

2012 Session Summaries

These session summaries provide a review of the changes made by the 2012 Minnesota Legislature that affect low-income Minnesotans. The summaries cover changes to Minnesota law in a variety of substantive areas, including Asset Development; Child Care; Consumer Law; Courts; Data Practices; Disability Law; Domestic Abuse; Education Law; Elder Law; Family Law; Food Supports; Government Operations; Health Law; Housing Law; Juvenile Law; Landlord-Tenant Law; Public Benefits Law; Real Property Law, and Unemployment Insurance 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

DPS = Minnesota Department of Public Safety

FPG = Federal Poverty Guideline

HUD = United States Department of Housing and Urban Development

MA = MA

MDH = Minnesota Department of Health

MSA = Minnesota Supplemental Assistance

MFIP = Minnesota Family Investment Program

OAH = Minnesota Office of Administrative Hearings

ASSET DEVELOPMENT

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I. ASSET DEVELOPMENT AND FINANCIAL LITERACY TASK FORCE

Chapter 247, Article 3, Section 25 (HF 2294)

Amends Laws 2010, Chapter 374, Section 1

Effective April 29, 2012

Extends and repurposes the Ladder Out of Poverty Task Force through June 1, 2014, renaming it the Asset Development and Financial Literacy Task Force. Specifies the new mission of the Task Force is to reduce asset poverty and increase household financial security by improving opportunities for households to earn, learn, save, invest, and protect assets. Defines asset poverty as "an individual's or family's inability to meet fixed financial obligations and other financial requirements of daily living with existing assets for a three-month period in the event of a disruption in income or extraordinary economic emergency." Provides that the task force must provide recommendations to the Legislature during the 2013 and 2014 sessions that may include proposals for legislation.

II. UNIFORM ASSET LIMIT STUDY

Chapter 247, Article 3, Section 28 (HF 2294)

Uncodified Language

Effective August 1, 2012

Directs DHS, in consultation with county human services representatives, to analyze the differences in asset limit requirements across programs to establish a consistent asset limit across programs and minimize administrative burdens on counties in implementing asset tests. Requires a report, with draft legislation establishing a uniform asset limit, to House and Senate Health and Human Services Committees by January 15, 2013.

CHILD CARE

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I. CHILD CARE ASSISTANCE - ABSENT DAY PAYMENTS

Chapter 247, Article 3, Section 1 (HF 2294)
Amends Minn. Stat. § 119B.13, subd. 7
Effective January 1, 2013

Allows a recipient who meets the following criteria to exceed the 10 absent days per year limit imposed by the 2011 Legislature if: (1) the educational program recommends; and (2) the county approves an exemption; and (3) the recipient: (i) is under the age of 21; (ii) does not have a high school or GED; and (iii) is a student at a high school or other program that provides or arranges for child care, parenting support, social services, career/educational support to achieve high school graduation. Clarifies that child care assistance payment will be for the full day if a child is absent for only part of an authorized day.

II. APPLICATION FOR ELIGIBILITY

Chapter 216, Article 7, Sections 1 and 9 (SF 1675)
Amends Minn. Stat. § 119B.09, subd. 7; and Minn. Rules, part 3400.0035, subpart 2
Effective August 1, 2012

Changes effective date for CCAP eligibility from the date the application was signed to the date it was received by the county. Removes the requirement in the administrative rules that applications must be submitted within 15 days of signature.

III. LICENSING

Chapter 216, Article 7, Sections 4 and 5 (SF 1675)
Amends Minn. Stat. § 119B.125, subds. 1a and 2
Effective August 1, 2012

Modifies requirements for child care providers to be authorized for CCAP payments by: (1) requiring background studies on a child between ages 10 and 12 who resides where care is provided, if the county has "reasonable cause" as defined in Minn. Stat. § 245C.02, subd. 15; (2) making the background study process consistent for licensed providers and legal, nonlicensed providers; and (3) adding that a nonlicensed provider is disqualified from receiving CCAP payments if a household member has a disqualifying offense under Minn. Stat. §§ 245C.14 or 245C.15; or (i) hasn't consented to criminal records disclosure; (ii) had a family child care license revoked or has been fined or sanctioned as a licensed provider; or (iii) has a family child care disqualifying offense without a set aside.

IV. MARKET RATE DETERMINATION

Chapter 216, Article 7, Section 7 (SF 1675)

Amends Minn. Stat. § 119B.13, subd. 1

Effective August 1, 2012

Changes market child care rate evaluation to a biennial (from an annual) evaluation starting in 2012.

V. PARENT CO-PAYS

Chapter 216, Article 7, Sections 2 and 3 (SF 1675)

Amends Minn. Stat. § 119B.12, subds. 1 and 2

Effective August 1, 2012

Changes the parent co-payment schedule from a monthly to a bi-weekly schedule, adjusting the fees from \$5 per month to \$2 biweekly. Moves the eligibility limit from 66.99% of state median income to 67% of state median income. Makes parents with incomes more than 67% of state median income ineligible.

VI. PROVIDER PAYMENTS

Chapter 216, Article 7, Section 9 (SF 1675)

Amends Minn. Stat. § 119B.13, subd. 6

Effective August 1, 2012

Gives counties the additional options to refuse payments, stop payment authorization, or stop CCAP payments to a legal, nonlicensed provider or a licensed provider if: (1) the provider is not in compliance with CCAP program rules; (2) the program continues to operate after a license suspension or has been issued a citation for significant violations that affect the health and safety of children in care; (3) the provider fails to provide attendance reports, or submits false reports; or (4) the provider gives false price information for the cost of care.

VII. PROVIDER RECORD KEEPING

Chapter 216, Article 7, Section 6; and Article 17, Section 2 (SF 1675)

Amends Minn. Stat. § 119B.125, subd. 6

Adds Minn. Stat. § 245A.14, subd. 14

Effective August 1, 2012

Limits attendance record reporting requirements to only providers receiving CCAP payments by directing those providers to collect the following information: (1) date; (2) child's first and last name; and (3) times that the child is picked up and dropped off. Requires records showing pick up and drop off times to be completed by the parents "to the extent possible."

CONSUMER LAW

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I. DEBT COLLECTION AGENCIES

Chapter 225 (HF 2335)

Amends Minn. Stats. §§ 332.33, subds. 7 and 8; and 332.35

Effective August 1, 2012

A. Notice to Department of Commerce of Name or Address Change

Modifies from 15 days to 30 days the time within which a registered individual debt collector must report a name, assumed name, or address change to the Department of Commerce.

Amends Minn. Stat. § 332.33, subd. 7

B. Screening of Individual Collectors

1. Who Conducts the Screening

Eliminates direct background screening applicants for collector positions by the hiring collection agency, requiring that the screening be conducted by a: (1) vendor that is a member of the National Association of Professional Background Screeners; or (2) an equivalent vendor.

2. When the Screening Must Take Place

Requires screening both at the time of hiring and when registration is renewed annually.

3. What the Screening Must Include

Mandates that the screening process at initial hiring and renewal must include a national criminal history record search, an attorney licensing search, and a county criminal history search for all counties where the applicant has resided within the five years immediately preceding the initial registration.

Amends Minn. Stat. § 332.33, subd. 8

C. Disqualifying Conduct

Adds new and modifies existing disqualifying factors, providing that a person may not be hired as a debt collector if the applicant has been: (1) convicted of a misdemeanor or gross misdemeanor involving identity theft or any financial crime; and (2) if an attorney, has had a law license revoked or involuntarily suspended. (Note: Previously, an attorney whose license was suspended either voluntarily or involuntarily was disqualified.)

Amends Minn. Stat. § 332.35

II. RECEIVERSHIPS AND ASSIGNMENTS FOR THE BENEFIT OF CREDITORS

Chapter 143 (HF 382)

Adds Minn. Stats. §§ 576.21 - 576.52; and 577.11 - 18.

Amends various other sections

Effective August 1, 2012

Revises Minnesota statutes governing receiverships, setting forth, among other things, qualifications, requirements, powers, and duties.

A. Applicability

Applies to, among others, receiverships pursuant to: (1) garnishees in possession of property subject to a garnishment proceeding; (2) mortgage foreclosures; and (3) utility service in rental property receiverships.

Adds Minn. Stat. § 576.22(a) (16) (garnishees)

Adds Minn. Stat. § 576.22(a) (19) (mortgage foreclosures)

Adds Minn. Stat. § 576.43 (utility service in receivership properties)

B. Appointment Before Judgment

Provides that a limited receiver may be appointed prior to judgment to protect any party to an action where the party: (1) demonstrates an apparent right to property that is the subject of the action; (2) is in the possession of an adverse party; (3) demonstrates that the property or its rents and profits are in danger of loss or material impairment.

Adds Minn. Stat. § 576.25, subd. 2

C. Appointment of a Receiver in Mortgage Foreclosures

1. Type of Receivership

Specifies that receiverships with respect to mortgage foreclosures are limited receiverships.

Adds Minn. Stat. § 576.25 (a) (19)

2. Threshold Requirements

Provides that a receiver may be appointed in mortgage foreclosures involving multi-unit (four or more) properties where the mortgage being foreclosed: (1) secures an original principal amount of \$100,000 or more or is a lien upon the residential real estate containing more than four dwelling units; and (2) is not a lien upon: (i) property entirely homesteaded; (ii) residential real estate containing four or fewer dwelling units where at least one unit is homesteaded; or (iii) agricultural property.

Adds Minn. Stat. § 576.25, subd. 5(a)

3. Conditions Triggering Appointment of Receiver

Provides that a receiver may be appointed upon a showing that the mortgagor has: (1) failed to apply for tenant security deposits as required by Minn. Stat. § 504B.178; (2) failed to pay or escrow prior or current real estate taxes or special assessments; (3) failed to pay insurance premiums; or (4) breached any of the covenants of habitability under Minn. Stat. § 504B.161.

Adds Minn. Stat. § 576.25, subd. 5(b)

4. Duties of the Receiver in Mortgage Foreclosures

Requires a receiver in applicable mortgage foreclosures, among other things, to: (1) be or retain an experienced property manager; (2) collect the rents, profits, and all other income of any kind; (3) manage the mortgaged property so as to prevent waste; (4) execute contracts and leases within the period of the receivership, or, if approved by the court, beyond the period of the receivership; (5) pay all expenses for normal maintenance of the mortgaged property; and (5) perform the terms of any assignment of rents. Gives a purchaser at a foreclosure sale the right to advance funds to pay any or all expenses.

Adds Minn. Stat. § 576.25, subd. 5(c) and (d)

D. Utility Service in Receivership Properties

Prohibits utilities from altering, refusing, or discontinuing service to a property in receivership without providing written notice to the receiver. Grants authority to the court to prohibit alteration, refusal, or discontinuation after notice to the utility by the receiver and a hearing satisfactory to the court if the receiver furnishes adequate assurance of payment.

Adds Minn. Stat. § 576.43

E. Assignment for the Benefit of Creditors (ABCs)

1. What is an ABC?

An ABC is a voluntarily action by a debtor assigning property to an assignee who in turn is given the responsibility of liquidating the assets and paying creditors.

2. Relationship to Current Statutes Governing ABCs

New sections 577.11 to 577.18 supersede current sections 577.01 to 577.10, which are repealed.

3. Fundamental Requirements

Requires ABCs to be filed with the court administrator of the district court of the county in which the assignor resides by either the assignor or the assignee.

Adds Minn. Stat. § 577.12

4. Form of Assignment

Provides a statutory form for assignment.

Adds Minn. Stat. § 577.13

COURTS

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I. CONCILIATION COURT

Chapter 283 (SF 506)

Amends Minn. Stat. § 491A.01, subd. 3

Adds Minn. Stat. § 491A.01, subd. 3a

Various effective dates

Raises non-consumer credit claims limit for cases filed in conciliation court to: (1) \$10,000, effective August 1, 2012 for all claims filed on or after that date; and (2) \$15,000, effective August 1, 2014 for all claims filed on or after that date.

Amends Minn. Stat. § 491A.01, subd.3 (\$10,000 limit, effective August 1, 2012)

Adds Minn. Stat. § 491A.01, subd. 3a (\$15,000 limit, effective August 1, 2014)

DATA PRACTICES

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I. CIVIL INVESTIGATIVE DATA RULES EXEMPTION

Chapter 290, Section 19 (SF 1143)

Adds Minn. Stat. § 13.39, subd. 4

Effective August 1, 2012

Exempts certain civil investigative data rules when the only issue or dispute is whether the governmental entity's response to the data request was timely.

II. CLASSIFICATION OF DATA

A. Data Exchanged Between Government Entities

Chapter 290, Section 12 (SF 1143)

Amends Minn. Stat. § 13.03, subd. 4

Effective August 1, 2012

Provides that data retains the classification designated by the disseminating government entity - or the classification required by state or federal law - when it is provided to another government entity.

B. Data on Employees of a Government Contractor or Sub-contractor

Chapter 290, Section 23 (SF 1143)

Adds Minn. Stat. § 13.43, subd. 19

Effective August 1, 2012 (applies to contracts entered into or after August 1, 2012)

Classifies the following information about an employee of a governmental entity's contractor or sub-contractor as private data: (1) personal telephone number; (2) home address; and (3) e-mail address. Requires the contractor or sub-contractor to share this information with the governmental entity if necessary to perform a function authorized by law. Requires the data to be disclosed to either the governmental entity or any other person for prevailing wage purposes.

C. Criminal Financial Transaction Investigative Data

Chapter 290, Section 58 (SF 1143)

Adds Minn. Stat. § 13.82, subd. 30

Effective August 1, 2012

Classifies financial account number and transaction number collected by law enforcement as part of an inactive criminal investigation as private or nonpublic data.

D. Energy Program Data
Chapter 290, Section 70 (SF 1143)
Amends Minn. Stat. § 216C.266
Effective May 11, 2012

1. Subject of Data

Modifies applicability of data privacy under this section to persons applying for energy assistance or weatherization on behalf of the household.

Amends Minn. Stat. § 216C.266, subd. 1

2. Use of Data by the Department of Commerce

Allows the Department of Commerce to use the name, telephone number, and last four digits of the Social Security number of an individual applying for an energy program on behalf of a household for the purpose of determining whether the household is eligible for the telephone assistance program if the household is determined to be eligible for the energy assistance program.

Amends Minn. Stat. § 216C.266 by adding subd. 4

3. Sharing for Purposes of Determining Eligibility for Telephone Assistance

Allows the Department of Commerce to share with the Department of Human Services - and in turn the Department of Human Services to share with a person other than the subject - the name, telephone number, and last four digits of the Social Security number of a person applying on behalf of a household for energy assistance for the purpose of determining eligibility of the household for telephone assistance.

Amends Minn. Stat. § 216C.266 by adding subds. 2 and 3

III. DEPARTMENT OF NATURAL RESOURCES (DNR) ELECTRONIC LICENSING DATA

Chapter 290, Section 69 (SF 1143)
Amends Minn. Stat. § 84.0874
Effective August 1, 2012

Permits broader disclosure of DNR electronic licensing data, which is generally private data, under certain circumstances, including for use, for example: (1) by a government agency, including the courts or law enforcement, or any agent of a government agency; (2) by a business in its normal course of activity to verify the accuracy of an individual's submitted personal information; or (3) in connection with any civil, criminal, administrative, or arbitration proceedings in any federal, state, or local court or agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, or execution or enforcement of judgments and orders.

IV. EFFECT OF ADVISORY OPINIONS

Chapter 290, Section 13 (SF 1143)
Amends Minn. Stat. § 13.072, subd. 2
Effective August 1, 2012

Requires the Department of Administration to indicate when principles stated in an Advisory Opinion is not intended to provide guidance to all similarly situated persons or government entities.

V. FISCAL NOTES

Chapter 290, Section 39 (SF 1143)
Adds Minn. Stat. § 13.64, subd. 3
Effective August 1, 2012

Creates and defines the term "unofficial fiscal note" to mean a fiscal note requested for a bill that has not been introduced. Provides for data privacy protections only if the legislator-requestor directs that the data to be classified as private, in which case the data, the bill draft, and the identity of the requestor of the unofficial fiscal note become private data on individuals or nonpublic data. Makes the fiscal note public data upon its use for an introduced bill - or any other bill or amendment to any bill - that is being considered by the Legislature offered by another legislator.

VI. OPEN MEETING LAW

Chapter 290, Sections 63, 64, 67, and 68 (SF 1143)
Amends Minn. Stats. §§ 13D.015, subd. 5; 79A.16; and 79A.28
Adds Minn. Stat. § 13D.08
Effective August 1, 2012

A. Consolidation of Cross-References

Creates a new section containing cross-references to open meeting law provisions scattered throughout Minnesota Statutes.

Adds Minn. Stat. § 13D.08

B. Exemptions

Clarifies that neither the workers' compensation self-insurance security fund nor the commercial self-insurance security fund group is subject to the Open Meeting Law.

Amends Minn. Stat. § 79A.16 (workers' comp security fund)

Amends Minn. Stat. § 79A.16 (commercial self-insurance security fund)

C. Limit to Requirement to Post Notices of Meetings

Limits to only "regular" meetings the requirement to post public meetings on an entity's web site at least ten days prior to the meeting, aligning this section of law with the section (Minn. Stat. § 13D.04, subd. 1) containing the definition of regular meeting.

