§ 82C.01 - .16

Effective August 1, 2010

Covers third party entities that: (1) arrange appraisal services and; (2) are unrelated to the mortgage transaction, the clients, or the lenders. Creates a regulatory framework that, among other things: (1) requires appraisal management companies to obtain a license from DOC; and (2) prohibits appraisal management company employees, directors, officers, or agents from influencing or attempting to influence the development, reporting, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, or bribery.

VI. RENTERS' CREDIT

First Special Session, Chapter 1, Article 13, Section 4 (HF 1)

Effective May 22, 2010 for calendar year 2009 only, but also applicable to credits based on property taxes payable in 2010 that include gross rents paid in 2009

Makes a one-time reduction to the credit by changing the percentage on which it is based from 19% to 15% of rent constituting property taxes.

VII. VALID INSTRUMENTS SECURING A DEBT

Chapter 211 (HF 2828)

Amends Minn. Stat. § 287.03

Effective for any instrument executed or recorded before, on, or after July 1, 2010, but is ineffective with respect to any action, case, or proceeding commenced before July 1, 2010, provided a notice of lis pendens of the action is recorded with the county recorder or registrar of titles before July 1, 2010

Clarifies that an instrument relating to real property, other than a decree of marriage dissolution or an instrument made pursuant to it, may be enforced as security for any other kind of debt only if the instrument expressly provides for such enforcement. Provides that, to the extent the instrument relating to real estate provides for security of another debt, it may be enforced only for the portion (which may be the entirety) of the other debt that is initially known and expressed in the instrument securing the real property.

IMMIGRATION LAW

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I. **ENHANCED DRIVER'S LICENSE/ENHANCED IDENTIFICATION CARD**

Chapter 316 (SF 345)

Amends Minn. Stat. §§ 171.06, subs. 1, 2, 3, and 6; 171.06, subd. 6; 171.07, subd. 3

Adds Minn. Stat. §§ 171.01, subs. 37a and 37b; 171.04, subs. 3 and 4; 171.07, subs. 4a, 9a, and 16; 171.071, subd. 3; and 171.12, subd. 10

Effective June 1, 2012 for every enhanced driver's license and identification card that is issued on or after January 1, 2013, except rulemaking and coordination with United States Department of Homeland Security provisions effective May 14, 2010

A. Creation and Definition

Creates and defines an “enhanced driver’s license” and an “enhanced identification card.

1. **Enhanced Driver’s License**

Defines an enhanced driver’s license as driver’s license that denotes citizenship and identity and contains technology and security features approved by the United States Department of Homeland Security.

Adds Minn. Stat. § 171.01, subd. 37a

2. **Enhanced Identification Card**

Defines an enhanced identification card as an identification card issued that denotes citizenship and identity and contains technology and security features approved by the United States Department of Homeland Security.

Adds Minn. Stat. § 171.01, subd. 37b

B. Use of Enhanced Driver’s License and Enhanced Identification Card

Provides that the license and card may be used in the same way as a standard driver’s license or a Minnesota identification card and is subject to the same penalties, such as suspension and revocation.

Adds Minn. Stat. § 171.01, subd. 37a (Enhanced driver’s license)

Adds Minn. Stat. § 171.01, subd. 37b (Enhanced identification card)

C. Certain Exemptions Inapplicable

Provides that exemptions for standard driver’s licenses and identification cards regarding objections to photographs or head wear do not apply to enhanced driver’s licenses and enhanced identification cards.

Adds Minn. Stat. § 171.071, subd. 3

D. Persons Ineligible

1. For Enhanced Driver's License

Prohibits DPS from issuing an enhanced license or card to persons who: (1) are under age 16; (2) are not Minnesota residents; (3) are not a United States citizen; and (4) cannot have a standard driver's license for reasons enumerated under Minn. Stat. § 171.04, subd. 1, clauses (4) to (12), or (14).

Adds Minn. Stat. § 171.04, subd. 3

2. For Enhanced Identification Card

Prohibits DPS from issuing an enhanced license or card to persons who: (1) are under age 16; (2) are not Minnesota residents; and (3) are not a United States citizen

Amends Minn. Stat. § 171.07, subd.3

E. Prohibitions Regarding Employers

Prohibits an employer from: (1) requiring an employee to apply for an enhanced license or card as a condition of employment; and (2) retaliating or discriminating against an employee for refusing to obtain an enhanced license or card.

Adds Minn. Stat. § 171.04, subd. 4 (Driver's license)

Adds Minn. Stat. § 171.07, subd. 4a (Identification card)

F. Federal Coordination

Directs the DPS to begin working with the United States Department of Homeland Security to develop an enhanced license and card that will permit U.S. citizens to enter the country at land and sea ports, consistent with federal law.

G. Rulemaking

Requires DPS to amend/promulgate rules to accommodate the new enhanced license and card.

JUVENILE LAW

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I. CHILDREN IN NEED OF PROTECTION/SERVICES (CHIPS)

A. Grounds

Chapter 281, Section 1 (HF 3391)
Amends Minn. Stat. § 260C.007, subd. 6
Effective August 1, 2010

Permits CHIPS petition instead of a termination of parental rights (TPR) petition if the CHIPS petition is based upon the parent's prior termination of parental rights to another child. Requires the county agency to show that a TPR proceeding for this child is not in the child's best interests.

B. In-Person Hearings

Chapter 269, Article 3, Sections 2, 3, and 6 (SF 2690)
Amends Minn. Stat. §§ 260C.163, subs. 1 and 2; and 260C.201, subd. 11
Effective August 1, 2010

1. **Right of Child to Attend CHIPS Hearing**

Grants a child who is the subject of a CHIPS petition the opportunity to personally attend any hearing.
Amends Minn. Stat. § 260C.163, subd. 2

2. **Court Consultation with Child During Permanency Hearing**

Requires that the court's consultation with the child must take place during the permanency hearing.
Amends Minn. Stat. § 260C.163, subd. 1

3. **Annual Long-Term Foster Care Hearing**

Requires the court's annual long-term foster care review to be held as an in-court appearance hearing.
Amends Minn. Stat. § 260C.201, subd. 11(g)

C. Noncustodial Parents

Chapter 269, Article 4, Sections 1 - 4 (SF 2690)
Amends Minn. Stat. §§ 260C.007, subd. 25; 260C.150, subd. 3; 260C.163, subd. 2; and 260C.178, subd. 3
Effective August 1, 2010

Clarifies rights and roles of noncustodial parents in CHIPS proceedings.