Amends Minn. Stat. § 13D.015, subd. 5

VII. "RESPONSIBLE AUTHORITY" FOR DATA

Chapter 290, Sections 9 -11 (SF 1143)

Amends Minn. Stats. §§ 13.02, subd. 16; and 13.03, subd. 2

Adds Minn. Stat. § 13.025

Effective August 1, 2012

A. Designation of Responsible Authority

Assigns temporary responsible authority status for collection and dissemination of data on the following persons. Provides that temporary status extends until an individual in a state or county agency or other political subdivision is designated as the permanent responsible authority.

1. Counties

Either: (1) the county coordinator or administrator; or (2) the county auditor if the county has neither a coordinator nor an administrator.

2. Statutory or Home Rule Charter Cities

Either: (1) the elected or appointed city clerk; or (2) the chief clerical officer for filing and record keeping purposes if there is no city clerk.

3. School Districts

The superintendent.

4. All other Political Subdivisions

The chief clerical officer for filing and record keeping purposes.

Amends Minn. Stat. § 13.02, subd. 16

B. Duties

Consolidates into a single new statutory section provisions specifying the duties of the responsible authority, which include: (1) public data inventory duties; (2) the duty to provide written policy on access to data; and (3) the duty to make copy of written policy available to the public.

VIII. SECURITY INFORMATION

Chapter 290, Sections 16 and 17 (SF 1143)

Amends Minn. Stat. § 13.37, subds. 1 and 2

Effective August 1, 2012

Gives the responsible authority: (1) the power to determine whether disclosure of government data would jeopardize the security of information; and (2) the obligation to briefly describe why the security information classification was made upon denial of a request for the data.

IX. WELFARE DATA

A. Civil Investigative Data

Chapter 216, Article 15, Section 2 (SF 1675)

Amends Minn. Stat. § 13.46, subd. 3

Effective August 1, 2012

Provides that, notwithstanding other provisions regarding the classification of civil investigative data - see Minn. Stat. §§ 13.46, subd. 3(a) and 13.39) - the existence of an investigation regarding public assistance overpayments is public data during the pendency of the investigation.

B. Investigators

Chapter 216, Article 15, Section 1 (SF 1675)

Amends Minn. Stat. § 13.46, subd. 2

Effective August 1, 2012

Expands the release of welfare data to: (1) an investigator acting on behalf of the county, state, or federal government; and (2) investigations as part of an administrative proceeding.

C. Licensing Denial or Sanction

Chapter 216, Article 15, Section 3 (SF 1675)

Amends Minn. Stat. § 13.46, subd. 4

Effective August 1, 2012

1. New Categories of Public Data

Makes public data: (1) an individual who has been determined to have committed maltreatment leading to a licensing denial or sanction when the denial or sanction is issued; and (2) the offense and the individual to whom a license is denied or who receives a sanction because of a disqualifying offense. Provides that the reason for disqualification and for denial of a set-aside of disqualification become public data if a determination is affirmed after a request for reconsideration.

2. Sharing of Background Studies and Disqualification Data

Authorizes the Department of Human Services to share background study and disqualification data with other state agencies or regulatory boards when the DHS is conducting the investigation on the agency's behalf. Permits sharing of the background study and disqualification data with the DHS when the department is the license holder.

DEPARTMENT OF HUMAN SERVICES (DHS) LICENSING

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I. APPLICATION FOR LICENSURE

Chapter 216, Article 16, Sections 2, 3, 6, and 7 (SF 1675)

Amends Minn. Stat. §§ 245A.04, subds. 1 and 7; 245A.05; and 245A.07, subd. 3

Effective August 1, 2012

Makes numerous changes to the licensing application process.

A. DHS Authority

Permits DHS to: (1) deny a license if the application deficiencies are not remedied (and deems an unremedied application a substantially deficient application); (2) effective January 1, 2013, develop and administer a written competency examination for all licensed areas except for child foster care; and (3) fine applicants who commit a background study violation (which can include a substantially incomplete application that is not corrected after a DHS request). Prohibits DHS from fining an applicant who self-corrects the violation before it is discovered by DHS, unless the applicant has avoided a fine within the past 365 days. (Note: this prohibition does not apply to background study violations for failure to comply with an order to immediately remove a person from direct contact or an order for direct, continuous supervision; thus, if the order is violated, there is no self-correction possibility to avoid a fine.)

Amends Minn. Stat. § 245A.04, subd. 1

B. DHS Requirements

Requires DHS to send an applicant who has submitted a substantially deficient application notice of what documents are insufficient or missing. Gives the applicant 45 days to submit a sufficient application.

Amends Minn. Stat. § 245A.04, subd. 1

C. Requirements for Individual Applicants

1. Competency

Requires individual applicants to possess "competent knowledge" of licensing and disqualification requirements, statutes, and rules related to the program(s) relevant to the license or program.

Amends Minn. Stat. § 245A.04, subd. 1

2. Provision of Information

Requires applicants to: (1) provide a Social Security number and their notarized signature on the application; and (2) identify: (i) all controlling individuals for the license application and (ii) the agent for working with DHS.

Amends Minn. Stat. § 245A.04, subd. 1

3. Prohibition on Issuance/Reissuance for Failure to Provide Information

Prohibits DHS from issuing or re-issuing a license if the applicant fails, after a request from DHS, to provide the identifying information.

Amends Minn. Stat. § 245A.04, subd. 7

Amends Minn. Stat. § 245A.07, subd. 3

D. Requirements for Non-Individual Applicants

Requires non-individual applicants to provide: (1) the entity's tax identification number; (2) the full names and addresses of all controlling individuals (See Minn. Stat. § 245A.02, subd. 5a) and the dates that background studies were initiated for each controlling individual; and (3) the full name, mailing address and notarized signature of the agent responsible for accepting service on behalf of controlling individuals.

Amends Minn. Stat. § 245A.04, subd. 1

II. BACKGROUND STUDIES

A. Children

1. Children Residing in Home

Chapter 216, Article 16, Section 16 (SF 1675)

Amends Minn. Stat. § 245C.03, subd. 1

Effective August 1, 2012

Clarifies that the requirement for background studies for children age 13 and older who reside in a home where licensed services are provided only applies to children who live in the home but are not being served by the licensed program. Extends time an employee can be absent from a licensed program from 45 to 90 days before a new background study is required. Requires the background study request to be submitted electronically.

2. Children's Residential Facilities - Children Ages 18 to 21

Chapter 216, Article 16, Section 4 (SF 1675)

Amends Minn. Stat. § 245A.04, subd. 11

Effective August 1, 2012

Permits residential facilities operated by the Department of Corrections and the Department of Human Services (See Minn. Rules, parts 2960.0100 to 2960.0710) to be licensed to additionally serve children under age 21 if the facility: (1) individually assesses the risk for each child

between ages 18 and 21 and implements necessary measures to minimize risk to other residents, including sleeping arrangements; and (2) ensures that services are appropriate for the age and functioning for all residents, including separation of services, supervision of staff, and other program operations, as appropriate.

B. Family Child Care Substitute Caregiver

Chapter 216, Article 16, Section 17 (SF 1675)

Amends Minn. Stat. § 245C.04, subd. 1

Effective August 1, 2012

Exempts substitute caregivers designated by family child care providers from 90 day absence rule, so that the provider must only designate the substitute caregiver (who must be subject to a new background study) only upon the provider's license renewal.

C. Traveling Background Study - Child Foster Care

Chapter 216, Article 16, Section 22 (SF 1675)

Amends Minn. Stat. § 245C.07

Effective August 1, 2012

1. If the Child Foster Care Providers Owns Multiple Programs

Allows an individual's background study for one child foster care program to transfer across all of the provider's programs if: (1) the provider owns various programs; and (2) the individual meets requirements of existing law.

2. If the Licensed Program is Not Child Foster Care

Allows an individual's background study for a licensed program that is not child foster care to transfer within any program owned by the licensee, except for child foster care programs if the same conditions exist for a background study for a licensed program.

3. Where the Traveling Background Study Does Not Apply

Provides that the traveling background study does not apply to: (1) adoption agencies; (2) supplemental nursing services agencies; (3) personnel agencies; (4) educational programs; or (5) unlicensed personal care provider organizations.

Note: These provisions are in addition to the new general traveling set aside provisions (see below).

D. Traveling Set Aside

Chapter 216, Article 16, Sections 17, 19 and 24-25 (SF 1675)

Amends Minn. Stats. §§ 245C.04, subd. 1; 245C.17, subd. 2; and 245C.22, subd. 5

Adds Minn. Stat. § 245C.05, subd. 2c

Effective August 1, 2012

Creates a "traveling set aside" that allows persons with a set aside to work in a similar program (licensed under the same statute or rule) without being disqualified and needing to repeat the set

aside process. Provides that, for persons with existing set asides (prior to the effective date), the agency has 15 days to re-issue the set aside, unless a statutory exclusion applies.

Amends Minn. Stat. § 245C.04, subd. 1

1. Exclusion

Provides that a traveling set aside does not apply when: (1) the subject individual has a disqualifying offense that is a permanent or 15-year bar (See Minn. Stat. § 245C.15, subds. 1 and 2); (2) new information suggests the individual poses a risk of harm in the new position; or (3) the previous set aside was specifically limited to a specific position or employer.

Amends Minn. Stat. § 245C.22, subd. 5

2. Notices

Provides that, when an initial set aside is granted, the notice must inform the subject individual that, if a traveling set aside is granted in the future, the new employer will be notified: (1) of the underlying offense; (2) that a set aside is granted; and (3) upon request, the reasons for granting the set aside. Removes a subject's individual's right to refuse disclosure to the new employer and essentially forgo the employment. Does not change the requirement that the subject individual receives notice of the traveling set aside. Limits the right to request consideration to claims that the disqualifying information is incorrect. (Note: this applies to cases where the set aside is now traveling - the underlying set aside was granted as part of the previous position.)

Amends Minn. Stat. §§ 245C.04, subd. 1; and 245C.17, subd. 2

Adds Minn. Stat. §245C.05, subd. 2

III. LICENSURE AND ACCEPTANCE OF PUBLIC FUNDING

Chapter 216, Article 17, Sections 1 and 3 (SF 1675)

Amends Minn. Stat. § 245A.04, subd. 1 and

Adds Minn. Stat. § 245A.167

Effective August 1, 2012

Creates specific basis for licensing compliance with registration or enrollment requirements for the public payment program. Requires a license holder who receives public funds to acknowledge, at the time of license application or renewal, that: (1) the licensing division may monitor for compliance with provider enrollment agreements or registration requirements for the receipt of public funding; and (2) noncompliance with the provider agreement or registration requirements that is detected through an investigation or inspection, or violation of licensing requirements that is a basis for enrollment may result in: (i) a correction order, conditional license (See Minn. Stat. § 245A.06) or sanctions (See Minn. Stat. § 245A.07); (ii) nonpayment of claims for public program reimbursement; (iii) recovery of service payments made; (iv) disenrollment in the public payment program; or (v) other civil, administrative or criminal penalties as provided by law.

Amends Minn. Stat. § 245A.04, subd. 1

Adds Minn. Stat. § 245A.167

IV. MANDATED REPORTERS - RISK REDUCTION PLAN TRAINING

Chapter 216, Article 16, Section 15 (SF 1675)

Amends Minn. Stat. § 245A.66, subd. 3

Effective August 1, 2012

Requires license holders, with respect to the risk reduction plan, to document: (1) the initial orientation; (2) the required annual review; and (3) that the mandated reporters were informed of the changes.

DISABILITY LAW

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Acronyms used in this Section:

ADL - Activity of Daily living

BI - Brain Injury Waiver

CAC - Community Alternative Care Waiver

CADI - Community Alternatives for Disabled Individuals Waiver

CDCS - Consumer-Directed Community Supports option (under the HCBS waivers)

DD - Developmental Disabilities Waiver

DHS - Department of Human Services

HCBS - Home and Community Based Services Waivers

ICF/DD - Intermediate Care Facilities for Persons with Developmental

MA - Medical Assistance

MA-EPD - Medical Assistance for Employed Persons with Disabilities

NEMT - Non-Emergency Medical Transportation

PCA - Personal Care Assistance

TEFRA - Tax Equity and Fiscal Responsibility Act of 1982

(Used in Minnesota to refer to an eligibility option under Medical Assistance)

I. 2012 DISABILITY SERVICES FUNDING CHANGES

A. 2011 Budget Cut Modifications

1. 2011 Licensed Bed Closure Budget Cut

Chapter 247, Article 4, Sections 6 and 35 (HF 2294)

Amends Minn. Stats. §§ 245A.03, subd. 7; and 256B.49, subd. 15(f)

Effective July 1, 2012

Substitutes a process for voluntary reduction of licensed beds for the 2011 mandatory closure of licensed beds immediately when a person moves to a more independent setting. Allows the closure of unused licensed capacity to meet the budget savings associated with closing 128 licensed beds beginning July 1, 2013. Requires DHS to implement the 2011 immediate closure requirement beginning July 1, 2013 if voluntary action and unused capacity do not suffice to meet the budget target of closing 128 beds. Exempts some corporate foster care homes that meet criteria to serve persons with mental illnesses. Requires use of a statewide resource need determination process to annually determine where reduced capacity will be implemented, how to improve services, and better meet long-term care needs. Appropriates \$1.6 million to fund the delay of the 2011 bed closure budget cut for the 2012 - 2013 biennium.

2. Congregate Living Rate Cut

Chapter 247, Article 4, Section 43 (HF 2294)

Amends Laws 2011, First Special Session Chapter 9, Article 10, Section 3, subd. 3

Effective on or after July 1, 2012, or the first day of the month following federal approval, whichever is later

Reduces the congregate care "lower need" 10% rate reduction for persons in the CADI and DD home and community-based services (HCBS) waiver programs to 5% if federal approval for federal match on the state-funded alternative care program is granted by the Centers for Medicare and Medicaid Services. This 2011 cut affects approximately 2,600 individuals living in congregate settings.

3. Continuing Care Provider Rate Reduction

Chapter 247, Article 4, Sections 39 and 42, and Article 6, Section 2(f) (HF 2294)

Amends Minn. Stat. § 256B.5012, subd. 13, Laws 2011, First Special Session Chapter 9, Section 54 and Rider Language

Effective July 1, 2012

Delays the 1.67% continuing care provider rate and grant reduction passed in 2011 until July 1, 2013. Provides that if the nursing facility level of care waiver is not approved by June 30, 2013, a one-time payment delay of one month into the next biennium will be imposed to pay for the delay. Prorates the rate reduction in the event that federal approval is obtained for only some portions of the Nursing Facility Level of Care waiver.

4. Essential Community Support Grants

Chapter 247, Article 6, Section 2, Subdivision 4(f) (HF 2294)

Rider Language

Effective July 1, 2012

Aligns essential community support grants with the DHS federal waiver request to allow those qualifying for CADI waiver who lose eligibility to qualify for an essential community support grant using increased federal matching funds if provided by federal approval of the 1115 waiver submitted February 13, 2012. Authorizes \$999,000 for essential community support grants for the current biennium.

5. Family Deductible

Chapter 247, Article 1, Sections 10 and 18 (HF 2294)

Amends Minn. Stat. § 256B.0631, subd. and 256L.03, subd. 5

Effective for managed care plans January 1, 2012, and for long-term care and waiver service providers July 1, 2012

Authorizes DHS to: (1) allow managed care plans to waive the family deductible, the value of which is not to be included in capitation payments to these plans; and (2) waive the collection of

the family deductible for long-term care and waiver service providers who assume payment responsibility for the family deductible payment.

6. Relative Personal Care Attendant (PCA) Rate Cut
Chapter 247, Article 4, Sections 18 and 43 (HF 2294)
Amends Minn. Stat. § 256B.059, subd. 11
Effective July 1, 2012

Delays the 20% rate cut for PCAs who are related to the recipient for whom they provide care. Provides that the 20% rate cut will go into effect on July 1, 2013. Appropriates \$5.9 million for the delay from January 1, 2013, to July 1, 2013. Applies to both fee-for-service and managed care plans.

7. PCA Relative Care Payment Recovery
Chapter 247, Article 6, Section 2, Subdivision 4, Paragraph F (HF 2294)
Rider Language
Effective July 1, 2012

Prohibits recovery of payments to PCA service providers for the difference between the full rate and the 20% cut during the period of a temporary injunction from October 26, 2011 to March 23, 2012.

B. 2012 Budget Items

1. Family Support Grants
Chapter 216, Article 9, Section 6 (SF 1675)
Amends Minn. Stat. § 252.32, subd. 1a
Effective August 1, 2012

Limits eligibility for Family Support Grants so that families who receive HCBS Disability Waivers, PCA services or a Consumer Support Grant are not eligible for a Family Support Grant.

2. Funding for Epilepsy Skills Training Program
Chapter 247, Article 6, Section 2, Subdivision 5(c) (HF 2294)
Rider Language
Effective July 1, 2012

Appropriates \$65,000 for living skills training programs for persons with intractable epilepsy.

3. Medical Assistance for Employed Persons with Disabilities (MA-EPD)
Chapter 247, Article 4, Sections 15, 16, and 17 (HF 2294)
Amends Minn. Stat. §§ 256B.056, subds. 1a and 3 and 256B.057, subd. 9
Effective April 1, 2012

a. Age Limit

Removes the age limit for participating in MA-EPD so that persons who reach age 65 can continue to benefit financially from employment and still qualify for Medical Assistance services, such as PCA. Affects an estimated 80 persons per month during the first year.

b. Treatment of Assets

Provides that assets up to the MA-EPD limit earned before age 65 will be disregarded for purposes of determining eligibility for Medical Assistance (MA) after age 65 if the person was enrolled in MA-EPD for at least 20 months prior to reaching age 65 until after 2013 when 24 consecutive months' participation will be required. Asset disregard is estimated to affect about 33 persons per year.

c. Treatment of Spouse Income and Assets

Disregards a spouse's income and assets up to the MA-EPD limits after age 65 if the participant is enrolled in MA-EPD for 20 months prior to turning age 65 and 24 consecutive months after 2013.

4. Parental Fees for Minor Children Qualifying for Medical Assistance Through Home and Community Waiver or TEFRA Option

Chapter 247, Article 4, Section 13 (HF 2294)

Amends Minn. Stat. § 252.27, subd. 2a

Effective July 1, 2012

Extends the 2011 parental fee increases from June 30, 2013 to June 30, 2015. Collects \$1.2 million more from affected parents in fees for their children's disability-related services by extending increased fees for two more years, through the next biennium, 2014 - 2015.

5. Self-Advocacy Network for Persons with Disabilities Funding

Chapter 247, Article 6, Section 2, Subdivision 5(c) (HF 2294)

Rider Language

Effective July 1, 2012

Provides \$50,000 for fiscal year 2013 to fund a statewide self-advocacy network for persons with intellectual and developmental disabilities on a one-time basis. Specifies that the network must educate about legal rights in education, employment, housing, transportation, and voting.

II. ADULT AND CHILD FOSTER CARE CHANGES

A. Corporate Foster Care Mental Health Certification

Chapter 247, Article 4, Sections 5 and 6 (HF 2294)

Adds Minn. Stat. § 245A.03, subd. 6a

Amends Minn. Stat. § 256A.03, subd. 7

Effective July 1, 2012

Establishes an optional certification for adult corporate foster care providers who meet specified requirements for experience and expertise in serving persons with mental health conditions.

Exempts homes which meet certification standards from the 2011 bed de-licensure provision.

Appropriates \$102,000 for 2012 - 2013 biennium and \$399,000 for 2014 - 2015.

B. Corporate Foster Care Setting Licensure Requirements

Chapter 216, Article 9, Sections 3, 5, and 24 (SF 1675)

Amends Minn. Stats. §§ 245A.03, subd. 7 and 256B.92, subd. 11; Laws 2009, Chapter 79, Article 8, Section 81, as amended by Laws 2010, Chapter 352, Article 1, Section 24

Effective August 1, 2012

Adds requirements for applicants and licensed holders for adult foster care to inform DHS on the physical location where services will be provided, when a license holder changes location and whether the license holder provides services funded under Home and Community-Based Waiver Services.

C. Increased Capacity for Corporate Adult Foster Care

Chapter 247, Article 4, Section 7 (HF 2294)

Amends Minn. Stat. § 245A.11, subd. 2A

Effective July 1, 2012

Provides DHS with authority to grant a variance to corporate adult foster care providers to add a fifth bed for respite services. Establishes protections for residents in homes where a fifth bed for respite is added. Extends the current time period for allowing an increased capacity to five adults from 2011 to June 30, 2016.

D. Planned Closure for Corporate Adult Foster Care Settings

Chapter 247, Article 4, Section 38 (HF 2294)

Adds Minn. Stat. § 256B.493

Effective July 1, 2012

Creates a planned closure program for adult foster care settings which requires DHS to solicit proposals for conversion of licensed services to other types of community settings. Estimated to result in a closure of 33 CADI waiver-funded and 43 DD waiver-funded corporate foster beds, after which any additional closures can be attributed to meeting the 2011 licensed bed closure budget cut. Provides for application review approval, notification, and rate adjustment processing.

E. Variance for Alternate Overnight Supervision in Corporate Adult Foster Care
Chapter 247, Article 4, Sections 8 and 9 (HF 2294)
Amends Minn. Stat. § 245A.11, subds. 7 and 7A
Effective July 1, 2012

Modifies conditions under which alternative overnight supervision variance can be approved and establishes procedures and timelines for DHS to follow in evaluating provider variance applications. Defines supervision for purposes of the variance request.

III. ADULT PROTECTION

A. Background Study Changes for Licensed Providers
Chapter 247, Article 4, Section 11 (HF 2294)
Amends Minn. Stat. § 245C.04, subd. 6
Effective July 1, 2012

Relieves providers of the annual background study requirement for employees who work with DHS licensed programs and unlicensed services if the provider complies with certain requirements and the individual provides at least 40 hours of direct services in the provider's licensed program.

B. Background Study Notice of Conviction
Chapter 247, Article 4, Section 12 (HF 2294)
Amends Minn. Stat. § 245C.05, subd. 7
Effective July 1, 2012

Requires probation officers and corrections agents to DHS of a disqualifying crime conviction by an individual who has been affiliated with a licensed program within the preceding year.

C. Felony for Intentional Deprivation of Vulnerable Adults
Chapter 175 (SF 1586)
Amends Minn. Stat. § 609.233 by adding subds. 1a, 2a, and 2b
Effective August 1, 2012, and applies to crimes committed on or after that date

1. Felony Deprivation

Makes it a felony for a caregiver or facilities operator to intentionally deprive a vulnerable adult of necessary food, clothing, shelter, health care, or supervision if the caregiver or operator is reasonably able to make the necessary provisions; and (1) the caregiver or operator knows or has reason to know the deprivation could likely result in substantial or great bodily harm to the vulnerable adult; or (2) the deprivation occurred over an extended period of time.

2. Fine and Sentence

Subjects a caregiver or facilities operator to: (1) a fine of \$5,000 or five years in prison, or both, if the action results in substantial bodily harm; or (2) a fine of \$10,000 or 10 years in prison, or both, if the action results in great bodily harm.

3. Affirmative Defenses

a. Burden

Provides that the defendant bears the burden of production only and the showing must be by a preponderance of the evidence.

b. Proofs

1) For an Employee

Requires a defendant employed by a facility or operator to show s/he did have managerial or supervisory authority, and was unable to reasonably make the necessary provisions because of inadequate staffing levels, inadequate supervision, or institutional policies.

2) For a Facility, Operator, or Manager or Supervisor

Requires the defendant to show the harm inflicted by an employee or agent was not permitted knowingly, intentionally, or recklessly

3) For a Caregiver

Requires the defendant to show that the failure to perform acts necessary to prevent the harm resulted because the caregiver was acting reasonably and necessarily to provide care to another identified vulnerable adult.

4. Vulnerable Adult Maltreatment Lead Investigative Agency Responsibility

Chapter 216, Article 9, Sections 31 and 32 (SF 1675)

Amends Minn. Stats. §§ 626.557, subd. 9a, and 626.5572, subd. 13

Effective August 1, 2012

Designates the county social service agency as the lead investigative agency for reports of vulnerable adult maltreatment in licensed home and community-based services beginning in 2014. Requires the common entry point (county) to refer maltreatment reports involving licensed services to the county and notify the DHS.

IV. ASSESSMENT, CASE MANAGEMENT, CARE COORDINATION

A. Case Management for DD, CAC, CADI, and BI Waivers

Chapter 216, Article 11, Sections 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 38, 39 and 40 (SF 1675)

Amends Minn. Stats. §§ 256B.092, subds. 1, 1a, 1b, 1e, 1g, 2, 3, 5, 7, 8, 9, and 11; and 256B.49, subds. 13, 14, and 15

Effective August 1, 2012

Separates administrative functions from service functions for case management. Makes changes to terminology in advance of the new certified assessor requirements for MNCHOICES.

Changes the "Individual Service Plan" to "Coordinated Service and Support Plan." Establishes time lines and other criteria for the Coordinated Service and Support Plan. Encourages inclusion of volunteer, religious organizations and other community resources as part of the Coordinated

Service and Support Plan. Prohibits a private agency from providing case management services to a recipient if the agency has a financial interest in the provision of other services to the same person.

B. Case Management Individual Service Plan
Chapter 247, Article 4, Section 10 (HF 2294)
Amends Minn. Stat. § 245B.07, subd. 1
Effective July 1, 2012

Prohibits a license holder from being penalized for not having a current Individual Service Plan in the consumer's data file if the case manager fails to provide the plan after a written request from the license holder.

C. Long-Term Care Consultation and Changes Related to MNCHOICES Assessment
Chapter 216, Article 11, Sections 6 - 12 (SF 1675)
Amends Minn. Stat. § 256B.0911, subds. 1, 1a, 2b, 2c, 3, 3a, and 3b
Effective August 1, 2012

- Defines and clarifies the administrative functions of assessment for long-term services and supports.
- Adds a requirement to provide information about competitive employment for youth and working-age adults with disabilities, and information about state plan home care services, case management, institutional level of care and diagnostic information for eligibility determination.
- Reduces experience requirements for certified assessors from three years to two.
- Requires that long-term care consultation team must include public health nurses, social workers and other professionals.
- Provides that long-term care consultation assessment can be used for PCA services and private duty nursing upon statewide implementation of MNCHOICES.
- Requires a lead agency certified assessor to provide assistance with transition services.
- Sets the requirements for an assessment and referral, time lines for the assessment and recommendations for community-based services and consumer-directed options, including a discussion of cost effective community service living arrangements.

D. Notice to County of Financial Responsibility of Client Move
Chapter 216, Article 11, Section 33 (SF 1675)
Amends Minn. Stat. § 256B.092, subd. 8a
Effective August 1, 2012

Replaces the county concurrence requirement with a responsibility to notify the county to which a person is moving when the individual will require ongoing services under a Coordinated

Service and Support Plan. Notification from the county of service to the county of financial responsibility is required if there has been no authorization for admission to an ICF/DD facility and if the proposed county of service has concerns about the identified provider's capacity to meet the needs of the person seeking to move to residential services in another county. Applies equally to HCBS waiver services recipients under BI, CADI and CAC programs.

E. Pediatric Care Coordination

Chapter 247, Article 1, Section 11 (HF 2294)

Adds Minn. Stat. § 256B.0751, subd. 9

Effective July 1, 2012

Requires DHS to implement a pediatric care coordination service for children with high cost medical or psychiatric conditions at risk of repeated hospitalizations or emergency room use. Targets the care coordination to children not already receiving such services and requires, to the extent possible, the use of existing home health certification and payment structures.

V. AUTISM RELATED PROVISIONS

A. Autism Housing with Supports Study

Chapter 247, Article 4, Section 50 (HF 2294)

Uncodified Language

Effective July 1, 2012

Directs DHS to consult with the Departments of Education, Health, and Employment and Economic Development to complete a study on models of housing with supports to coordinate and integrate across DHS, education, and vocational service systems for children with a diagnosis of autistic disorder. Requires the study to examine other states' practices in housing and long-term supports for children with significant autism, including a campus model. Provides for an implementation plan on housing and service needs of persons with autism as well as a study due to the legislature by January 15, 2013. Appropriates \$177,000 for 2012-2013 biennium.

B. Autism Prevalence Study for Somali Community

Chapter 247, Article 6, Section 3, Subdivision 2 (HF 2294)

Rider Language

Effective July 1, 2012

Provides \$200,000 to study autism spectrum disorders that are unique in the Somali community and report to the legislature by February 15, 2014. The Department of Health must include recommendations for public health surveillance for autism spectrum disorders.

C. Autism Treatments Review
Chapter 247, Article 1, Section 26 (HF 2294)
Uncodified Language
Effective July 1, 2012

Requires DHS' Health Services Advisory Council to review various treatments for Autism Spectrum Disorder and recommend authorization criteria for coverage of services by December 31, 2012.

D. Foster Care for Individuals with Autism
Chapter 247, Article 5, Section 7 (HF 2294)
Uncodified Language
Effective July 1, 2012

Requires the DHS to coordinate with one or more counties to issue a foster care license and funding for children currently in out-of-home placement with services funded under one of the disability HCBS waiver programs. Includes coordination with interested counties to identify providers with expertise in serving individuals with autism.

VI. HOME AND COMMUNITY-BASED SERVICES

A. Home and Community-Based (HCBS) Settings

1. Community Living Settings
Chapter 247, Article 4, Section 36 (HF 2294)
Amends Minn. Stat. § 256B.49, subd. 23
Effective July 1, 2012

Adds conditions under which a lease agreement or a plan for transition of a lease from a service provider to an individual with a disability will qualify as a community living setting for purposes of HCBS waiver funding. Allows DHS to approve an exception under specified conditions.

2. HCBS Disability Waiver Settings
Chapter 247, Article 4, Section 37 (HF 2294)
Adds Minn. Stat. § 256B.492
Effective July 1, 2012

Defines various settings in which individuals may receive services under one of the disability HCBS services waivers for persons under age 65.

a. Includes

- An individual's own home or family home;
- A licensed adult foster care setting of up to five people;
- A community living setting (see Minn. Stat. § 256B.49, subd. 23) where individuals with

disabilities may reside in all units in a building of four or fewer units; and

- No more than the greater of 4% or 25% 25 percent of the units in a multi-family building of more than four units.

b. Excludes

- A publicly or privately operated facility that provides institutional or custodial care;
- The grounds or property adjacent to a public or private institution;
- A housing complex designed expressly for individuals with a disability or diagnosis;
- A setting segregated, based on disability, from the larger community; and
- Any setting having the qualities of an institution in terms of regimentation and restriction on rights to come and go, have visitors, and maintain privacy.

c. Exceptions

- Settings which do not meet the criteria in which people are receiving disability HCBS waiver funding as of July 1, 2012;
- A program established as part of a Hennepin County demonstration project. Requires DHS to request an amendment to the HCBS Disability waiver plans no later than December 31, 2012.

3. Home and Community-Based Waiver Settings Amendment

Chapter 247, Article 4, Section 46 (HF 2294)

Uncodified Language

Effective July 1, 2012

Requires the DHS to submit amendments to the home and community-based services waiver plans to implement the new definition of disability HCBS waiver settings. Provides for an exception for settings serving persons with disabilities in buildings with more than 25% of the units as of January 1, 2012.

4. Shelter Needy Payments Under Minnesota Supplemental Aid

Chapter 247, Article 4, Section 40 (HF 2294)

Amends Minn. Stat. § 256D.44, subd. 5

Effective July 1, 2012 and expires June 30, 2016

Establishes the criteria for shelter payments in buildings of four or more units. Requires that when the service provider controls the housing, a plan for transition to a lease for the recipient must be implemented within two years unless DHS approves a longer time period.

B. Other HCBS Waiver Changes

1. Changes for Existing License under 245B

Chapter 216, Article 18, Sections 6 - 15 (SF 1675)

Adds Minn. Stat. § 245B.02, subd. 8a;

Amends Minn. Stat. §§ 245B.02, subd. 10; 245B.04, subds. 1, 2, and 3; 245B.05, subd. 1; and 245B.07, subds. 5, 9, and 10

Effective August 1, 2012

Conforms portions of current licensing statute (Minn. Stat., Ch. 245B) to new requirements in Minn. Stat., Ch. 245D, including adding a definition for emergency, amending the definition of incident, clarifying license holder responsibility for consumer and service-related rights and protections, limits restriction of a person's rights only if determined necessary to ensure health, safety and wellbeing of the person as documented in the Service Plan with time limits and signed approval requirements. Prohibits license holders and staff from accepting a power of attorney or appointment of guardianship or conservatorship of a person receiving licensed services except for county or other units of government staff.

2. Consumer Directed Community Supports CDSCS Budget Methodology

Chapter 247, Article 4, Section 47 (HF 2294)

Adds uncodified language

Effective July 1, 2012

Directs DHS to request an amendment for an increase in consumer-directed community supports budget of 20 percent for individuals using CDSCS who both turn 21 and graduate from high school during 2013 and 2014. Provides that the increased budget for CDSCS is effective upon federal approval for persons eligible during 2013 and 2014.

3. Home and Community-Based Services License Requirements

Chapter 216, Article 18, Section 4 (SF 1675)

Adds Minn. Stat. § 245A.042

Effective August 1, 2012 with licensing to be implemented by January 1, 2014

Establishes new requirements for residential and non-residential programs for persons with disabilities and seniors funded through HCBS waivers for licensure under a new chapter, 245D. Requires stakeholder input on development of a fee schedule to pay for the new license process.

4. Independent Living Services Billing Changes

Chapter 247, Article 4, Section 45

Uncodified language

Effective July 1, 2012

Requires DHS to allow for both a daily billing rate and a 15 minute billing rate for independent living services under the Brain Injury (BI) and CADI waivers. Authorizes DHS to request a federal waiver amendment if necessary to comply by December 31, 2012.

5. License Standards for HCBS Services

Chapter 216, Article 18, Sections 16 through 25 (SF 1675)

Adds Minn. Stats. §§ 245D.01 - 245D.10

Effective August 1, 2012

By January 1, 2014, establishes new HCBS licensing standards for currently unlicensed HCBS programs, including housing, access coordination, respite services, behavior programming, specialists' services, certain companion services, personal support, 24-hour emergency assistance, night supervision, certain homemaker services, independent living skills training, prevocational services, structured day and supported employment services. Allows exemptions when license holders are governed by other licensing requirements. Creates service and protection-related rights for service recipients as well as standards for provision of health services, including medication administration. Requires incident response and reporting, environmental safety, and protection of client funds and property. Establishes record keeping requirements, staffing standards, policies and procedures for grievances, service suspension and termination.