1. Definition of Parent

Aligns the definition of “parent” with the Parentage Act (Minn. Stat. §§ 257.51 to 257.74).

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

2. Identifying Parents of the Child

Permits the county agency to contact a putative father who registered with the Father’s Adoption Registry more than 30 days after the child’s birth.

Clarifies that the putative father: (1) is still required to comply with paternity establishment; and (2) is not entitled to notice or to intervene as a party, except as provided under existing law.

Amends Minn. Stat. § 260C.150, subd. 3(c)

3. Parental Visitation

Permits the court to allow parental visitation during the evaluation of the parent’s capacity to provide day-to-day care for the child, thus eliminating the existing bar to visitation pending completing of the evaluation.

Amends Minn. Stat. § 260C.178, subd. 3(c)

4. Right to Be Heard vs. Party Status

Provides that any person defined as a parent has a right to be heard in a CHIPS proceeding. Clarifies that: (1) the right to be heard does not automatically confer party status on the parent; and (2) party status is still governed by the Minnesota Rules of Juvenile Protection Procedure.

Amends Minn. Stat. § 260C.163, subd. 2

D. Relative’s Participation in CHIPS Permanency Proceeding

Chapter 281, Section 2 (HF 3391)

Amends Minn. Stat. § 260C.163, subd. 2

Effective August 1, 2010

Allows any party (not just the responsible social service agency) to petition for transfer of legal custody to a named relative. Entitles the named relative to: (1) to participate in the hearing (but only on the issues of: (i) the relative’s suitability for placement; (ii) whether the transfer to the relative is in the child’s best interests; and (iii) the needs of the child); and (2) receive notice of any hearing in the proceeding.

II. COUNTY REIMBURSEMENT

Chapter 269, Article 2, Section 2 (SF 2690)

Amends Minn. Stat. § 260C.331, subd. 1

Effective August 1, 2010

Excludes a child’s income and resources from sources other than supplemental security income (SSI) and child support from income available to reimburse the county for costs of care that are needed to meet statutory independent living goals.

III. CRIMINAL DETENTION

Chapter 330 (SF 2427)

Amends Minn. Stat. § 260B.130, subd. 5

Effective August 1, 2010

A. Youth

Permits the detention in a secure juvenile facility of a person 18 years of age or younger who is taken into custody for violating either the terms of a stayed sentence or probation as part of Extended Jurisdiction Juvenile (EJJ). Allows detention, in a separate space from adult offenders, for up to 24 hours (excluding weekends and holidays) in the county or for up to six hours in a metropolitan jail or lockup used for adults if no secure juvenile facility or acceptable juvenile alternative is available.

B. Persons Over Age 18

Permits the detention of a person over age 18 and under EJJ who is taken into custody prior to a revocation hearing in a local adult correctional facility with or without separation from other adult offenders.

IV. DRIVER'S LICENSE FOR CHILDREN IN FOSTER CARE

Chapter 269, Article 1, Sections 1-3 (SF 2690)

Amends Minn. Stat. §§ 171.04, subd. 1; 171.05, subd. 2; and 171.055, subd. 1

Effective August 1, 2010

Permits a foster parent or director of a transitional program where a child resides to approve a child's application for a driver's license, instructional permit or provisional license in lieu of a parent or guardian.

V. EXTENSION OF FOSTER CARE TO AGE 21

Chapter 269, Article 2, Section 3; Article 3, Sections 1 and 4 – 9 (SF 2690)

Amends Minn. Stat. §§ 260C.007, subd. 4; 260C.193, subd. 6; 260C.201, subs. 10 and 11; 260C.212, subd. 7; 260C.317, subd. 3; 260C.451; and 260C.456

Effective August 1, 2010

and

Chapter 301, Article 3, Sections 1 and 5 – 9 (SF 2855)

Amends Minn. Stat. §§ 245A.04, subd. 11; 260C.007, subd. 4; 260C.193, subd. 6; 260C.201, subd. 10; 260C.212, subd. 7; and 260C.451

Repeals Minn. Stat. §256.82, subd. 5 and Minn. Rules, Part 9560.0660

Effective August 1, 2010

Makes various changes to expand provisions enacted in 2009 to extend foster care eligibility and juvenile court jurisdiction to age 21 in certain cases.

A. Eligibility

1. **Youth Who Previously Left Foster Care**

Provides that youth who left foster care while under state guardianship as dependent or neglected retain their ability to return to foster care for placement at any time between the ages of 18 and 21.

Amends Minn. Stat. § 260C.456

2. **For Foster Care Services and Benefits**

Extends eligibility for foster care program services and benefits until age 21 if the person is: (1) completing secondary education (or an equivalent program), vocational, or postsecondary education; (2) participating in a program to remove employment barriers; (3) employed 80 hours per month; or (4) unable to meet these criteria because of a documented medical condition.

Amends Minn. Stat. § 245A.04, subd. 11 (Eligibility for services)

Amends Minn. Stat. § 260C.451 by adding subd. 3 (Eligibility for benefits)

B. Notification of Eligibility

Requires the local agency to advise a child in foster care, within the six months prior to the child's 18th birthday, of the availability of foster care benefits until the age of 21.

Amends Minn. Stat. § 260C.451 (new subd. 1)

C. Standard for Permanent Placement

Provides that the foster care setting for a person between age 18 and 21 must be selected based upon a best interests standards and the person's particular needs.

Amends Minn. Stat. § 260C.451 by adding subd. 5

D. Juvenile Court Jurisdiction

1. **Extension of Jurisdiction**

Extends jurisdiction over persons remaining in foster care until age 21.

Amends Minn. Stat. § 260C.193, subd. 6

2. **Retention of Jurisdiction**

a. Persons in Long-Term Foster Care

Grants continued jurisdiction over persons in long-term foster care between the ages of 18 and 21.