6. Payment Methodology for Home and Community Waiver Services

Chapter 216, Article 18, Section 26 (SF 1675)

Amends Minn. Stat. § 256B.4912

Adds Minn. Stats. §§ 256B.4912, subd. 3; and 256B.4913

Effective April 24, 2012

Requires DHS to develop payment methodologies for home and community-based services under the disability waiver programs (BI, CAC, CADI, DD). Clarifies that counties are prohibited from implementing rate setting methodologies using the research rates under development. Eliminates county and tribal contracts for HCBS waivers after January 1, 2014. Requires that payment methodologies accommodate supervision costs, staffing patterns, program-related expenses, and general and administrative expenses, as well as consideration of service recipient intensity needs. Requires DHS to use research rates to develop an effective methodology and provide the results of the research to the existing stakeholder group by January 15, 2013. Requires ongoing consultation with a stakeholder group. Directs implementation of rate changes to occur no sooner than January 1, 2014, after enactment of legislation to establish specific payment methodology framework, processes and values.

7. Respite Care Licensure Required

Chapter 216, Article 18, Section 1 (SF 1675)

Amends Minn. Stat. § 245A.03, subd. 2

Effective August 1, 2012

Removes the exclusion from licensing for in-home and out-of-home respite services for persons with developmental disabilities. Requires compliance with new law for HCBS waiver licensing under Chapter 245B, beginning in 2014.

VII. HOME CARE CHANGES

A. Hourly Nursing Service Determination MATRIX

Chapter 216, Article 9, Section 37 (SF 1675)

Uncodified Language

Effective August 1, 2012

Requires private duty nursing services under MA to complete an hourly determination MATRIX for each person served. (Note: changes to private duty nursing service authorization based on data collected are likely for the 2013 legislative session.)

B. Licensed Home Care Providers Inspection and Oversight

Chapter 247, Article 2, Section 12 (HF 2294)

Adds uncodified provision

Effective July 1, 2012

Requires the Department of Health to recommend to the Legislature a plan to increase inspection and oversight of licensed home care providers under Chapter 144A.

C. Licensed Program Death Reporting

Chapter 216, Article 16, Section 5 (SF 1675)

Adds Minn. Stat. § 245A.04, subd. 16

Effective August 1, 2012

Mandates licensed programs to report to DHS the death of a person served within 24 hours unless the license holder has reason to know the death has already been reported.

D. PCA Assessment

Chapter 216, Article 11, Sections 4 and 5 (SF 1675)

Amends Minn. Stat. § 256B.0659, subds. 3a and 4

Effective August 1, 2012

Clarifies that a PCA assessment conducted as part of the Long-term Care Consultation does not have to be conducted by a public health nurse but can be completed by the lead agency assessor. Adds a reference to the community support plan to be developed under the new assessment MNCHOICES, Minn. Stat. § 256B.0911. Clarifies that when determining PCA service needs related to verbal aggression or resistance, the need must occur during the performance of activities of daily living.

E. PCA Services Licensing Study
Chapter 247, Article 4, Section 49 (HF 2294)
Uncodified Language
Effective July 1, 2012

Directs DHS to study the feasibility of licensing PCA services. Requires a report to the legislature by January 15, 2013, which includes recommendations and proposed legislation for licensure and oversight of services.

F. PCA Change Notice for Recipients
Chapter 216, Article 9, Section 22 (SF 1675)
Amends Minn. Stat. § 256B.0659, subd. 30
Effective August 1, 2012

Eliminates the requirement of a longer notice period (30 days) for changes to PCA services adopted in 2009. Reverts to typical appeal notice periods of at least 10 days prior to any changes. To keep benefits pending appeal, a request must be made within 10 days of the notice of changes.

G. PCA Excluded Time Provision
Chapter 216, Article 11, Section 41 (SF 1675)
Amends Minn. Stat. § 256G.02, subd. 6
Effective August 1, 2012

Removes PCA services as an excluded time service for purposes of determining the county of financial responsibility, meaning that a person receiving PCA services is free to move to another county without involving the county where services were originally authorized.

H. PCA Investigation Access
Chapter 247, Article 4, Section 19 (HF 2294)
Adds Minn. Stat. § 256B.0659, subd. 31
Effective July 1, 2012

Requires PCA agencies to allow DHS immediate access without prior notice to service and claims records and documentation. Provides for immediate suspension of payment and termination of provider enrollment if the DHS access is denied.

I. PCA Services Medication Requirements
Chapter 216, Article 11, Sections 2 and 3 (SF 1675)
Amends Minn. Stat. § 256B.0659, subs. 2 and 3a
Effective August 1, 2012

Adds medication given through a nebulizer to the definition of self-administered medication and allows PCAs to assist with self-administered medication.

J. PCA Technical Changes

Chapter 216, Article 9, Sections 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21 (SF 1675)

Amends Minn. Stat. § 259B.0659, subds. 1, 3, 9, 11, 13, 14, 19, 20, 21, and 24

Effective August 1, 2012

- Makes a variety of clarifications and technical changes to numerous sections of the PCA statute, including citation corrections and minor definition changes.
- Adds responsible party limitations, and clarification on training in other languages for PCAs and qualified professionals.
- Corrects prohibition for phone supervision of PCA services by qualified professionals.
- Removes prohibition that qualified professionals cannot be related to recipient under PCA Choice Option.
- Clarifies how 72.5% of revenue is calculated.

VIII. MEDICAL ASSISTANCE SERVICES

A. Coverage of Out-of-State Residential Mental Health Treatment for Children who are Deaf or Hearing Impaired

Chapter 148 (HF 2253)

Amends Minn. Stat. § 256B.0945, subd. 1

Effective August 1, 2012

Adds coverage for out-of-state mental health residential treatment if the facility: (1) specializes in providing mental health services to children who are deaf, deaf/blind or hard of hearing; (2) uses American Sign Language; (3) is licensed by the state in which it is located; and (4) is located in a state that is a member of the Interstate Compact on Mental Health.

B. Licensed Mental Health Physician Assistant

Chapter 247, Article 1, Sections 8 and 9 (HF 2294)

Amends Minn. Stat. § 256B.0625, subds. 28a and 38

Effective July 1, 2012

Authorizes licensed physicians assistants supervised as required to bill for medication management and evaluation in inpatient hospital settings under MA and establishes the payment at 80.4% of the base rate paid to psychiatrists. Authorizes DHS to consult with a group of stakeholders to develop recommendations on how to improve access to and quality of mental health services through the use of physician assistants and report to the legislative committee by January 15, 2013.

C. Nonemergency Medical Transportation

Chapter 247, Article 1, Sections 3, 4, 5, 6, 7, and 24 (HF 2294)

Amends Minn. Stat. § 256B.0625 by adding subd. 18c, 18d, 18e, 18f, 18g, and Uncodified Language

Effective July 1, 2012 and expires December 1, 2014

1. Advisory Committee

Establishes a nonemergency medical transportation (NEMT) advisory committee to advise DHS and make recommendations on, among other things: (1) policies; (2) funding; (3) methods to prevent waste, fraud and abuse; and (4) improving efficiency.

2. Assessment of Cost Effectiveness and Quality

Directs DHS to use standardized performance measures to assess cost effectiveness and quality of NEMT services.

3. Enrollee Assessment Process

Directs DHS to: (1) develop and implement, by July 1, 2013, a comprehensive, statewide, standard assessment process for MA seeking nonemergency medical transportation services, which must include mental health diagnoses; and (2) base decisions on clearly defined criteria that are available to clients, providers, and counties.

4. Single Administrative Structure and Delivery System

Directs DHS to implement a single administrative structure and delivery system for NEMT services, beginning July 1, 2013, which: (1) eliminates the distinction between access transportation services and special transportation services; (2) enables all MA to follow the same process to obtain NEMT services; (3) provides a single oversight framework for all providers; and (4F) provides flexibility in service delivery. Requires any draft legislation to implement the system to be presented to the Legislature January 15, 2013.

5. Standardized Defined Criteria

Requires decision-making based on standardized defined criteria which allow for extended periods of eligibility when the person's condition is unlikely to change and

6. Vendor Information Requests

Directs DHS to seek information from vendors - and present the information to the appropriate Legislative committees by November 15, 2012 - regarding: (1) the administration of NEMT services within a single administrative structure; (2) oversight of transportation services; (3) a process for assessing an individual's level of need; (4) methods that promote the appropriate use of public transportation; and (5) an electronic management system.

IX. MISCELLANEOUS

A. Changes to Telecommunications Equipment Program

Chapter 216, Article 10, Sections 1 - 7 (SF 1675)

Amends Minn. Stat. §§ 237.50 - 237.56

Effective August 1, 2012

Updates statutory language related to telecommunications and equipment for persons with disabilities. Removes requirement for telephone companies to install outside wiring in certain households. Requires DHS to establish policies and procedures for return of equipment and clarifies who may participate in consumer protection processes.

B. Definition of Mental Illness and Diagnostic Code Lists

Chapter 216, Article 12, Sections 1, 2, 3, and 4 (SF 1675)

Amends Minn. Stat. §§ 245.462, subd. 20; and 245.4871, subd. 15

Adds Minn. Stat. §§ 245.461, subd. 6; and 245.487, subd. 7

Effective August 1, 2012

Removes the reference to specific diagnostic code numbers from the definitions of mental illness and emotional disturbance and authorizes DHS to develop a list of diagnostic codes with consultation from an advisory committee.

X. REPORTS AND EVALUATIONS

A. Case Management Redesign and Study

Chapter 216, Article 11, Section 42 (SF 1675)

Uncodified Language

Effective August 1, 2012

Requires DHS to report to the relevant legislative committees recommendations and language for consolidation of standards and rates for MA covered case management services, including targeted case management for vulnerable adults, child and adult mental health services, all types of home and community waiver case management and case management for persons with developmental disabilities.

B. Consolidation of HBCS Reports

Chapter 216, Article 9, Sections 7, 23, 25, and 29 (SF 1675)

Amends Minn. Stat. §§ 256B.0916, subd. 7; 256B.96, subd. 5; and 256.49, subd. 21

Adds Minn. Stat. § 252.34

Various effective dates

Directs DHS to provide a biennial report beginning January 1, 2013 to the relevant legislative committees regarding the goals, priorities, and status of HBCS and other disability-related programs. Eliminates three other reports on HBCS waiting lists.

C. Disability Terminology Audit
Chapter 216, Article 12, Section 10 (SF 1675)
Uncodified Language
Effective August 1, 2012

Requires DHS to: (1) solicit feedback from interested persons to identify inappropriate or insensitive terminology referring to individuals with disabilities in Minnesota's statutes and rules; (2) make any recommendations for changes to repeal or replace such terminology for consideration in the 2013 legislative session.

D. Evaluation of Departments of Health and Commerce Regulatory Responsibilities
Chapter 247, Article 2, Section 13 (HF 2294)
Uncodified Language
Effective July 1, 2012

Requires the Departments of Health and Commerce make recommendations to the Legislature by February 15, 2013 about how to maximize efficiency in the regulation of health maintenance organizations, county-based purchasers, insurance carriers, and related entities, while maintaining quality.

E. Evaluation of Departments of Health and Health and Human Services Regulatory Responsibilities
Chapter 247, Article 2, Section 9 (HF 2294)
Uncodified Language
Effective July 1, 2012

1. Administering Regulations

Directs the Department of Management and Budget, in consultation with DHS and the Department of Health, to evaluate and recommend options for administering regulations. Requires a report to the legislature regarding: (1) whether to reorganize the two department's regulatory responsibilities or whether improvement would be possible without reorganization; (2) an evaluation of the multiple roles of the Department of Human Services as provider, regulator, and payor; and (3) recommendations regarding client risk, provider liability and responsibility for long-term care services.

2. Website Content and Coordination

Requires DHS and the Department of Health to update, revise, and link contents of their website related to the facilities and services both agencies license or certify in order to provide consumers and providers with clear, consistent information about regulation.

F. Long-Term Care

1. Need Determination Data Report

Chapter 247, Article 4, Sections 6 and 35 (HF2294)

Amends Minn. Stat. §§ 245A.03, subd 7; and 256B.49, subd 15(f)

Effective July 1, 2012

Requires DHS to report data and information from the need determination process and the Status of Long-term Care Report by February 1 of each year to the legislative health and human services budget committees. Provides that stakeholder input, data on overall capacity and recommendations for changes must be included in report.

2. Services and Support Needs

Chapter 247, Article 4, Section 3 and 44 (HF 2294) and Laws 2011, First Special Session, Chapter 9, Article 10, subd. 4

Amends Minn. Stat. § 144A.351

Effective July 1, 2012

Adds children and adults with disabilities and mental illnesses to a required "Gaps and Analysis" report on statewide long-term support needs for seniors. Includes additional consideration for housing options, access to the least restrictive most integrated setting, and in-home services. Provides \$250,000 for state and local planning to assess the needs required to complete the report. Requires expanded report on August 15, 2013, and biennially thereafter.

G. State Quality Council Duties

Chapter 247, Article 4, Section 28 (HF 2294)

Amends Minn. Stat. § 256B.097, subd. 3

Effective July 1, 2012

Adds two duties for the state's Quality Council: (1) identify financial and personal risk issues for persons with disabilities who want to make choices in community services; and (2) make recommendations to the Legislature by January 15, 2013 for changes to address the barriers identified.

DOMESTIC ABUSE

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I. HARASSMENT RESTRAINING ORDERS (HRO)

Chapter 223 (HF 469)

Amends Minn. Stat. § 609.748, subds. 2 and 3a

Effective August 1, 2012

A. Jurisdiction

Expands court jurisdiction for an HRO to either: (1) the county of residence of either party; or (2) the county where the alleged harassment occurred. Clarifies no residency requirement is necessary to obtain an HRO.

Amends Minn. Stat. § 609.748, subd. 2

B. Filing Fees.

Clarifies that filing fees are waived for allegations in an HRO that would violate a temporary or other HRO.

Amends Minn. Stat. § 609.748, subd. 3a

II. QUALIFIED DOMESTIC ABUSE-RELATED OFFENSES

Chapter 227 (HF 2149)

Amends Minn. Stat. § 609.02, subd. 16

Effective August 1, 2012, and applies to crimes committed on or after that date

Adds crime of female genital mutilation under Minn. Stat. § 609.2245 to the list of qualified domestic abuse-related offenses. (Note: Qualified domestic abuse-related offenses can enhance the penalty of a subsequent offense.).

ELDER LAW

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I. VULNERABLE ADULTS

Chapter 175 (SF 1586)

Amends Minn. Stat. § 609.233 by adding subds. 1a, 2a, and 2b

Effective August 1, 2012, and applies to crimes committed on or after that date

A. Felony Deprivation

Makes it a felony for a caregiver or facilities operator to intentionally deprive a vulnerable adult of necessary food, clothing, shelter, health care, or supervision if the caregiver or operator is reasonably able to make the necessary provisions, provided: (1) the caregiver or operator knows or has reason to know the deprivation could likely result in substantial or great bodily harm to the vulnerable adult; or (2) the deprivation occurred over an extended period of time.

Adds Minn. Stat. § 609.233, subd. 1a

B. Fine and Sentence

Subjects a caregiver or facilities operator to: (1) a fine of \$5,000 or five years in prison, or both, if the action results in substantial bodily harm; or (2) a fine of \$10,000 or 10 years in prison, or both, if the action results in great bodily harm.

Adds Minn. Stat. § 609.233, subd. 2a

C. Affirmative Defenses

1. Burden

Provides that the defendant bears the burden of production only and the showing must be by a preponderance of the evidence.

2. Proofs

a. For an Employee

Requires a defendant employed by a facility or operator to show s/he did not have managerial or supervisory authority and was unable to reasonably make the necessary provisions because of inadequate staffing levels, inadequate supervision, or institutional policies.

b. For a Facility, Operator, or Manager or Supervisor

Requires the defendant to show the harm inflicted by an employee or agent was not permitted knowingly, intentionally, or recklessly.

c. For a Caregiver

Requires the defendant to show that the failure to perform acts necessary to prevent the harm resulted because the caregiver was acting reasonably and necessarily to provide care to another identified vulnerable adult.

Adds Minn. Stat. § 609.233, subd. 2b

FAMILY LAW

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I. AMERICAN INDIAN CHILD WELFARE PROJECTS

Chapter 216 (SF 1675), Article 5, Section 1

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

Effective August 1, 2012

Extends the age of eligibility in the tribal child welfare programs to age 21. (Note: tribal child welfare programs include both child support and child protection programs.)

II. CHILD SUPPORT

A. Child Care Expenses

Chapter 216, Article 5, Section 3 (SF 1675)

Chapter 247, Article 5, Section 5 (HF 2294)

Amends Minn. Stat. §518A.40, subd. 4

Effective July 1, 2012

Grants permissive authority for counties to stop collection of child care expenses if an obligee fails to respond within 30 of a request to verify child care expenses and specifies when suspension of collection occurs. Removes requirement that the county must continue collection if expenses have not been verified.