Amends Minn. Stat. § 260C.317, subd. 3(d)

- b. Persons for Whom an Adoption is Pending
Grants jurisdiction over persons between the ages of 18 and 21 for whom an adoption is pending. Requires an in-person review hearing every 90 days to review progress toward adoption.
Amends Minn. Stat. § 260C.317, subd. 3(b)

3. Termination of Jurisdiction

- a. Prohibition Against Termination
Prohibits the court from terminating jurisdiction of a person between the ages of 18 and 21 without giving the person notice and opportunity to be heard.
Amends Minn. Stat. § 260C.193, subd. 6
- b. Discretion to Terminate
Permits the court to terminate jurisdiction: (1) when a person between the age of 18 and 21 asks to leave or actually leaves foster care; (2) upon a finding that continued jurisdiction is no longer necessary to protect the child's best interests.
Amends Minn. Stat. § 260C.193, subd. 6

4. Annual Review

- Requires annual, in-person reviews while a child between ages 18 and 21 remains under court jurisdiction.
Amends Minn. Stat. § 260C.201, subs. 10(e) and 11(g)

5. Status of the Person Under Jurisdiction

- Provides that: (1) a person remaining under court jurisdiction for foster care is considered an adult for all other purposes; and (2) any underlying orders for guardianship, long-term foster care, or legal custody terminate on the child's 18th birthday.
Amends Minn. Stat. § 260C.451 by adding subd. 7

E. Independent Living Plans

- Requires the local agency – upon the request of a child receiving foster care benefits immediately prior to the child's 18th birthday and who is in foster care at the time of the request – to: (1) update the independent living plan with respect to employment, vocational, educational, social, or maturational needs; and (2) provide continued services necessary to implement the plan.
Amends Minn. Stat. § 260C.451 by adding subd. 2

F. Repealer

- Repeals the Difficulty of Care Pilot Project statute and the Extension of Foster Care to Age 21 Rules.

VI. INPATIENT AND RESIDENTIAL TREATMENT SCREENING

Chapter 303, Sections 1 and 2 (SF 2912)

Amends Minn. Stat. § 245.4885, subs. 1 and 1a

Effective August 1, 2010

- A. Acute Care Hospitals Relief from Mandate
Relieves acute care hospitals of the requirement, when admitting a child, to make a level of care determination within five days.
Amends Minn. Stat. § 245.4885, subd. 1a
- B. Determination of Level of Care in Certain Cases
Provides that the Indian Health Services or a 638 tribal health facility must determine the appropriate level of care for children referred for treatment when Indian Health Services funds or funds of a tribally owned facility funded under the Indian Self-Determination and Education Assistance Act are used.
Amends Minn. Stat. § 245.4885, subd. 1

VII. INTERSTATE COMPACT FOR JUVENILES

Chapter 378 (SF 2891)

Adds Minn. Stat. § 260.515

Effective August 1, 2010, or upon ratification in 35 states, whichever occurs first

Adopts new Interstate Compact for Juveniles (Interstate Compact) to address tracking and supervision of juveniles who cross state lines, including children who: (1) were on probation and wrongfully left the state; and (2) have run away from home across state lines.

- A. Purposes
Lists as purposes of the Interstate Compact to:
- Ensure that juveniles in a receiving state receive supervision and services ordered by a judge in a sending state;
 - Ensure the safety of public citizens in both the sending and receiving states;
 - Return juveniles who have escaped or fled, or who have been accused of a new offense in another state;
 - Make agreements for cooperative institutionalization;
 - Provide effective tracking and supervision of juveniles;
 - Equitably allocate costs, benefits and obligations of compact states and coordinate education and training for officials;
 - Establish procedures to manage movement of juveniles released into the community across state lines, including resolution of pending charges; and
 - Coordinate with other laws regarding juveniles.
- Adds Minn. Stat. § 260.515, Article I*

- B. Definition of “Juvenile”
Includes a series of subdefinitions, “accused delinquent,” “adjudicated delinquent,” “accused status offender,” “adjudicated status offender” – that extend jurisdiction over persons whose offenses, if committed by an adult would be a crime. Includes a subdefinition of “nonoffender,” which extends jurisdiction to a person who has been neither accused nor adjudicated of any offense, but who is in need of supervision.
Adds Minn. Stat. § 260.515, Article II

C. Interstate Commission

1. Establishment and Structure

Establishes an Interstate Commission for Juveniles (Interstate Commission), which constitutes the governing body over the Compact.
Adds Minn. Stat. § 260.515, Article III

2. Powers and Duties

Grants the Interstate Commission broad powers and duties, including: (1) resolving disputes among compact states; (2) promulgating binding rules; (3) enforcing compact provisions; (4) reporting annually to states; (5) coordinating education and training activities; and (6) establishing uniform data reporting, collection and dissemination methods. Permits the Interstate Commission to sue and be sued.
Adds Minn. Stat. § 260.515, Article IV

3. Rulemaking Functions

a. Conformance with Model Act

Requires conformance with the Model State Administrative Procedures Act and due process requirements, including notice and comment requirements for any proposed rule, informal hearings, and United States District Court judicial review.

b. Nullification of Rules

Provides that rules: (1) are set aside if found by the court to be unsupported by substantial record evidence; or (2) become null and void in all compacting states if rejected by a majority of compact states’ legislatures.

Adds Minn. Stat. § 260.515, Article VI

4. Oversight, Enforcement and Dispute Resolution

Requires the Interstate Commission to oversee the administration and operations of the interstate movement of juveniles. Requires courts in each compacting state to enforce and take judicial notice of the Interstate Compact and its rules. Grants the Interstate Commission the right to intervene in any judicial or administrative proceeding affecting the Commission's power, responsibility, or actions.

Adds Minn. Stat. § 260.515, Article VII

D. State Advisory Council

1. Establishment and Functions

Mandates establishment of State Advisory Council to: (1) oversee Minnesota's participation in the Interstate Compact; (2) advocate with respect to the state's participation in the Interstate Compact; and (3) develop policy for operations and procedures of using the Interstate Compact within Minnesota.

2. Membership

Designates members of the State Advisory Council, including, among others: (1) Governor; (2) Chief Justice of the Minnesota Supreme Court; (3) two State Senators (one from each party); (4) two State Representatives (one from each party); (5) DHS; (6) the state Compact Administrator (designated as Commissioner of the Department of Public Safety); (7) the DPS's Office of Justice Programs; and (8) other members appointed by the Department of Corrections.

Adds Minn. Stat. § 260.515, Article IX

E. Withdrawal, Default, Termination, and Enforcement

1. Withdrawal

Permits a state to withdraw from the Interstate Compact by repealing the state statute.

2. Default

Permits the Interstate Commission, after a determination that a state has defaulted in its obligations under the Interstate Compact, to: (1) require training; (2) require alternative dispute resolution; (3) levy penalties or fines; and (4) suspend or terminate a state's Interstate Compact membership.

3. Enforcement

Grants the Interstate Commission the authority to initiate an action in United States District Court to enforce the Interstate Compact or Interstate Commission rules.

Adds Minn. Stat. § 260.515, Article XI

F. Statutory Conflicts

Provides that conflicting state laws (not including the State Constitution) are superseded by the Interstate Compact. Permits, upon request of a party, the Interstate Commission to issue advisory opinions concerning the meaning or interpretation of the Commission's actions.

Adds Minn. Stat. § 260.515, Article XIII

VIII. JUVENILE SCREENING TEAMS FOR AMERICAN INDIAN CHILDREN

Chapter 303, Section 7 (SF 2912)

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

Effective August 1, 2010

Requires the social services agency to determine: (1) whether a child is an Indian child; (2) determine the identity of the Indian child's tribe; and (3) include a designated representative of the Indian child's tribe, unless the child's tribal authority declines to appoint a representative.

IX. PURCHASE OF AUTOMOBILE INSURANCE BY MINORS

Chapter 278 (HF 2879)

Adds Minn. Stat. § 65B.136

Effective April 27, 2010

Permits a minor authorized under Minn. Stat. § 168.101, subd. 1, to own an automobile to purchase automobile insurance, and provides that the contract is fully binding on the minor on the same basis as if the minor were an adult.

X. SHELTER CARE FOR RUNAWAYS

Chapter 281, Section 3 (HF 3391)

Amends Minn. Stat. § 260C.175, subd. 1

Effective August 1, 2010

Adds "a shelter care facility" as one of the places an officer may take a runaway taken into immediate custody.

XI. UNIFORM PROBATE CODE

Chapter 334, Sections 5 - 13 (SF 2527)

Amends Minn. Stat. §§ 524.1-201; and 524.2-114

Adds Minn. Stat. §§ 524.2-116 - 2.122

Effective:

With respect to the rights of successors of decedents dying on or after August 1, 2010

With respect to any instruments executed before August 1, 2010, unless there is a clear indication of contrary intent in the instrument

Makes changes to the Uniform Probate Code relative to inheritance from children or bequests to children.

A. Definitions

1. Updated Terminology

Adds definitions to reflect modern familial relationships and birthing techniques, including, among other terms: (1) “assisted reproduction”; (2) “birth mother”; (3) “functioned as the parent of the child” (4) “genetic parent”; (5) “gestational agreement”; (6) “intended parent”; and (7) third-party donor.”

Amends Minn. Stat. § 524.1-201

2. “Incapacity”

Defines “incapacity” to mean the “inability of an individual to function as a parent of a child because of the individual's physical or mental condition.”

Adds Minn. Stat. § 524.1-201

B. Adoptions

1. Child/Adopting Parents Relationship

Provides that the parent-child relationship is between the child and the adopting parent(s).

Adds Minn. Stat. § 524.2-119

2. Child/Stepparent Relationship

Provides that the parent-child relationship where a child is adopted by the spouse of either genetic parent is between child and the genetic parent whose spouse adopted the child. Further provides that a parent-child relationship exists for inheritance purposes only with other genetic parent if the other genetic parent is deceased.

Adds Minn. Stat. § 524.2-119

- C. Assisted Reproduction
Provides rules for intestate succession in cases of assisted reproduction.
Adds Minn. Stat. § 524.2-120

- D. Gestational Agreements/Equitable Adoption
Clarifies that the Uniform Probate Code does not affect: (1) other state law regarding gestational agreements; or (2) the doctrine of equitable adoption.
Adds Minn. Stat. § 524.2-121 (Gestational agreements)
Adds Minn. Stat. § 524.2-122 (Equitable adoption)

- E. Prohibition on Inheritance/Termination of Parental Rights
Bars a parent from inheriting from or through a deceased child if: (1) the parent has had parental rights terminated; (2) by a showing of clear and convincing evidence, the parent, immediately before the child's death, could have had parental rights terminated.
Amends Minn. Stat. § 524.2-114

LANDLORD-TENANT LAW

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I. ABANDONED PROPERTY

Chapter 315, Sections 8, 9 and 15 (HF 2668)

Amends Minn. Stat. §§ 504B.271, subs. 1 and 2; and 504B.365, subd. 4

A. Notice

Changes the provisions for a mailed notice of a sale of abandoned property, requiring that the notice be sent by first-class and certified mail. Provides the 14-day notice period required is deemed to start upon deposit.

Amends Minn. Stat. § 504B.271, subd. 1(d)

B. Period Landlord Must Retain Property

Reduces period the landlord must retain abandoned property from 60 days to 28 days.

Amends Minn. Stat. § 504B.271, subd. 1(b)

C. Punitive Damages

Increases the landlord's liability for punitive damages for illegally removing, disposing of, or destroying abandoned property from \$300 to twice the actual damages or \$1,000, whichever is greater, in addition to actual damages (effectively treble damages).

Amends Minn. Stat. § 504B.271, subd. 2

D. Jurisdiction of the Courts

Provides that the court hearing the eviction action retains jurisdiction in disputes involving removal of personal property

Amends Minn. Stat. § 504B.365, subd. 4

II. APPLICANT SCREENING

Chapter 315, Section 4 (HF 2668)

Amends Minn. Stat. § 504B.173, subs. 1 – 4

Effective August 1, 2010

A. Receipt for Fee

Requires landlords, upon request of the applicant, to give receipts if the landlord holds or collects an applicant screening fee.