B. Interstate Enforcement

Chapter 216, Article 5, Section 4 (SF 1675)

Amends Minn. Stat. § 518C.205

Effective August 1, 2012

Clarifies that: (1) Minnesota jurisdiction terminates if the obligee, obligor, and child no longer reside in Minnesota; and (2) jurisdiction can separately terminate if all parties agree for another state (or tribunal) to assume jurisdiction. (Note: Statutorily overturns *Wareham v. Wareham*, 791 N.W.2d 562 (Minn. App. 2010) and any subsequent cases).

C. Judgments

Chapter 183 (SF 2114)

Chapter 216, Article 1, Sections 45 and 46 (SF 1675)

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

Repeals Minn. Laws 2011, Regular Session, Chapter 66, Section 8; and Minn. Laws 2010, Chapter 238, Section 7, as amended by Minn. 2010, Chapter 371, Section 5.

Effective retroactively to April 15, 2010

Repeals 2010 legislative changes (amended in 2011 to extend the effective date) to extend child support judgments from 10 years to 20 years, preserving the status quo provision that child support judgments survive ten years unless renewed. (Note: No child support obligations were ever subject to the statutory changes, since the change to 20 years was never implemented.)

D. Reciprocal Enforcement with Bermuda

Chapter 204 (HF 795)

Chapter 216, Article 5, Section 5 (SF 1675)

Effective August 1, 2012 (Requirement to Initiate Process)

Effective upon acceptance of Agreement by Bermuda, otherwise expires on December 31, 2013

Requires the Department of Human Services to initiate the process, by October 1, 2012, to establish a reciprocal agreement with Bermuda to collect and enforce child support orders. Provides that the department must execute the agreement no later than December 31, 2013, in which case the requirement to pursue the agreement expires.

III. HARASSMENT RESTRAINING ORDERS (HRO)

Chapter 223 (HF 469)

Amends Minn. Stat. § 609.748, subds. 2 and 3a

Effective August 1, 2012

A. Jurisdiction

Expands court jurisdiction for an HRO to either: (1) the county of residence of either party; or (2) the county where the alleged harassment occurred. Clarifies that there is no residency requirement to obtain an HRO.

Amends Minn. Stat. § 609.748, subd. 2

B. Filing Fees.

Clarifies that filing fees are waived for allegations in an HRO that would violate a temporary or other HRO.

Amends Minn. Stat. § 609.748, subd. 3a

IV. NOTIFICATION OF CHILD VICTIMIZATION TO PARENTS AND LAW ENFORCEMENT (JACOB'S LAW)

Chapter 153 (SF 2297)

Amends Minn. Stat. §§ 518.17, subd. 3; and § 626.556, subd. 10a

Effective July 1, 2012 (Law Enforcement Reporting)

Effective August 1, 2012 (Notification in Family Court)

A. Notification to Parents If a Child is a Crime Victim

Establishes, where the minor child is a victim of an alleged crime, both: (1) the right of each parent to be notified by the other of the crime; and (2) the duty of each parent to notify the other of the crime, except, if the party to be notified is the alleged perpetrator. Provides a new right to police records. Provides that notice be provided: (1) by a third party if contact by a party is prohibited; or (2) the Safe at Home Program if one of parties is a participant in the program. Clarifies that failure to notify is insufficient grounds, in and of itself, for a modification, but modification still may be sought on other grounds.

Amends Minn. Stat. § 518.17, subd. 3

B. Law Enforcement Reporting

Amends Mandatory Reporter statute to require law enforcement to report alleged neglect, or physical or sexual abuse to the local welfare agency, which is then required to provide appropriate services to safeguard and/or enhance the welfare of the child.

V. PATERNITY - RIGHT TO COUNSEL

Chapter 212, Section 2 (SF 1678)

Amends Minn. Stat. § 257.69, subd. 1

Effective August 1, 2012

Amends statutory provisions regarding right to court-appointed counsel in paternity actions to: (1) link the "ability to pay" standard to the guidelines in the public defender provisions (Minn. Stat. §611.17); and (2) limits the scope of the right to counsel to the point when paternity is "established." (Note: It is unclear whether paternity being "established" means: (1) a positive genetic test; (2) a court order pursuant to Minn. Stat. § 257.66, which also requires determinations of other issues; or (3) a bifurcated order under Minn. Stat. § 257.66 that only provides for adjudication.)

VI. RECEIVERSHIPS AND MAINTENANCE/SUPPORT PAYMENTS

Chapter 143 (HF 382)

Adds Minn. Stats. §§ 576.21 - 576.52; and 577.11 - 577.18.

Amends various other sections

Effective August 1, 2012

Comprehensively revises Minnesota statutes governing receiverships, setting forth, among other things, qualifications, requirements, powers, and duties.

A. Applicability

Applies to, among others, receiverships pursuant to the failure to pay, or to provide security for, maintenance or support payments.

Adds Minn. Stat. § 576.22(a) (14)

B. Priority of Claims for Child Support

Places claims for arrears pursuant to a child support order in the fifth position, following claims secured by liens, costs of and fees to the receiver, claims for wages, and allowed unsecured claims.

Adds Minn. Stat. § 576.51, subd. 1

VII. RECOGNITION OF PARENTAGE (ROP) - NEW RESPONSIBILITIES FOR HOSPITALS

Chapter 216, Article 5, Section 2 (SF 1675)

Amends Minn. Stat. § 257.75, subd. 7

Effective August 1, 2012

Adds new requirements for hospitals assisting parents in completing the Recognition of Parentage (ROP) to: (1) provide notary services; and (2) unless otherwise directly, timely file the ROP with the Registrar for Vital Statistics.

HEALTH LAW

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Acronyms Used in this Section

ACA - Patient Protection and Affordable Care Act

CBP - County-Based Purchasing Plan

DHS - Minnesota Department of Human Services

EMA - Emergency Medical Assistance

FS - Minnesota Food Support Program

GRH - Minnesota Group Residential Housing Program

HMO - Health Maintenance Organization

MA - Medical Assistance

MCHA - Minnesota Comprehensive Health Insurance Plan

MDH - Minnesota Department of Health

MSA - Minnesota Supplemental Aid Program

MNCare - MinnesotaCare Program

I. CHANGES TO MINNESOTA HEALTH CARE PROGRAMS

A. ALL PROGRAMS

1. Competitive Bidding

Chapter 247, Article 1, Section 16 (HF 2294)

Amends Minn. Stat § 256B.69, by adding subd. 33

Effective July 1, 2012

Allows DHS to utilize a competitive bidding program for managed care contracts effective on or after January 1, 2014 for nonelderly, nondisabled adults and children in MA and MNCare in the seven-county metropolitan area. Requires the program to allow a minimum of two managed care plans to serve the area. Exempts a Hennepin County pilot program. Directs DHS to consider past performance data as a factor in selecting vendors, along with other information.

2. Eligibility End Dates

Chapter 253, Article 1, Section 3 (HF 2627)

Amends Minn. Stat § 256.962, by adding subd. 8

Effective July 1, 2013

Requires DHS to develop and implement a process, by January 1, 2013, to provide eligibility end dates for MA and MNCare enrollees upon request from the managed care and county-based purchasing plans.

3. Financial Audit Requirements

Chapter 247, Article 1, Section 14 (HF 2294)

Amends Minn. Stat § 256B.69, by adding subd. 9d

Effective July 1, 2012 and applies to plan contracts effective January 1, 2014, and biennially thereafter

Requires Legislative Auditor to contract for a biennial third-party financial audit of information that managed care and county-based purchasing plans are required to provide.

4. Uniform Asset Limit Requirements

Chapter 247, Article 3, Section 28 (HF 2294)

Uncodified Language

Effective July 1, 2012

Directs DHS, in consultation with county human services representatives, to analyze the differences in asset limit requirements across human services assistance programs with the goal of establishing a consistent asset limit across programs and minimizing the administrative burdens on counties in implementing asset tests. Requires report, with draft legislation establishing a uniform asset limit, to House and Senate Health and Human Services Committees by January 15, 2013.

B. MEDICAL ASSISTANCE

1. Cost-sharing Waivers

Chapter 247, Article 1, Section 10 (HF 2294)

Amends Minn. Stat. § 256B.0631, subd. 1

Various Effective Dates

a. Allows DHS to permit managed care and county-based purchasing plans to waive the MA family deductible.

Effective January 1, 2012

b. Allows DHS to waive the collection of the family deductible from individuals, and allow long-term care and waived service providers to assume responsibility for payment.

Effective July 1, 2012

2. Coverage for Community Paramedic Services

Chapter 169 (SF 1543)

Amends Minn. Stat. § 256B.0625 by adding subd. 60

Effective July 1, 2012, or upon federal approval, whichever is later

Provides MA coverage for services to an eligible recipient, to be provided by community paramedics who have met additional certification requirements. Requires DHS to seek any federal approval necessary to implement this subdivision.

3. Critical Access Dental Providers

Chapter 247, Article 1, Section 17 (HF 2294)

Amends Minn. Stat. § 256B.76, subd. 4

Effective July 1, 2012, or upon federal approval, whichever is later

Provides a critical access dental clinic with the reimbursement rate for dental services provided off-site at a private dental office, if certain requirements are met.

4. EMA Coverage Exceptions

Chapter 247, Article 1, Section 29 (HF 2294)

Rider Language

Effective May 1, 2012 and expires June 30, 2013

Provides that the following services are covered as emergency medical conditions for purposes of EMA: (1) dialysis services provided in a hospital or free-standing dialysis facility; and (2) surgery and the administration of chemotherapy, radiation, and related services necessary to treat cancer, if the recipient has a cancer diagnosis that is not in remission.

5. EMA Study

Chapter 247, Article 1, Section 28 (HF 2294)

Uncodified Language

Effective July 1, 2012

Requires DHS to develop a plan to provide coordinated and cost-effective health care and coverage for individuals who meet eligibility standards for EMA and who are ineligible for other state public programs. Directs DHS to submit a plan by January 15, 2013 to the legislative committees with jurisdiction over health and human services policy and financing.

6. Payment for Mental Health Services

Chapter 247, Article 1, Section 9 (HF 2294)

Amends Minn. Stat. § 256B.0625, subd. 38

Effective July 1, 2012

Sets MA payments for mental health services provided by physician assistants at 80.4% of the base rate paid to psychiatrists.

C. MINNESOTACARE

1. Cost-sharing Waivers

Chapter 247, Article 1, Section 18 (HF 2294)

Amends Minn. Stat. § 256L.03, subd. 5

Effective January 1, 2012

Allows DHS to permit managed care and county-based purchasing plans to waive the MNCare family deductible.

2. Exemption from Four-Month Uninsured Requirement for Healthy Minnesota Contribution Program

Chapter 247, Article 1, Section 22 (HF 2294)

Amends Minn. Stat. § 256L.07, subd. 3

Effective July 1, 2012

Exempts Healthy Minnesota Contribution Program (HMCP) enrollees from the MNCare four-month uninsured requirement. (Note: HMCP is a voucher program for the purchase of health care insurance in the private market for individuals without children with incomes between 200% of the 250% of the poverty level, created by the 2011 Legislature.)

3. Exemption for Six-Month Durational Residency Requirement

Chapter 247, Article 1, Section 1 (HF 2294)

Amends Minn. Stat. § 62E.14, subd. 4g

Effective July 1, 2012

Exempts Healthy Minnesota Contribution Program enrollees from the MCHA six-month durational residency requirement.

4. MCHA Eligibility for Healthy Minnesota Contribution Program Enrollees

Chapter 247, Article 1, Section 21 (HF 2294)

Amends Minn. Stat. § 256L.031, subd. 6

Effective July 1, 2012

Allows MNCare enrollees who are eligible for MCHA coverage for any reason (not just because they have been denied coverage in the individual market) to receive MCHA coverage under the Healthy Minnesota Contribution Program.

5. Use of Defined Contribution and Health Plan Requirements

Chapter 247, Article 1, Section 19 (HF 2294)

Amends Minn. Stat. § 256L.031, subd. 2

Effective July 1, 2012

Increases the period of time an enrollee has to select a health plan - from three to four months. Allows commissioner to determine criteria under which an enrollee would have more than four months to select a plan. Also clarifies that the defined contribution can be used to pay premiums

for MCHA coverage and that this coverage must meet requirements of the Health Minnesota Contribution Program.

II. OTHER HEALTH CARE POLICY

A. EVALUATION OF REGULATORY RESPONSIBILITIES

1. Evaluation of Departments of Health and Commerce Regulatory Responsibilities

Chapter 247, Article 2, Section 13 (HF 2294)

Uncodified Language

Effective July 1, 2012

Requires the Departments of Health and Commerce make recommendations to the Legislature by February 15, 2013 about how to maximize efficiency in the regulation of health maintenance organizations, county-based purchasers, insurance carriers, and related entities, while maintaining quality.

2. Evaluation of Departments of Health and Health and Human Services

Regulatory Responsibilities

Chapter 247, Article 2, Section 9 (HF 2294)

Uncodified Language

Effective July 1, 2012

a. Administering Regulations

Directs the Department of Management and Budget, in consultation with DHS and the MDH, to evaluate and recommend options for administering regulations. Requires a report to the legislature regarding: (1) whether to reorganize the two department's regulatory responsibilities or whether improvement would be possible without reorganization; (2) an evaluation of the multiple roles of the DHS as provider, regulator, and payor; and (3) recommendations regarding client risk, provider liability and responsibility for long-term care services.

b. Website Content and Coordination

Requires DHS and the MDH to update, revise, and link contents of their website related to the facilities and services both agencies license or certify in order to provide consumers and providers with clear, consistent information about regulation.

B. MEDICAL RECORDS

1. Health Record Access Study

Chapter 247, Article 2, Section 10 (HF 2294)

Uncodified Language

Effective July 1, 2012

Requires the MDH to study issues related to: (1) audit procedures for representation of consent and unauthorized access to patient records; and (2) the feasibility of informing patients of

unauthorized access or an audit log of who accessed records. Requires a report to the Legislature by February 2013.

2. Liability for Unauthorized Medical Record Access

Chapter 247, Article 2, Section 5 (HF 2294)

Amends Minn. Stat § 144.298, subd. 2

Effective July 1, 2012

Adds the additional cause subjecting the violator to liability of intentional, unauthorized access (to the existing liability for compensatory damages, costs, and attorney fees for unauthorized release) of a health record within a health record locator service

3. Medical Record Fees for Social Security Benefits

Chapter 247, Article 2, Section 4 (HF 2294)

Amends Minn. Stat § 144.292, subd. 6

Effective July 1, 2012

Permits providers to charge a flat \$10 retrieval fee for copies of a health record when requested by a patient for purposes of appealing a denial of certain Social Security benefits. Provides an exemption from this fee for persons who are on public assistance, or who are represented by legal services or volunteer attorneys.

C. REPEALERS

1. Annual Summary of HMO and CPB Complaints and Grievances

Chapter 247, Article 1, Section 32 (HF 2294)

Repeals Minnesota Rules, part 4685.2000

Effective July 1, 2012

Repeals the rule requiring an annual report providing a summary of HMO and CPB complaints and grievances.

2. Medical Necessity Denials and Appeals

Chapter 247, Article 1, Section 32 (HF 2294)

Repeals Minn. Stat § 62M.09, subd. 9

Effective July 1, 2012

Repeals requirement that utilization review organizations file an annual report with the annual financial statements it submits to the Department of Commerce on the number and rate of medical necessity denials and appeals.

D. SENIORS AND HEALTH CARE

1. Direction to Ombudsman for Long-Term Care

Chapter 247, Article 4, Section 48 (HF 2294)

Uncodified Language

Effective July 1, 2012

Directs the Ombudsman for Long-Term Care to: (1) research the existence of differential treatment based on source of payment in assisted living settings; (2) convene stakeholders to provide technical assistance and expertise in studying and addressing these issues, and (3) submit a report of findings to the Legislature by January 31, 2013, with recommendations for the development of policies and procedures to prevent and remedy instances of discrimination on participation in or potential eligibility for MA.

2. Long-Term Care Consultation Services

a. Assessment and Support Planning

Chapter 247, Article 4, Sections 20 (HF 2294)

Amends Minn. Stat. § 256B.0911, subd. 3a

Effective July 1, 2012

Allows an elderly-waiver client's provider of customized living or 24-hour customized living services to submit a copy of the provider's written report outlining the recommendations regarding the client's care needs, with the permission of: (1) the person being assessed; or (2) the person's legal representative. Requires the person conducting the assessment to notify the provider of the date by which the information must be submitted and for the information to be submitted prior to the assessment.

b. Consultation at Hospital Discharge

Chapter 247, Article 4, Section 23 (HF 2294)

Amends Minn. Stat. § 256B.0911, by adding subd. 3e

Effective October 1, 2012

Requires hospitals to refer certain individuals prior to discharge to the Senior LinkAge Line for long-term care options counseling.

c. New Exemptions

Chapter 247, Article 4, Section 22 (HF 2294) Amends Minn. Stat. § 256B.0911, by adding subd.