Amends Minn. Stat. § 504B.173, subd. 1

- B. Sequential Screening Required
Prohibits landlords from using, cashing, or depositing an applicant screening fee until all prior applicants have either: (1) been screened and rejected; or (2) offered and declined a lease.
Amends Minn. Stat. § 504B.173, subd. 1
- C. Disclosure of Rental Criteria
Requires written disclosure to a prospective tenant by a landlord accepting an applicant screening fee of the criteria on which the decision to rent to the prospective tenant will be based.
Amends Minn. Stat. § 504B.173, subd. 3
- D. Notice of Rejection
Requires landlords to: (1) notify the applicant within 14 days of rejecting a rental application; and (2) identify the criteria the applicant failed to meet.
Amends Minn. Stat. § 504B.173, subd. 3
- E. Return of the Applicant Screening Fee
1. **If the Landlord Performs Screening**
A landlord must return the entire amount of the fee if: (1) the applicant is rejected for failing to meet any criteria not disclosed; or (2) a prior applicant is offered the unit and agrees to enter into a rental agreement.
Amends Minn. Stat. § 504B.173, subd. 2(a)
 2. **If the Landlord Does Not Perform Screening**
A landlord must return any amount of the applicant screening fee that is not used for performing a personal reference check or obtaining a consumer credit report or tenant screening report.
Amends Minn. Stat. § 504B.173, subd. 2(b)
- F. Potential Liability for Applicant for False or Omitted Information
Makes tenants liable to the landlord for damages, plus a civil penalty of up to \$500, civil court filing costs, and reasonable attorney fees for providing materially false information on an application or omitting material information requested.
Amends Minn. Stat. § 504B.173, subd. 4

III. LATE FEES

Chapter 315, Section 5 (HF 2668)

Adds Minn. Stat. § 504B.177

Effective for leases entered into or renewed on or after January 1, 2011

A. Written Agreement Required

Prohibits late fees from being charged unless the tenant and landlord have agreed to the charge in writing, and requires the agreement to specify when the late will be imposed.

Adds Minn. Stat. § 504B.177(a)

B. Cap

Limits late fees to 8% of the overdue rent, and provides that a late fee charged or collected is considered neither interest nor liquidated damages.

Adds Minn. Stat. § 504B.177(a)

C. Exception for Subsidized Housing

Permits landlords in subsidized housing to follow any federal statute, regulation, or handbook provision governing late fees if the provision conflicts with the 8% cap.

Adds Minn. Stat. § 504B.177(b)

D. Failure to Earn Discount for Early Payment Not Considered “Late”

Provides that a payment is not considered late if is made beyond the date required to earn an early payment discount.

Adds Minn. Stat. § 504B.177(a)

IV. PENALTY FOR BAD FAITH RETENTION OF SECURITY DEPOSIT

Chapter 315, Section 6 (HF 2668)

Amends Minn. Stat. § 504B.178, subd. 7

Effective August 1, 2010

Increases the penalty for bad faith retention by a landlord of a security deposit from up to \$200 to up to \$500.

V. PENALTY FOR FAILURE TO DISCLOSE UTILITY COSTS

Chapter 315, Section 7 (HF 2668)

Adds Minn. Stat. § 504B.215, subd. 2a(c)

Effective August 1, 2010

Makes the failure to provide prospective tenants with the required notice of the total building's utility costs a violation of: (1) Minn. Stat. § 504B.161, subd. 1(1) -- the covenant of habitability providing that the premises and all common areas are fit for the use intended by the parties; and (2) Minn. Stat. § 504B.221 -- which provides for recovery from the landlord of treble damages or \$500, whichever is greater, and reasonable attorney's fees.

VI. PRESUMPTION OF RENT PAID BY MONEY ORDER

Chapter 315, Section 14 (HF 2668)
Adds Minn. Stat. § 504B.291, subd. 1
Effective August 1, 2010

Establishes a rebuttable presumption that the rent has been paid if the tenant produces a copy or copies of one or more money orders or produces one or more original receipt stubs evidencing the purchase of a money order, if the documents: (i) total the amount of the rent; (ii) include a date or dates approximately corresponding with the date rent was due; and (iii) in the case of copies of money orders, are made payable to the landlord. Provides the presumption is rebutted if the landlord produces a business record that shows that the tenant has not paid the rent and allows the landlord to introduce other evidence that rebuts the presumption.

VII. RECEIPT FOR RENT

Chapter 315, Section 2 (HF 2668)
Adds Minn. Stat. § 504B.118
Effective August 1, 2010

Requires a landlord receiving rent or other payments from a tenant in cash to provide a written receipt for payment: (1) immediately upon receipt if the payment is made in person; or (2) within three business days if payment in cash is not made in person.

VIII. RECOVERY OF ATTORNEY FEES

Chapter 315, Section 3 (HF 2668)
Adds Minn. Stat. § 504B.172
Effective for leases entered into on or after August 1, 2011, and for leases renewed on or after August 1, 2012

By operation of law, entitles a tenant to attorney fees in an action (whether affirmative or defensive) if the lease specifies that, in the same type of action and to the extent provided, the landlord is entitled to attorney fees.

IX. RENTERS' CREDIT

First Special Session, Chapter 1, Article 13, Section 4 (HF 1)
Effective May 22, 2010 for calendar year 2009 only, but also applicable to credits based on property taxes payable in 2010 that include gross rents paid in 2009

Makes a one-time reduction to the credit by changing the percentage on which it is based from 19% to 15% of rent constituting property taxes.

X. RIGHTS OF TENANTS IN FORECLOSED PROPERTIES

Chapter 315 (HF 3259)

Amends Minn. Stat. § 504B.285, subd. 1

Adds Minn. Stat. § 504B.285, subds. 1a, 1b, and 1c

Effective August 1, 2010

Meshes existing state law with the recently enacted Federal Protecting Tenants in Foreclosure Act of 2009 to ensure Minnesota tenants are provided with the maximum legal protections.

A. Tenancies Ending On or Before Expiration of Redemption Period

- Extends federal protections requiring the immediate successor in interest to provide at least 90 days' written notice to vacate, beginning on the last day of the redemption period and effective no earlier than 90 days later;
- Requires the tenant to pay the rent and abide by all terms of the lease; and
- Covers evictions commenced on or before December 31, 2012.

Adds Minn. Stat. § 504B.285, subds. 1a(a)

B. Tenancies Extending Beyond the Expiration of Redemption Period

- Extends federal protections entitling a tenant with a “bona fide lease” to remain in possession until the expiration of the lease, provided the tenant pays the rent and abides by all terms of the lease;
- Defines “bona fide lease” to mean: (1) the tenant must be other than a child, spouse, or parent of the mortgagor; (2) the lease transaction must be arms length; and (3) the rent must not be: (i) either subject to a federal, state; or local subsidy; or (ii) lower than fair market rent;
- Adopts federal exception where either an immediate successor in interest or an immediate subsequent bona fide purchaser will occupy the unit as the primary residence. Requires in that case the immediate successor in interest to provide at least 90 days' written notice to vacate, beginning on the last day of the redemption period and effective no earlier than 90 days later; and
- Covers evictions commenced on or before December 31, 2012.

Adds Minn. Stat. § 504B.285, subds. 1a(b)

C. Section 8 Tenancies Extending Beyond the Expiration of Redemption Period

- Extends federal protections entitling a Section 8 tenant to remain in possession until the expiration of the lease, provided the tenant pays the rent and abides by all terms of the lease;
- Adopts federal exception where an immediate successor in interest will occupy the unit as the primary residence. Requires in that case the immediate successor in interest to provide at least 90 days' written notice to vacate, beginning on the last day of the redemption period and effective no earlier than 90 days later;
- Covers evictions commenced on or before December 31, 2012.

Adds Minn. Stat. § 504B.285, subds. 1a(c)

D. Tenancies in Properties Subject to Contracts for Deed

Retains current requirements for notice.

Adds Minn. Stat. § 504B.285, subds. 1b

E. Eviction Occurring On or After January 1, 2013

Reverts to existing state law requiring tenants holding over after expiration of the redemption period or the period of cancellation of a contract for deed to receive either:

- at least two months' written notice to vacate no sooner than one month after the expiration of the time for termination, provided that the tenant pays the rent and abides by all terms of the lease; or
- at least two months' written notice to vacate no later than the date of the expiration of the time for termination, if the sender holds the tenant harmless for breaching the lease by vacating the premises if the contract is reinstated.

Adds Minn. Stat. § 504B.285, subds. 1c

XI. POSTING OF DISCONNECTION NOTICE IN MULTI-FAMILY BUILDINGS

Chapter 210, Sections 10 - 13 (HF 3259)

Amends Minn. Stat. § 504B.215, subd. 3

Effective August 1, 2010

Clarifies that a municipality, utility company, or other company supplying home heating oil, propane, natural gas, electricity, or water must post a disconnection notice in or on the building where the landlord failed to pay the bill.

LICENSING/BACKGROUND CHECKS/COLLATERAL SANCTIONS

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I. CRIMINAL DATABASE WORKGROUP

Chapter 383, Section 6 (SF 2725)
Effective August 1, 2010

Directs the Bureau of Criminal Apprehension to convene a stakeholder group to: (1) discuss issues and laws related to criminal databases; and (2) make recommendations for proposed changes to classification, storage, dissemination and use of criminal investigative data. Specifies membership of the stakeholder group, requiring a balance between law enforcement and non-law enforcement personnel. Mandates a report to the legislature by February 1, 2011.

II. DATA CLASSIFICATION

Chapter 329, Article 1, Section 17 (SF 2935)
Amends Minn. Stat. § 245C.22, subd. 7
Effective August 1, 2010

Provides that a disqualifying act committed by a person prior to the person's adoption by his or her foster care provider is private data if the person still lives with the provider.

III. FIFTEEN-YEAR DISQUALIFICATION

Chapter 329, Article 1, Section 15 (SF 2935)
Amends Minn. Stat. § 245C.15, subd. 2
Effective retroactively to May 22, 2009

Eliminates involuntary termination of parental rights from the 15-year disqualification statute, making the statute consistent with case law.

IV. LICENSE HOLDER RECORD KEEPING

Chapter 329, Article 1, Section 16 (SF 2935)
Adds Minn. Stat § 245C.20, subd. 2
Effective August 1, 2010

Requires a license holder to keep a copy of the results of a background study if a license holder relied on a study conducted by a third party (e.g., a temp agency).

V. LICENSE ISSUANCE/EXTENSION/REISSUANCE

Chapter 329, Article 1, Sections 5 and 8 (SF 2935)

Amends Minn. Stat. §§ 245A.04, subd. 7; and 246A.07, subd. 3

Effective May 14, 2010

A. Issuance/Reissuance

Prohibits DHS from issuing or reissuing a license to a program or service where a tribal jurisdiction has already established licensing jurisdiction. Prohibits reissuance of a license if a person living in the household has a disqualifying offense that has not been set aside or no variance has been granted.

Amends Minn. Stat. § 245A.04, subd. 7

B. Extension

Permits, with limitations, a program to continue to operate, including under a provisional license if needed, pending the outcome of an appeal of a license suspension or revocation. Provides that the removal or supervision order remains in effect pending the outcome of a hearing and final order if the license holder fails to request reconsideration, or the request for a set-aside or variance is denied.

Amends Minn. Stat. § 245A.04, subd. 7

Amends Minn. Stat. § 246A.07, subd. 3

VI. NONMALTREATMENT MISTAKE

Chapter 329, Article 1, Section 19 (SF 2935)

Amends Minn. Stat. § 626.556, subd. 2

Effective August 1, 2010

Defines nonmaltreatment mistake as follows: (1) the event occurred during the course of the employee's duties as part of the child care center's plan; (2) the employee had no maltreatment finding in the last seven years, or another maltreatment mistake finding in the last four years; (3) any treated injury to the child involved only over-the-counter remedies; and (4) except for when the incident occurred, the employee and facility were acting in accordance with all licensing requirements.