3d

Effective July 1, 2012

Exempts individuals from the consultation requirements outlined in Minn. Stat. § 256B.0911, subd. 3c when an individual: (1) is seeking a lease-only arrangement in subsidized housing; (2) has previously received such consultation; (3) is receiving or being considered for hospice services; or (4) has used financial planning services and created a long-term plan 12 months prior to signing a lease or contract with a registered housing with services establishment.

d. Registered Housing with Services
Chapter 247, Article 4, Section 21 (HF 2294)
Amends Minn. Stat. § 256B.0911, subd. 3c
Effective July 1, 2012

Requires registered housing with services establishments to inform a prospective resident or the resident's legal representative of the long-term care options counseling requirement and the need to receive and verify the consultation prior to signing a lease or contract. Modifies the list of circumstances when consultation services are required within five working days.

3. Medicaid Waiver & Customized Living Service Rate for Seniors

a. 24-Hour Provider Input for Customized Living Service Rate
Chapter 247, Article 4, Section 25 (HF 2294)
Amends Minn. Stat. § 256B.0915, subd. 3h
Effective July 1, 2012

Allows a provider of 24-hour customized living services to give input into ensuring a documented need exists for all services authorized. Specifies the types of providers authorized to deliver 24-hour customized living services.

b. Provider Input for Customized Living Service Rate
Chapter 247, Article 4, Section 24 (HF 2294)
Amends Minn. Stat. § 256B.0915, subd. 3e
July 1, 2012

Allows provider of customized living services to provide input into ensuring there is a documented need for customized living services authorized.

4. Nursing Facilities

a. Critical Access Nursing Facilities
Chapter 247, Article 4, Section 32 (HF 2294)
Amends Minn. Stat. § 256B.441, by adding subd. 63
Effective July 1, 2012

Creates a critical access designation for nursing facilities. Requires DHS to: (1) work with MDH and stakeholders in establishing the designation proposal process; and (2) grant the designation on a competitive basis. Requires DHS to request designation proposals every two years. Allows facilities currently designated to apply for continued designation to sustain receipt benefits of this designation.

b. Directive to Implement Nursing Home Level of Care Criteria

Chapter 247, Article 4, Section 41 (HF 2294)

Amends Laws 2011, First Special Session Chapter 9, Article 7, Section 52

Effective on or after July 1, 2012

Modifies a directive to MDH related to implementing the nursing home level of care criteria by amending the effective date and explicitly listing the populations to which this direction applies to as adults and children.

c. Rate Adjustments for Some Moratorium Exception Projects

Chapter 247, Article 4, Section 30 (HF 2294)

Amends Minn. Stat. § 256B.431, by adding subd. 45

Effective Upon Federal Approval

Requires money available for moratorium projects to be used to fund incremental rate increases for any nursing facility with an approved moratorium exception project completed after August 30, 2010, where the replacement-costs-new limits were higher at any time after project approval than at the time of the project completion. Prohibits any property rate decrease from this section. Makes any rate increases contingent upon federal approval.

d. Required Referrals to Medicare Providers

Chapter 247, Article 4, Section 33 (HF 2294)

Amends Minn. Stat. § 256B.48, by adding subd. 6a

Effective July 1, 2012

Requires nonMedicare participating nursing facilities to refer dual-eligibles (Medicare and Medicaid recipients) qualifying for Medicare-covered stay to Medicare providers. Requires DHS to audit nursing facilities for compliance and to deny Medicaid payment for the first 20 days of the resident's stay to those facilities not in compliance with this subdivision.

5. Senior LinkAge Line & Long-Term Care Counseling

Chapter 247, Article 4, Section 14 (HF 2294)

Amends Minn. Stat. § 256.975, subd. 7

Effective July 1, 2012

Requires the Senior LinkAge Line to develop referral processes to assist health care homes and hospitals to identify at-risk older adults, and determine when to refer these individuals to the Senior LinkAge Line for long-term care options. Requires DHS to keep a record of the people who choose long-term care options counseling as a result of this section.

HOUSING

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I. RECEIVERSHIPS

Chapter 143 (HF 382)

Adds Minn. Stats. §§ 576.21 - 576.52

Amends various other sections

Effective August 1, 2012

Comprehensively revises Minnesota statutes governing receiverships, setting forth, among other things, qualifications, requirements, powers, and duties.

A. Applicability

Applies to, among others, receiverships pursuant to mortgage foreclosures and rental property receiverships.

Adds Minn. Stat. § 576.22(a) (19) (mortgage foreclosures)

Adds Minn. Stat. § 576.43 (utility service in receivership properties)

B. Appointment Before Judgment

Provides that a limited receiver may be appointed prior to judgment to protect any party to an action where the party: (1) demonstrates an apparent right to property that is the subject of the action; (2) is in the possession of an adverse party; (3) demonstrates that the property or its rents and profits are in danger of loss or material impairment.

Adds Minn. Stat. § 576.25, subd. 2

C. Utility Service in Receivership Properties

Provides that a utility may not alter, refuse or discontinue service to a property in receivership without providing written notice to the receiver. Grants authority to the court to prohibit alteration, refusal, or discontinuation of service by the utility after the receiver notifies the utility and a hearing satisfactory to the court if the receiver furnishes adequate assurance of payment.

Adds Minn. Stat. § 576.43

D. Appointment of a Receiver in Mortgage Foreclosures

1. Type of Receivership

Specifies that receiverships with respect to mortgage foreclosures are limited receiverships.

Adds Minn. Stat. § 576.25 (a) (19)

2. Threshold Requirements

Provides that a receiver may be appointed in mortgage foreclosures involving multi-unit (four or more) properties where the mortgage being foreclosed: (1) secures an original principal amount of \$100,000 or more or is a lien upon the residential real estate containing more than four dwelling units; and (2) is not a lien upon property that was: (i) entirely homesteaded; (ii) residential real estate containing four or fewer dwelling units where at least one unit is homesteaded; or (iii) agricultural property.

Adds Minn. Stat. § 576.25, subd. 5(a)

3. Conditions Triggering Appointment of Receiver

Provides that receiver may be appointed upon a showing that the mortgagor: (1) failed to apply tenant security deposits as required by Minn. Stat. § 504B.178; (2) failed to pay or escrow prior or current real estate taxes or special assessments; (3) failed to pay insurance premiums; or (4) breached any of the covenants of habitability under Minn. Stat. § 504B.161.

Adds Minn. Stat. § 576.25, subd. 5(b)

4. Duties of the Receiver in Mortgage Foreclosures

Requires a receiver in applicable mortgage foreclosures, among other things, to: (1) be or retain an experienced property manager; (2) collect the rents, profits, and all other income of any kind; (3) manage the mortgaged property so as to prevent waste; (4) execute contracts and leases within the period of the receivership, or beyond the period of the receivership if approved by the court; (5) pay all expenses for normal maintenance of the mortgaged property; and (5) perform the terms of any assignment of rents. Gives a purchaser at a foreclosure sale the right to advance funds to pay any or all expenses.

Adds Minn. Stat. § 576.25, subd. 5(c) and (d)

JUVENILE LAW

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I. ADOPTION AND FOSTER CARE REPEALERS

Chapter 216, Article 6, Section 14 (SF 1675)
Effective August 1, 2012

A. Statutes

Repeals the following statutory sections, some of which have been replaced with new provisions:

- Minn. Stat. § 259.67 (Adoption Assistance Program).
- Minn. Stat. § 259.71 (Interstate Adoption Compacts; Service Payments).
- Minn. Stat. § 260C.201, subd. 11 (Requirement of DHS to Conduct Media Campaign to Recruit Adoptive and Foster Parent).
- Minn. Stat. § 260C.456 (Foster Care Benefits Until Age 21).

B. Rules

Repeals the following Minnesota Rules related to the repealed statutes: Minnesota Rules Parts 9560.0071; 9560.0082; 9560.0083; 9560.0091; 9560.0093, subparts 1, 3, and 4; 9560.0101; and 9560.0102.

II. AMERICAN INDIAN CHILD WELFARE PROJECTS

Chapter 216 (SF 1675), Article 5, Section 1
Amends Minn. Stat. § 256.01, subd. 14b
Effective August 2, 2012

Extends the age of eligibility in the tribal child welfare programs to age 21. (Note: tribal child welfare programs include both child support and child protection programs.)

III. CHILD PROTECTION

A. Additions to Mandatory Reporting Statute

Chapter 216, Article 6, Section 7 (SF 1675)

Amends Minn. Stat. § 626.556, Subd. 2

Effective August 1, 2012

Adds: (1) fetal alcohol spectrum disorder to the definition of prenatal neglect; and (2) registered sex offenders to the definition of "sexual abuse."

B. Annual Review

Chapter 216, Article 6, Section 5 (SF 1675)

Amends Minn. Stat. § 260D.08

Effective August 1, 2012

Adds the following to the court's annual review: (1) assessment of the responsible social service agency's reasonable efforts to finalize placement for the child; and (2) a "genuine examination" of whether another disposition, including returning the child home, is in the child's best interest.

C. Arrest of Parent

Chapter 216, Article 6, Section 6 (SF 1675)

Adds Minn. Stat. § 611.027

Effective August 1, 2012

Permits a law enforcement officer, if a parent is arrested, to release the child to a person designated by the parent, unless: (1) the child is found in surroundings or conditions which endanger the child's health or welfare; or (2) the officer reasonably believes the child's surroundings or conditions endanger the child's health or welfare. Immunizes officers from civil and criminal liability for a release.

D. "Birth Match Data"

Chapter 216, Article 1, Section 47 (SF 1675)

Amends Minn. Stat. § 626.556, subd. 2

Effective August 1, 2012

1. Definition of "Birth Match Data"

Defines "birth match data" as data - contained in a birth record or recognition of parentage - identifying a child whose parent has had previous child protection involvement. (Note: This matching data creates a basis that the child is subject to threatened injury.)

2. Department of Human Services Required to Share Birth Match Data

Requires the Department of Human Services (DHS), after receiving birth match data from the Department of Health, to send it to the responsible social services agency. Deems a child the subject of a report of threatened injury when the responsible social services agency receives the data, triggering the involvement of Child Protection.

3. Determination of Safety of the Child

Permits the responsible social services agency to use either a family assessment or an investigation to determine if the newborn child is safe.

a. If Child is Safe

Requires the responsible social services agency to consult with the county attorney to determine if a child in need of protection or services (CHIPS) petition is appropriate to deliver services.

b. If Child is Not Safe

If the child is deemed not safe, the county attorney must file a petition to terminate parental rights. (See Minn. Stat. § 260C.301, subd. 3.)

E. Foster Placements

Chapter 216, Article 1, Sections 14 - 21; and Article 6, Section 13 (SF 1675)

Amends Minn. Stats. §§ 260C.193, subd. 3; 260C.201, subd. 11a; 260C.212, subds. 1, 2, 5, and 7; and 260C.317, subds. 3 and 4

Effective August 1, 2012

1. Best Interest Standards Generally

Separates the child's medical, educational, and developmental needs into three distinct factors the court must consider in placement decisions.

Amends Minn. Stat. § 260C.212, subd. 2

2. Best Interests Standards Regarding Residential Care

Deletes references to "residential care" in the section of Minnesota law establishing state policy to ensure that the best interests of children in foster care are met.

Amends Minn. Stat. § 260C.193, subd. 3(a)

3. Out-of-Home Placement Plan

Replaces the term "residential" facility with "foster care" facility. Requires that placement efforts to keep the child in the same school are made not only at the initial placement, but also at subsequent placements. Expands applicability of independent living plans to all children age 16 and older with a current or previous out-of-home placement plan.

Amends Minn. Stat. § 260C.212, subd. 1

4. Relative Search

a. Notice to Relatives of Permanency Progress Hearings

1) Generally

Requires additional notice to relatives of their right to be notified of permanency progress review hearings. Provides that the right is forfeited upon the failure to keep the agency or the court apprised of the relative's address.

Amends Minn. Stat. § 260C.212, subd. 5(a)

2) When a Permanent Legal Placement Agreement Exists

Reinstates the right of relatives, when an agreement for permanent legal placement is in force, to receive notice of a permanency placement hearing.

Amends Minn. Stat. § 260C.212, subd. 5(c)

b. Safety of the Child

Requires the responsible social services agency to notify the court when a parent makes an explicit request that relatives generally or a specific relative not be contacted or considered for placement due to safety reasons, which include past family or domestic violence. Requires the court to determine whether the parent's request is consistent with the best interests of the child. Prohibits contact upon a finding that contacting the specific relative would endanger the parent, guardian, child, sibling, or any family member.

Amends Minn. Stat. § 260C.212, subd. 5(b)

c. Technical Change

Moves the language of existing Minn. Stat. § 260C.212, subd. 5 (relating to relative search) into a new section of law: Minn. Stat. § 260C.221.

5. Sibling Placement

Directs the court to weigh the benefits of separate placement against the existing presumptive preference for placing siblings together.

Amends Minn. Stat. § 260C.193, subd. 3(c)

6. Six Month Review Hearing

a. Expansion to All Children

Expands six-month permanency progress reviews to all children in foster care. (Note: current law only applied the review to children under age eight.)

Amends Minn. Stat. § 260C.201, subd. 11a(a)

b. Judicial Discretion Upon Finding of Noncompliance

Permits the court to order the responsible social services agency - where the court has determined the parent or guardian is not complying with the out-of-home placement plan or is not maintaining regular contact with the child -- to develop other permanency options for the child, including relatives or foster parents, subject to certain requirements.

Amends Minn. Stat. § 260C.201, subd. 11a(c)

c. Notice

Requires to court to ensure notice of the hearing is provided to any relative who has: (1) responded to the agency's notice indicating an interest in being a resource for the child; and (2) asked to be notified of the hearing.

Amends Minn. Stat. § 260C.201, subd. 11a (b)

d. Scope of Hearing

Expands the scope of the hearing to include: (1) the case plan as an alternative to an out-of-home

placement plan; (2) the responsible social service agency's reasonable efforts to reunify the family or to finalize a permanent placement plan; (3) for Indian children, the agency's reasonable active efforts to reunify and prevent the breakup of the family as required under the Indian Child Welfare Act (IWCA).

Amends Minn. Stat. § 260C.201, subd. 11a(a)

e. Timing for Trials Follow Six-Month Review

Changes the time within which a trial on a petition supporting a plan for the transfer of permanent legal and physical custody of the child to a relative must be held from 30 days to 60 days after the filing of the pleadings.

Amends Minn. Stat. § 260C.201, subd. 11a(d)

7. Transition Plans

Requires the responsible social services agency, as part of a transition plan, to assist the youth to obtain a free credit report and resolve any inaccuracies.

Amends Minn. Stat. § 260C.212, subd. 7(e)

F. Maltreatment

1. Immunity for Child Under Age 10 as Perpetrator

Chapter 216, Article 6, Section 9 (SF 1675)

Amends Minn. Stat. § 626.556, subd. 10e

Effective August 1, 2012

Provides that a child under age 10 cannot be determined to be the alleged perpetrator of maltreatment.

2. Review Panel

Chapter 216, Article 1, Sections 1, 48 - 51; and Article 6, Section 14 (SF 1675)

Amends Minn. Stats. §§ 13.461, subd. 17; and 626.556, subds. 10f, 10i, and 11

Repeals Minn. Stat. § 256.022

Effective August 1, 2012

Disbands and repeals the authority for DHS' Child Maltreatment Review Panel.

3. Screening

Chapter 247, Article 3, Section 24 (HF 2294)

Adds Minn. Stat. § 626.556, subd. 10n

Effective July 1, 2012

Requires referral for children under age three who are victims of substantiated maltreatment under the Individuals with Disabilities Education Act, Part C. (See 20 U.S.C. §1400 et. seq.) Requires notification to parents that: (1) evaluation and services are voluntary; and (2) refusal to have a child screened is not a basis for a CHIPS petition under Minn. Stat. § 260C. Requires DHS to monitor referral rates and annually report that information to the Legislature beginning March 15, 2014.

IV. DEPARTMENT OF HUMAN SERVICES GUARDIANSHIP

A. Adoption of Children Under DHS Guardianship

Chapter 216, Article 1, Sections 6, 8, 10 -12, 24, 26 - 44 (SF 1675)

Amends Minn. Stats. §§ 259.22, subd. 2; 259.23, subd. 1; 259.24, subds. 1 and 5 - 7; and 260C.325, subd. 4

Adds Minn. Stats. §§ 260C.601; 260C.603; 260C.605; 260C.607; 260C.609; 260C.209.11; 260C.613; 260C.615; 260C.617; 260C.619; 260C.621; 260C.623; 260C.625; 260C.627; 260C.629; 260C.631; 260C.633; 260C.35; and 260C.637

Effective August 1, 2012

Moves and organizes existing and new provisions regarding adoption of children under the guardianship of the Commissioner of the Department of Human Services (DHS) under several new statutory sections in the Child Protection Statutes. Generally the new sections contain: (1) requirements for court review of children under DHS guardianship; and (2) procedures for timely finalizing adoptions in the best interests of children under DHS guardianship. Clarifies that adoption procedures for children not under DHS guardianship are governed by Minnesota Statutes, Chapter 259.

1. Definitions

Adds new definitions, including:

- Adopting Parent - an adult who has signed an adoption placement agreement (designated to be equivalent to a preadoptive parent under Minn. Stat. § 259A.01, subd. 23).
- Adoption Placement Agreement - a written agreement among the social services agency, DHS, and the adoptive parent reflecting the intent that the adoptive parent will form a parent-child relationship with the child who has been under DHS guardianship.
- Prospective adoptive parent - a person who may become an adoptive parent but has not yet signed an adoption placement agreement, regardless of whether the person has an approved adoption study.