VII. RECONSIDERATION HEARING

Chapter 329, Article 2, Sections 1 – 7 (SF 2935)

Amends Minn. Stat. §§ 245C.27, subds. 1 and 2; 245C.28, subd. 3; 256.045, subd. 3; 626.556, subd. 10i; and 626.557, subd. 9d.

Effective May 14, 2010

Expressly provides for a right to hearing after a reconsideration determination (even if the underlying disqualification was set aside) unless the determination is deemed conclusive under Minn. Stat. § 245C.29 or the disqualification is based on a criminal conviction in the following instances: (1) fair hearings; (2) consolidated fair hearings; (3) contested case hearings for public employees; (4) state agency hearings; and (5) administrative reconsiderations.

VIII. SERIOUS MALTREATMENT - DEFINITION

Chapter 329, Article 1, Section 14 (SF 2935)

Amends Minn. Stat. § 245C.02, subd. 18

Effective August 1, 2010

Clarifies that serious maltreatment includes treatment by a physician, a physician assistant, or a nurse practitioner, but excludes the application of an over-the-counter medication (even if prescribed) or a prescription for a topical burn antibiotic when there is no follow-up appointment.

IX. TEMPORARY IMMEDIATE SUSPENSIONS

Chapter 329, Article 1, Section 7 (SF 2935)

Amends Minn. Stat. § 245A.07, subd. 2a

Effective May 14, 2010

Defines “reasonable cause” to mean the existence of “specific articulable facts or circumstances which provide the commissioner with a reasonable suspicion that there is an imminent risk of harm to the health, safety, or rights of persons served by the program.” (*Note: Current law contains the requirement that a finding of reasonable cause must be made to effect a temporary immediate suspension; the new provisions define “reasonable cause.”*)

X. TEMPORARY PROVISIONAL LICENSE

Chapter 329, Article 1, Section 6 (SF 2935)

Amends Minn. Stat. § 245A.07, subd. 1

Effective August 1, 2010

A. Expiration of Provisional License

Clarifies that the provisional license expires on the day the final order is issued, unless the license holder prevails on appeal, in which case a new nonprovisional license must be issued for the remainder of the licensing period.

B. Additional Sanctions Permitted

Permits DHS to impose additional sanctions if a temporary provisional license holder violates any applicable law or rules while the temporary license is in effect.

C. Extensions Permitted

Permits DHS to issue a subsequent temporary provisional license if the initial temporary provisional license is set to expire while the matter is still pending appeal, so long as the license fee is paid.

POVERTY LAW

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I. LADDER OUT OF POVERTY TASK FORCE

Chapter 374 (SF 1770)

Effective May 21, 2010 and expires the earlier of June 1, 2012, or upon the submission of a required report

Establishes a bipartisan task force, consisting of eight legislators (four from the House of Representatives, four from the Senate) and a representative from the Attorney General's Office and the Department of Commerce. Charges the task force with identifying specific policies, strategies, and actions to:

- Increase opportunities for poor and near-poor families and individuals to acquire assets and create and build wealth;
- Expand the utilization of Family Assets for Independence in Minnesota (FAIM) or other culturally specific individual development account programs;
- Reduce or eliminate predatory financial practices in Minnesota through regulatory actions, legislative enactments, and the development and deployment of alternative, nonpredatory financial products;
- Provide incentives or assistance to private sector financial institutions to offer additional programs and services that provide alternatives to and education about predatory financial products;
- Provide financial literacy information to low-income families and individuals at the time the recipient has the ability, opportunity, and motivation to receive, understand, and act on the information provided; and
- Identify incentives and mechanisms to increase community engagement in combating poverty and helping poor and near-poor families and individuals to acquire assets and create and build wealth.

Requires consultation with public, private, nonprofit, academic, and philanthropic experts. Requires the task force to provide to the legislative committees and divisions with jurisdiction over commerce and consumer protection, by June 1, 2012, written recommendations and any draft legislation necessary to implement the recommendations.

PUBLIC BENEFITS LAW

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MINNESOTA FAMILY INVESTMENT PROGRAM (MFIP)

I. CHILD UNDER 12 MONTHS EXEMPTION

Chapter 301, Article 1, Sections 12 and 15 (SF 2855)

Amends Minn. Stat. § 256J.561, subd. 3; Minn. Stat. § 256J.95, subd. 11

Effective August 1, 2010

Clarifies that the 12 month exemption from work participation requirements for parents with a child under one year of age is available only once in a caregiver's lifetime. Limits the exemption in a two-parent household to only one parent in any one month. Requires an MFIP participant to meet with a job counselor the month after the month the child reaches 12 months of age.

II. DISQUALIFICATION

Chapter 301, Article 1, Sections 2, 4, and 14 (SF 2855)

Amends Minn. Stat. §§ 256.98, subd. 8; 256J.24, subd. 3; and 256J.95, subd. 3

Effective August 1, 2010

Clarifies that a disqualification for wrongfully obtaining assistance covers participants in the Work Participation Cash Benefit Program in MFIP

III. FAMILY CAP

First Special Session, Chapter 1, Article 18, Section 3 (HF 1)

Amends Minn. Stat. § 256J.24, subd. 6

Effective September 1, 2010

Clarifies that a pregnancy that did not result in a live birth cannot subsequently be counted against a woman under the family cap in MFIP.

IV. HARDSHIP EXTENSIONS

First Special Session, Chapter 1, Article 18, Section 4 (HF 1)
Amends Minn. Stat. § 256J.425, subd. 3
Effective August 1, 2010

Clarifies hardship extension eligibility for MFIP participants with a low IQ or learning disabilities, requiring that a qualified professional must consider whether the participant's condition restricts the range of employment the participant is able to perform or interferes with the participant's ability to obtain or maintain suitable employment for 20 or more hours per week.