Adds Minn. Stat. § 260C.603

2. Prerequisites for Adoption

a. Placement

Makes a licensed child-placing agency the sole entity to place a child 14 years of age or younger as a prerequisite for the filing of an adoption petition, relieving DHS or its agent of that responsibility.

Amends Minn. Stat. § 259.22, sub. 2

b. Consent

1) Execution of Consents

Deletes the requirement that all consents for an adoption be completed before a DHS representative.

Amends Minn. Stat. § 259.24, subd. 5

2) Of a Parent Who Has Lost Custody

Restores the requirement that a parent who has lost custody of a child in a dissolution case must give consent to an adoption.

Amends Minn. Stat. § 259.24, subd. 1(a)

3) Withdrawal of Consent

Requires that Withdrawals of Consent must also be served on: (i) the supervising agency; and (2) if a step-parent adoption, the district court where the adopting step-parent or parent resides.

Amends Minn. Stat. § 259.24, subd. 6

4) Withholding of Consent

Deletes -- as part of overall removal of DHS from the process - reference to DHS in the prohibitions on parents or agencies unreasonably withholding consent to an adoption.

Amends Minn. Stat. § 259.24, subd. 7

5) Where There is No Parent or Guardian

Moves the authority to consent to the adoption where there is no parent or guardian from the DHS to the county.

Amends Minn. Stat. § 259.24, subd. 1(b)

3. Duties, Rights, and Authority of the Responsible Social Services Agency

Names the responsible social services agency DHS's agent. Grants the agency exclusive authority to make an adoptive placement of a child and the decisions such placement involves. Imposes various duties upon the agency.

Adds Minn. Stat. § 260C.601, subd. 2 (naming agency as DHS agent)

Adds Minn. Stat. § 260C.613, subd. 1(a) (granting exclusive authority to agency)

a. General Duties

Directs the responsible social services agency to: (1) plan and grant adoptions in the child's best interests; (2) involve the child; (3) recognize and respect the diversity of Minnesota's population and the diverse needs of persons affected by adoption, including cultural, religious, and language needs; and (4) provide timely information to the court.

Adds Minn. Stat. § 260C.601, subd. 2

b. Duty to Make Reasonable Efforts to Finalize Adoption

Requires the responsible social services agency to make reasonable efforts to finalize adoption for a child under DHS guardianship. Details numerous elements constituting reasonable efforts.

1) When Efforts Must Begin

Requires efforts to finalize adoptions begin as soon as possible after a child enters foster care, but no later than the six-month permanency review hearing.

Adds Minn. Stat. § 260C.605, subd. 1(a)

2) Balancing Placement and Reunification

Allows concurrent efforts for permanent placement with a relative or foster parent and reunification with the parent.

Adds Minn. Stat. § 260C.605, subd. 1(a)

3) Placing Siblings

a) Duty to Place Siblings Together

Requires the responsible social services agency to place siblings together. Prohibits cessation of efforts to place siblings together until the court finds further reasonable efforts would be futile or that placement together is not in the best interests of one of the siblings. Requires the responsible social services agency, when siblings are separated, to document the reasonable efforts taken and the reason for separation.

Amends Minn. Stat. § 259.24, subd. 1 (deleting reference to DHS and making duty to place siblings together exclusively the agency's)

Adds Minn. Stat. § 260C.605, subd. 1(a) (cessation prohibited)

Adds Minn. Stat. § 260C.605(d)(9) (requiring placement)

Adds Minn. Stat. § 260C.613, subd. 3 (requiring placement)

Adds Minn. Stat. § 260C.617, subd. 1(a) (requiring placement)

b) Exception

Relieves the social services agency of the duty to place siblings together if the court: (1) makes required findings; and (2) orders that the adoption or progress toward adoption may proceed even if siblings will be separated. Specifies that to separate siblings the court must find: (1) reasonable efforts have been made to place siblings together; and (2) further efforts would delay the adoption of one sibling and are therefore not in the best interests of that child: or (2) it is not in the best interests of one or more of the siblings to be placed together.

Adds Minn. Stat. § 260C.613, subd. 3 (exception)

Adds Minn. Stat. § 260C.617(c) (findings required)

4) Duties Not Waivable

Provides that the responsible social services agency has an ongoing duty to: (1) find an adoption placement until the adoption is finalized or DHS' guardianship responsibility ends; and (2) work with the child during the process. Prohibits: (1) the agency from ceasing efforts due to child's refusal to consider adoption; and (2) the court from ordering cessation of efforts.

Adds Minn. Stat. § 260C.605, subd. 1(b)

c. Duty to Make Suitable Placement

Requires the responsible social services agency to use an individualized assessment of the child's

needs to make the most suitable placement.

Adds Minn. Stat. § 260C.613, subd. 1(b)

d. Duty to Place Despite Race, Color, or National Origin

Prohibits delay or denial of placement based on the race, color, or national origin of the prospective parent or the child.

Adds Minn. Stat. § 260C.613, subd. 4

e. Duty to Ensure Accurate Social and Medical History

Requires the responsible social services agency ensure the child's social and medical history is up to date by working with: (1) the birth family of the child; (2) the foster family; (3) medical and treatment providers; and (4) the child's school. Requires the agency to thoroughly discuss the history with the adopting parent, but prohibits inclusion of birth relatives.

Adds Minn. Stat. § 260C.609

f. Duty to Keep Records

Requires the responsible social services agency to document the reasons for the adoptive placement decision in the records required to be kept under Minn. Stat. § 259.79.

Adds Minn. Stat. § 260C.613, subd. 5

g. Duty to Notify of Death or Terminal Illness

1) Notification of Death of Child or Birth Parent

Imposes on the responsible social services agency the duties to notify: (1) the adoptive parents, if they have indicated their desire to be notified, of the death of a birth parent; (2) the child, if over 19 years of age, of the death of a birth parent; and (3) the birth parent of the death of the child.

Requires notification to be personal and confidential, prohibiting notification by mail.

Adds Minn. Stat. § 260C.613, subd. 6

2) Notification of Terminal Illness

Requires, if a birth parent or child is terminally ill, the responsible social services agency to inform the following parties of the right to request notification of the illness: (1) the birth parents; (2) the adoptive parents if the child is under age 19; and (3) a child age 19 or older. Requires the agency to notify all parties of the illness if one party asks to be notified of the illness.

Adds Minn. Stat. § 260C.613, subd. 7

h. Duty to File Documents

Requires the responsible social services agency to file a series of documents prior to the finalization of the adoption, including: (1) the child's birth record; (2) the findings and order terminating parental rights or order accepting the parent's consent to adoption; (3) any communication or contact agreement; (4) certification that the Minnesota Fathers' Adoption Registry has been searched; (5) the original of each consent to adoption required, except if filed in the permanency proceeding and the order filed in the postplacement assessment report contains a copy; and (6) the postplacement assessment report.

Adds Minn. Stat. § 260C.625

i. Right to Visitation

Grants the responsible social services agency, as DHS' agent, the right to visit the child in: (1) foster care; (2) the adoptive placement; or (3) any other suitable setting.

Amends Minn. Stat. § 260C.325, subd. 4(a)

j. Authority to Disclose Private Data to Adoptive Parent

Grants the responsible social services agency the authority to disclose private data to a prospective adoptive parent to identify a suitable placement.

Adds Minn. Stat. § 260C.613, subd. 2

4. Rights and Duties of DHS

a. Rights

Grants DHS the exclusive rights to consent to: (1) the medical care plan for the treatment of a child who: (i) is at imminent risk of death; or (ii) has a chronic disease that, in a physician's judgment, will result in the child's death; and (2) the child donating a part of the child's body to another person while the child is living, taking into account the child's wishes and culture.

Adds Minn. Stat. § 260C.615, subd. 1(a)

b. Duties

1) Duty to Make Reasonable Efforts to Finalize Adoption

Specifies that DHS - through the responsible social services agency, or a licensed child-placing agency - has the duty to make reasonable efforts to finalize the adoption of the child.

Amends Minn. Stat. § 260C.325 by adding subd. 4

2) Other Duties

Imposes the duties to: (1) process requests for home study and placement through the Interstate Compact on the Placement of Children; (2) process applications for adoption assistance forwarded by the responsible social services agency; and (3) timely execute and return an adoption placement agreement presented by the responsible social services agency.

Adds Minn. Stat. § 260C.615, subd. 1(b)

5. Responsibilities of the Court

a. Jurisdiction

Grants the juvenile court original jurisdiction for all adoption proceedings involving the adoption of a child under DHS guardianship, including placement of the child through the Interstate Compact on the Placement of Children under Minn. Stat. § 260.851.

Adds Minn. Stat. § 260C.621, subd. 1

b. Review of Progress Toward Adoption

Requires the court to hold a review hearing every 90 days after the child is placed under DHS guardianship to review efforts to place the child. Allows timing between hearings to be shortened

or lengthened, but provides that a hearing must be held at least every six months. Provides that hearings continue despite an appeal, but that finalization cannot occur while an appeal is pending.

Adds Minn. Stat. § 260C.607, subd. 1 (90-day requirement; appeals)

Adds Minn. Stat. § 260C.607, subd. 8 (modification of timing)

1) Notice

Requires notice and grants the right to participate to: (1) the responsible social services agency; (2) the child, if at least 10 years old; (3) the guardian ad litem; (4) certain relatives; (5) the foster or adopting parent; (6) a foster or adopting parent of a sibling; and (7) an Indian child's tribe.

Adds Minn. Stat. § 260C.607, subd. 2

2) Content of Hearing

Directs the court to review, among other things: (1) the responsible social services agency's reasonable efforts at placement; (2) visitation by relatives and siblings; and (3) the child's health and education. Provides that, for a child 16 years of age or older, the review must include the child's independent living plans for when foster care ends.

Adds Minn. Stat. § 260C.607, subd. 4(a) (general elements)

Adds Minn. Stat. § 260C.607, subd. 4(b) (independent living plan)

c. Adoption Petitions

1) Venue

Provides that venue for the adoption of a child under DHS guardianship is the court conducting reviews under Minn. Stat. § 260C.607. Allows the responsible social services agency to request the adoption petition be filed in the county in which the adopting parent resides upon determinations by the court that: (1) no existing motion has been filed; and (2) filing in the adopting parent's county will expedite the proceedings and serve the best interests of the child.

Adds Minn. Stat. § 260C.621, subd. 2

2) Who May File

Grants permission to file an adoption petition only to: (1) the responsible social services agency; and (2) the adopting parent, who must be at least 21 years old. Allows the filing of a petition by an adopting parent who resides outside Minnesota.

Adds Minn. Stat. § 260C.623, subd. 1

3) Timing

Requires an adoption petition to be filed not later than nine months after an adoption placement agreement is executed. Permits extensions for limited purposes.

Adds Minn. Stat. § 260C.623, subd. 2

4) Petition Requirements and Attachments

a) Requirements

Specifies the elements of the petition: (1) caption; (2) verification requirements; and (3) contents.

Requires a certified statement by the adopting parent that: (1) s/he desires a parent-child relationship; and (2) that adoption is in the best interests of the child; allows the statement to either be: (1) part of the contents; or (2) included as an attachment. Allows the petition to request adoption of two or more children. Requires both spouses in a marriage to adopt, unless the spouses live apart.

Adds Minn. Stat. § 260C.623, subd. 3 (requirements)

Adds Minn. Stat. § 260C.623, subd. 1 (statement)

b) Attachments

Requires the attachment to the petition of: (1) the adoption study report; (2) the social and medical history; and (3) a document listing who must be given notice. Allows the required statement of the desire for a parent-child relationship and that adoption is in the child's best interests to be included as an attachment.

Adds Minn. Stat. § 260C.623, subd. 4 (attachments)

Adds Minn. Stat. § 260C.623, subd. 1 (statement)

5) Notice

Requires that notice of the adoption proceedings be served, by U.S. mail or any other method, on the: (1) child's tribe; (2) responsible social services agency; (3) guardian ad litem; (4) child if at least age 10; (5) child's attorney; and (6) adopting parent. Provides that notice must not be given to any parent whose rights have been terminated or who has consented to the adoption of the child.

Adds Minn. Stat. § 260C.627

d. Adoptive Placements

1) Restriction on Filing Petition

Prohibits filing of an adoption petition for a child under DHS guardianship unless the child has been placed with the adopting parent by the responsible social services agency.

Adds Minn. Stat. § 260C.607, subd. 5(a)

2) Rights of Relative or Foster Parents Wanting to Adopt

a) Raising Concerns During Progress Hearing

Requires a relative or foster parent who believes that the agency has not reasonably considered the relative or foster parent's request to be an adoptive placement to bring the concern to court's attention during the progress review hearing. Authorizes the court to require the agency reconsider the relative or foster parent's request.

Adds Minn. Stat. § 260C.607, subd. 5(b)

b) Right to Bring Motion

Allows a relative or foster parent to bring a motion to adopt: (1) after placement of child under DHS guardianship but no later than 30 days after receiving notice of a placement; and (2) if the relative or foster parent has, for at least the past six months, an approved Minnesota home study or, if not a Minnesota resident, an approved home study from the state of residence. Requires that the motion make a prime facie showing that the agency has been unreasonable in not placing

the child with the relative or foster parent and, if so made, requires the court to set a date for an evidentiary hearing. Specifies procedures and proofs.

Adds Minn. Stat. § 260C.607, subd. 6(a) (right to motion)

Adds Minn. Stat. § 260C.607, subd. 6(b) (prima facie case)

Adds Minn. Stat. § 260C.607, subd. 6(c) (evidentiary hearing procedures)

c) Appeals

Permits appeal of a denial or grant of a motion for an order for adoptive placement by: (1) the responsible social services agency; (2) the moving party; (3) the child, if over 10 years of age; (4) the guardian ad litem; and (5) any individual with an executed adoption placement agreement at the time the motion was filed if the effect of the court's order is termination of the agreement. Specifies that the appeal is to be conducted under the Rules of Juvenile Protection Procedure.

Adds Minn. Stat. § 260C.607, subd. 6(g)

e. Changing Adoptive Plan Where Parent Consents to Adoption

Provides that the person identified by the birth parent and agreed to by the responsible social services agency is the only qualified prospective adoptive parent unless and until, in a hearing, the court finds it impossible to finalize the adoption within 12 months of the execution of the consent to adopt, except if the responsible social services agency certifies that the failure to finalize is not due to an action or inaction by the prospective adoptive parent.

Adds Minn. Stat. § 260C.607, subd. 7

f. Adoption Study Required Prior to Placement

Requires that an adoption study under Minn. Stat. § 259.41 approving placement of the child in the home of the prospective adoptive parent be completed before placing any child under DHS guardianship in a home for adoption.

Adds Minn. Stat. § 260C.611

g. Finalization Hearing/Judgment and Decree

1) Consent

Requires consent to an adoption by a parent whose parental rights have not been terminated that is: (1) irrevocable by a parent of a non-Indian child; and (2) revocable by a parent of an Indian child prior to the entry of an adoption order.

Adds Minn. Stat. § 260C.629, subd. 1

2) Documents Required at Hearing

Requires the court, as a prerequisite to issuing a decree and entering a judgment for adoption, to be provided with: (1) the original birth record of the child; (2) the adoption study report including a background study; (3) a certified copy of the findings and order terminating parental rights or order accepting the parent's consent to adoption; (4) the requisite consents; (5) the child's social and medical history; (6) the postplacement assessment report, unless waived by the court; and (7) the report from the guardian ad litem.

Adds Minn. Stat. § 260C.629, subd. 2

3) Judgment and Decree

Requires issuance of a decree of adoption after the court takes testimony from the responsible social services agency (which may be by telephone or affidavit if the court has transferred venue) upon a finding that the adoption is in the best interests of the child.

Adds Minn. Stat. § 260C.631

h. Denial of Adoption and Appeal

Requires denial of the petition for adoption if the court is not satisfied that adoption is in the best interests of the child. Provides that if venue has changed, the court denying the hearing must notify the court originally responsible for the review hearings, which in turn must set a hearing within 30 days of receiving notice of denial. Allows appeals and directs they be conducted under the Minnesota Rules of Adoption Procedure.

Adds Minn. Stat. § 260C.633

6. Legal Effect of Adoption

a. Effect on Adopting Parents and Adopted Child

Provides that, upon adoption, the child becomes the legal child of the adopting parent and the adopting parent becomes the legal parent of the adopted child, with all the rights and duties between them of a birth parent and child, including inheritance rights and procedures.

Adds Minn. Stat. § 260C.635, subd. 1(a) (legal rights and duties)

Adds Minn. Stat. § 260C.635, subd. 1(b) (inheritance rights)

b. Effect on Birth or Previous Legal Parents

Provides that the adoption relieves the birth parents or previous legal parents of all parental responsibilities for the child, except child support.

Adds Minn. Stat. § 260C.635, subd. 1(c)

c. Effect on Tribal Affiliation

Provides that adoption has no effect on the child's enrollment in an American Indian tribe.

Adds Minn. Stat. § 260C.635, subd. 2

d. Effect on Communication or Contact Agreements

Provides that adoption does not prohibit birth parents, relatives, birth or legal siblings, and adoptive parents from entering a communication or contact agreement.