V. MFIP HOUSING PENALTY

Chapter 301, Article 1, Section 8 (SF 2855)
Amends Minn. Stat. § 256.37, subd. 3a
Effective August 1, 2010

Lowers the standard for avoiding the MFIP housing penalty for participants with physical or mental obstacles by providing that a participant is not subject to penalty if the illness, injury, or incapacity "severely limits" (rather than "prevents") the person's ability to obtain or maintain suitable employment.

VI. MFIP YOUTH/CAREGIVER SUMMER EMPLOYMENT

First Special Session, Chapter 1, Article 25, Section 15
Appropriations Article
Effective May 21, 2010

Requires the Department of Human Services to contract with the Department of Employment and Economic Development to use up to \$6 million in Federal TANF emergency funds for summer employment for MFIP youth and caregivers (under age 25) in families with incomes below 200% of FPG.

VII. WORK PARTICIPATION CASH BENEFIT

First Special Session, Chapter 1, Article 18, Section 5 (HF 1)
Amends Minn. Stat. § 256J.621(a)
Effective October 1, 2010

Reduces the monthly work participation cash benefit from \$50 to \$25 per month.

TRANSPORTATION LAW

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I. NOTICE OF IMPOUND

Chapter 257 (SF 2572)

Amends Minn. Stat. § 168.06, subd. 1

Effective August 1, 2010

A. Exclusion of Weekends and Holidays

Excludes Saturdays, Sundays, and legal holidays from the five-day requirement within which government or private impound lot operators must give notice to the vehicle owner that the vehicle has been impounded.

II. RETRIEVAL OF CONTENTS FROM IMPOUNDED VEHICLES

Chapter 351, Sections 25 and 26 (SF 2540)

Amends Minn. Stat. § 168B.07, subds. 1 and 3

Effective August 1, 2010

Eliminates as one of the eligibility criteria for the right to retrieve contents from an impounded vehicle having an income at or below 50% of state median income and modifies notice of impound to reflect the change.

UNEMPLOYMENT INSURANCE LAW

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I. ADMINISTRATIVE PENALTY FOR EMPLOYERS

Chapter 347, Article 2, Section 21 (SF 2510)

Amends Minn. Stat. § 268.184, subd. 1

Effective August 1, 2010

Requires DEED to administratively penalize any employer who attempts to prevent an applicant from receiving unemployment insurance (UI) benefits by making an offer of employment when no employment was available.

II. CUSTOMER SERVICE

A. Improvement

Chapter 347, Article 1, Section 29 (SF 2510)

Effective May 15, 2010 and expires August 31, 2011

1. “Seamless Assistance”

Requires DEED to consult with Workforce Service Area staff to implement procedures to ensure that unemployed Minnesotans visiting workforce centers are provided “seamless assistance” in applying for UI benefits, accessing resources, searching for jobs, and accessing training opportunities.

2. Report

Requires DEED – by September 1, 2010 and on January 15, 2011 – to report to the appropriate legislative committees on actions taken and results.

B. Telephone Number

Chapter 347, Article 2, Section 18 (SF 2510)

Amends Minn. Stat. § 268.101

Effective October 3, 2010

Requires every denial of UI benefits to include a prominently displayed telephone number that an applicant or employer may call to speak with an unemployment specialist to obtain further explanation. Requires the specialist to issue an amended determination where appropriate.

III. EXTENDED UI BENEFITS

Chapter 347, Article 2, Sections 22 and 24 (SF 2510)
Effective June 30, 2010 and expires March 26, 2011

Removes the June 30, 2010 sunset of state-provided emergency UI payments to 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 the “base period” was calculated.

IV. MISCONDUCT

Chapter 347, Article 2, section 17 (SF 2510)
Amends Minn. Stat. § 268.095, subd. 6
Effective May 23, 2010

Changes the definition of misconduct to conduct that was a “consequence” of the applicant’s inefficiency, inadvertence, inability, incapacity, chemical dependency, or domestic violence of a family member.

V. TEMPORARY STAFFING SERVICES

1. Suitable Employment
Chapter 347, Article 2, Section 4 (SF 2510)
Amends Minn. Stat. § 268.035, subd. 23a
Effective August 1, 2010

Establishes that a job assignment with a staffing service is suitable employment only if 45% or more of the applicant’s wage credits derive from a staffing service’s clients and the job assignment otherwise meet the definition of suitable employment.

2. Actively Seeking Suitable Employment
Chapter 347, Article 2, Section 14 (SF 2510)
Amends Minn. Stat. § 268.085, subd. 16 (SF 2510)
Effective August 1, 2010

Establishes that actively seeking a suitable job assignment or other employment with a staffing service is considered actively seeking suitable employment for purposes of UI.

3. Quit from a Staffing Service
Chapter 347, Article 2, Section 15 (SF 2510)
Amends Minn. Stat. § 268.095, subd. 2
Effective August 1, 2010

Clarifies that the five day call-in rule for clients of a temporary staffing service now relates only to suitable employment.

4. Discharge
Chapter 347, Article 2, Section 16 (SF 2510)
Amends Minn. Stat. § 268.095, subd. 5
Effective August 1, 2010

Provides that the end of a job assignment with the client of a staffing service is considered a discharge from employment with the staffing service unless the client fails to follow the five-day rule for requesting or accepting another “suitable” assignment.

- V. UNEMPLOYMENT EXCLUSION FOR FAMILY MEMBERS EMPLOYED AS PCA’S**
Chapter 347, Article 2, Sections 1 and 2 (SF 2933)
Amends Minn. Stat. § 268.035, subds. 19 and 20
Effective July 1, 2010

Adds family members employed as a PCA to the list of those excluded from unemployment insurance coverage. Defines immediate family member as an individual’s spouse, parent, stepparent, son or daughter, stepson or stepdaughter, or grandson or granddaughter.

UTILITIES LAW

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I. POSTING OF DISCONNECTION NOTICE IN MULTI-FAMILY BUILDINGS

Chapter 210 (HF 3259)

Amends Minn. Stat. § 504B.215, subd. 3

Effective August 1, 2010

Clarifies that a municipality, utility company, or other company must post a disconnection notice in or on the premises when disconnecting utility service to a multi-family building.