Adds Minn. Stat. § 260C.635, subd. 3

7. Rights to Contact with the Adopted Child

Allows agreements regarding communication or contact with the adopted child - if the agreement is in the child's best interests - between adopting parent and: (1) a birth parent; (2) a relative or foster parent with whom the child has resided; (3) an adult sibling; or (4) the parent or legal custodian of a minor sibling. Provides the agreement must be approved by all parties and is enforceable by any party but only if reduced to a court order. Provides that violation of the

agreement does not constitute grounds for setting aside an adoption decree or revoking irrevocable consent to adoption. Limits modifications to circumstances where: (1) modification is in the best interests of the child; and (2) either: (i) all parties agree to the modification; or (ii) exceptional circumstances have arisen since the order was entered.

Adds Minn. Stat. § 260C.619

8. Right to Birth Records

Permits the adopted person to request his or her original birth record from the Department of Health.

Adds Minn. Stat. § 260C.637

B. Court Jurisdiction Over Children Under DHS Guardianship

Chapter 216, Article 1, Section 20 (SF 1675)

Amends Minn. Stat. § 260.317, subd. 3

Effective August 1, 2012

Provides that the court retains jurisdiction over a child when parental rights are terminated and guardianship is transferred to DHS until the child is: (1) adopted; (2) no longer a minor; or (3) no longer in (and does not reenter) foster care. Provides that the guardian ad litem and counsel for the child continue until an adoption decree is entered. (Note: jurisdiction and progress reviews are also expanded pursuant to a new statutory section, Minn. Stat. § 260C.607, summarized elsewhere.)

C. Elimination of Long-Term Foster Care Option

Chapter 216, Article 1, Section 20 (SF 1675)

Amends Minn. Stat. § 260C.317, subd. 3

Effective August 1, 2012

Deletes references and provisions related to long-term foster care, which is being eliminated from the statute as an option for foster care.

D. Placement of Children Under DHS Guardianship

Chapter 216, Article 1, Sections 13 and 18; and Article 6, Section 13 (SF 1675)

Amends Minn. Stats. §§ 259.29, subd. 2; and 260C.212, subd. 5

Adds Minn. Stat. § 260C.221

Effective August 1, 2012

1. Relative Search

Moves the relative search language contained in existing Minn. Stat. § 260C.212, subd. 5 to a new section of law: Minn. Stat. § 260C.221.

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

Adds Minn. Stat. § 260C.221

2. Placement with Specific Relative or Important Friend

Requires the responsible social services agency to honor parent's request to place a child with a specific relative or an important friend if such placement is: (1) in the child's best interests; and (2) consistent with the relative search provisions of Minn. Stats. §§ 260C.212, subd. 2, and 260C.221.

Amends Minn. Stat. § 259.29, subd. 2

V. GUARDIANSHIP GENERALLY

Chapter 216, Article 1, Sections 24 and 25 (SF 1675)

Amends Minn. Stats. §§ 260C.325, subd. 4; and 260C.328

Effective August 1, 2012

A. Discharge of Guardian

Eliminates the ability of a child age 14 or older to join with the foster parents and guardian to discharge the existing guardian and appoint the foster parents as guardians.

Amends Minn. Stat. § 260C.328(a)

B. Exclusive Legal Custody Vested in Guardian

Provides that the guardian is the only person or entity with legal custody of a child. (Note: existing law permitted custody to be separated from guardianship.)

Amends Minn. Stat. § 260C.325, subd. 4(a)

C. Extension of Guardianship Despite Emancipation

Extends guardianship to age 18, even if the child is emancipated.

Amends Minn. Stat. § 260C.328(a)

D. Rights and Responsibilities of Guardian

1. Generally

Grants the guardian the right to visit the child, prior to a finalization of adoption, in: (1) foster care; (2) adoptive placement; or (3) any other suitable setting.

Amends Minn. Stat. § 260C.325, subd. 4(a)

2. When a Licensed Child Placing Agency is the Guardian

Grants a licensed child placing agency, when it is the guardian, the exclusive right and responsibility to make all major life decisions for the child, including granting consent, if legally required, to: (1) marry; (2) enlist in the military; (3) obtain medical, surgical, or psychiatric treatment; or (4) be adopted.

Amends Minn. Stat. § 260C.325, subd. 4(b)

E. Limitations on Court's Powers in Guardianship Matters
Chapter 216, Article 1, Sections 22 and 23 (SF 1675)
Amends Minn. Stat. § 260C.325, subs. 1 and 3
Effective August 1, 2012

1. Guardianship Where Both Parents are Deceased

Eliminates the court's power to assign guardianship to a child placing agency if both of the child's parents are deceased.

Amends Minn. Stat. § 260C.325, subd. 3

2. Transfer of Legal Custody

Eliminates the court's power, in cases where it terminates parental rights, to transfer legal custody: (1) generally to DHS, a licensed child-placing agency, or a private individual; and (2) specifically where the responsible social services agency had legal responsibility for planning for the permanent placement of the child and the child was in foster care under the legal responsibility of the responsible county social services agency at the time the court orders guardianship.

Amends Minn. Stat. § 260C.325, subd. 1

IV. MINNESOTA VISIBLE CHILD WORK GROUP

Chapter 247, Article 3, Section 27 (HF2294)

Uncodified Language

Effective July 1, 2012

Creates the Minnesota Visible Child Work Group to address child homelessness to include membership of: (1) legislators; (2) representatives from family shelter, transitional housing, and supportive housing providers; (3) persons who have experienced homelessness; (4) housing and children's advocates; (5) representatives from the business or philanthropic community; and (6) children's cabinet members, or their designees. Requires recommendations to the Legislature to improve the well-being of children who are homeless or have experienced homelessness by December 15, 2012. Expires June 30, 2013.

VII. RIGHT OF TERMINATED PARENTS TO COMMUNICATION/CONTACT

Chapter 216, Article 1, Section 21 (SF1675)

Amends Minn. Stat. § 260C.317 by adding subd. 4(b)

Grants parents whose parental rights were terminated the right to enter into a communication or contact agreement, which must be filed prior to the adoption agreement, if the court determines the agreement is in the best interests of the child. Prohibits an order terminating parental rights to be conditioned on a communication or contact agreement.

VIII. RIGHT TO COUNSEL AND PAYMENT OF FEES

Chapter 212, Sections 3 - 6 (SF 1678)

Amends Minn. Stats. §§ 260B.163, subd. 4; 260B.331, subd. 5; 260C.163, subd. 3; and 260C.331, subd. 5

Effective August 1, 2012

A. In Delinquency Matters

1. Representation Limited by Age and Income

a. Limitation by Age

Limits eligibility of minor children for court-appointed counsel to children age 10 or older.

(Note: Cross-reference to Minn. Stat. § 611.14, clause (4))

Amends Minn. Stat. § 260B.163, subd. 4(c)

b. Limitation by Income

Limits eligibility for court-appointed counsel to persons who are financially unable to afford counsel according to guidelines for obtaining a public defender under Minn. Stat. § 611.17.

Amends Minn. Stat. § 260B.163, subd. 4(c)

2. Mandatory Inquiry into Ability to Pay Attorney's Fees

Mandates what was a discretionary inquiry into the parents' ability to pay toward the attorney's fees for the minor child who is unable to pay.

Amends Minn. Stat. § 260B.331, subd. 5(a)

3. Payment for Standby or Advisory Counsel

Provides that either the State Court Administrator's Office or the prosecuting authority is responsible for payment for costs when standby or advisory counsel is appointed. Prohibits the court from ordering payment by the Board of Public Defense.

Amends Minn. Stat. § 60B.163, subd. 4(c)

4. Reimbursement to the State

Allows the court to order to reimburse the state - in full or, if warranted by financial circumstances, in part - for the costs of the child's counsel. Requires the court, in determining whether to order reimbursement, to consider a parent's income, assets, and employment.

Requires the court to order any reimbursement amount when counsel is appointed or as soon thereafter as the court determines that reimbursement is required. Permits the court to order the parent's employer to withhold and submit to the court the reimbursement if the parent does not agree to pay.

Amends Minn. Stat. § 260B.331 by adding subd. 5(b)

B. Child Protection Matters

1. Court Discretion Eliminated

Removes court discretion to appoint counsel, limiting appointment to only children age 10 or

older and persons who are financially unable to afford counsel according to guidelines for obtaining a public defender under Minn. Stat. § 611.17.

Amends Minn. Stat. § 260C.163, subd. 3(a)

2. Costs for Counsel Borne by County

Provides that court appointed counsel for parents, guardians, or custodians must be paid for by the county.

Amends Minn. Stat. § 260C.163 by adding subd. 3(f)

3. Eligibility Expanded to Custodians

Expands appointment of counsel to custodians who are financially unable to afford counsel according to guidelines for obtaining a public defender under Minn. Stat. § 611.17.

Amends Minn. Stat. § 260C.163, subd. 3(b)

4. Limitation of Appointed Counsel

Provides that only one attorney, representing the parent(s), guardian, and custodian at county expense, may be appointed at the first hearing, unless a party establishes and the court determines in written findings on the record that extraordinary circumstances exist that require counsel to be appointed to represent each separate interest.

Amends Minn. Stat. § 260C.163 by adding subd. 3(f)

a. Conflict of Interest Provision

Requires the court to appoint counsel if prerequisites are met unless a conflict of interest exists, in which case substitute counsel must be appointed.

Amends Minn. Stat. § 260C.163 by adding subd. 3(g)

5. Mandatory Inquiry into Ability to Pay Attorney's Fees

Mandates what was a discretionary inquiry into the ability of the child and the parent, guardian, or custodian to pay toward the attorney's fees.

Amends Minn. Stat. § 260C.331, subd. 5(a) (children)

Amends Minn. Stat. § 260C.331 by adding subd. 5(b) (parents, guardians, and custodians)

6. Minimum Qualifications for Counsel Established

Requires counsel obtained by the county to meet qualifications established by the Judicial Council. Provides that obtained counsel must: (1) have a minimum of two years' experience handling child protection cases; (2) have undergone Judicial Council-approved training in handling child protection cases; or (3) be under the supervision of an attorney with the minimum necessary experience or training.

Amends Minn. Stat. § 260.163 by adding subd. 3(g)

7. Reimbursement to the State

Allows the court to order to reimburse the state - in full or, if warranted by financial circumstances, in part - for the costs of the child's counsel. Permits the court to order reimbursement from one or more parties. Requires the court, in determining whether to order reimbursement, to consider a parent's income, assets, and employment. Requires the court to order any reimbursement amount when counsel is appointed or as soon thereafter as the court

determines that reimbursement is required. Permits the court to order the parent's employer to withhold and submit to the court the reimbursement if the parent does not agree to pay.
Amends Minn. Stat. § 260C.331 by adding subd. 5(c)

8. Truancy

Makes guidelines governing appointment of counsel in truancy matters consistent with appointments in other child protection matters.
Amends Minn. Stat. § 260.163, subd. 3(c)

IX. STATUTORY RENUMBERING - ADOPTION AND CHILD PROTECTION

*Chapter 216, Article 6, Section 15 (SF 1675)
 Effective August 1, 2012*

Renumbers existing statutes as follows:

| Existing Statute | Renumbered Statute |
|-------------------------|---------------------------|
| 259.69 | 259A.05, subd. 5 |
| 260C.217 | 260C.139 |
| 260C.501 | 260C.177 |
| 260C.201, subd. 10 | 260C.202 |
| 260C.212, subd. 7 | 260C.203 |
| 260C.201, subd. 11a | 260C.204 |
| 260C.212, subd. 4 | 260C.219 |
| 260C.212, subd. 5 | 260C.221 |
| 260C.213 | 260C.223 |
| 260C.206 | 260C.225 |
| 260C.212, subd. 8 | 260C.227 |
| 260C.212, subd. 6 | 260C.521, subd. 4 |
| 260C.205 | 260D.11 |

X. UNREASONABLE RESTRAINT OF CHILDREN

*Chapter 175 (SF 1586)
 Amends Minn. Stat. § 609.255, subd. 3
 Effective August 1, 2012 and applies to crimes committed on or after that date*

Adds an additional penalty of up to a \$4,000 fine or two years in prison, or both, if intentional and unreasonable physical confinement or restraint results in demonstrable bodily harm to a child under the age of 18.

LANDLORD-TENANT LAW

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I. EXTENSION OF FEDERAL RENTER PROTECTIONS

Chapter 132, Sections 2-4 (HF 1515)
Amends Minn. Stat. § 504B.285, subds. 1a, 1b, and 1c
Effective August 1, 2012

Extends the existing federal renter protections, codified and merged with existing state law, until December 31, 2014, as provided under Dodd-Frank.

II. LATE FEES

Chapter 132, Section 1 (HF 1515)
Amends Minn. Stat. § 504B.177
Effective August 1, 2012

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

III. UTILITY SERVICE IN RECEIVERSHIP PROPERTIES

Chapter 143 (HF 382)
Adds Minn. Stat. § 576.43
Effective August 1, 2012

Provides that a utility may not alter, refuse, or discontinue utility service to a property in receivership without providing written notice to the receiver. Grants authority to the court to prohibit the utility from altering, refusing, or discontinuing service after the utility receives notice from receiver and a hearing satisfactory to the court if the receiver furnishes adequate assurance of payment.

PUBLIC BENEFITS LAW

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I. ASSET ISSUES

A. Income Disregard and Asset Limit
Chapter 247, Article 3, Section 10 (HF 2294)
Amends Minn. Stat. § 256D.06, subd. 1b
Effective October 1, 2012

Increases: (1) the earned income disregard to \$500 each month for persons living in group residential housing; (2) the asset limit to \$2,000.

B. Uniform Asset Limit Study
Chapter 247, Article 3, Section 28 (HF 2294)
Uncodified Language
Effective August 1, 2012

Directs DHS, in consultation with county human services representatives, to analyze the differences in asset limit requirements across human services assistance programs with the goal of establishing a consistent asset limit across programs and minimizing the administrative burdens on counties in implementing asset tests. Requires report, with draft legislation establishing a uniform asset limit, to House and Senate Health and Human Services Committees by January 15, 2013.

II. MINNESOTA FAMILY INVESTMENT PROGRAM (MFIP)

A. Caregiver Definition
Chapter 216, Article 8, Sections 1 and 2 (SF 1675)
Amends Minn. Stats. §§ 256J.08, subd. 11; and 256J.24, subd. 2
Effective August 2, 2012

Changes the caregiver definition from a minor child's "natural" parent to "birth" parent.

B. Cash Grant
Chapter 216, Article 1, Section 5 (SF 1675)
Amends Minn. Stat. § 256J.24, subd. 5
Effective August 2, 2012

Removes the MFIP cash and food grant levels from statute. Requires DHS to publish the standard annually.

C. Data Sharing

Chapter 247, Article 3, Sections 3, 4, and 29 (HF 2294)

Amends Minn. Stat. § 256.01 by adding subds. 18(d) and 18(e)

Effective July 1, 2013

Requires the Department of Public Safety to provide monthly reports to DHS on: (1) persons with canceled drivers' licenses and state identification cards; and (2) driver's license and state identification cards where a temporary legal presence date has expired. Requires DHS to: (1) compare cancellation and expiration information against public assistance recipient data; and (2) analyze the information for illegal and improper enrollment. Requires due process protections before termination and notice to the county attorney. Requires a report to the Legislature on the number of persons affected and the fiscal impact by December 1, 2013.

D. Diversionary Work Program (DWP)

Chapter 216, Article 8, Section 6 (SF 1675)

Amends Minn. Stat. §256J.95, subd. 3

Effective August 1, 2012

Removes two categories of participants from the DWP waiver list: (1) caregivers over age 60; and (2) refugees and asylees arriving in the United States in the 12 months prior to application.

E. Drug Convictions and Offenses

1. Report on Felony Drug Convictions

Chapter 247, Article 3, Sections 2 and 29 (HF 2294)

Amends Minn. Stat. § 256.01 by adding subd. 18(c)

Effective July 1, 2013

Requires the State Court Administrator to report felony drug convictions every six months to DHS. Requires DHS to determine whether action is required for GA and MFIP participants. Requires a onetime report, dating back to July 1, 1997, of persons with felony drug convictions. Requires a report to the Legislature by December 1, 2013 on: (1) the number of persons affected; and (2) the fiscal impact.

2. Vendoring for Drug Offenses

a. Mandatory Vendoring

Chapter 247, Article 3, Section 16 (HF 2294)

Amends Minn. Stat. § 256J.26, subd. 1

Effective October 12, 2012 for new applicants and recertifications

Provides that vendoring for persons with a prior drug offense is no longer optional, but mandatory, and changes the vendoring trigger to be a felony level offense. Changes the look-back period from July 1, 1997 to the "previous 10 years from the date of the application or recertification." Requires random drug screening for individuals with a felony level conviction.

b. Protections for Vending Clients Living in Substandard Housing
Chapter 247, Article 3, section 17 (HF2294)
Amends Minn. Stat. § 256J.26 by adding subd. 5
Effective August 1, 2012

Requires a county, upon discovery of an uninhabitable unit, to notify the landlord to return vendor paid rent. Requires the county to cease future rent payments until the landlord demonstrates the premises are fit for the intended use. Prohibits the landlord from taking an eviction action against anyone in the unit.

F. EBT

1. Prohibited Purchases
Chapter 247, Article 3, Sections 5, 7, and 9 (HF 2294)
Amends Minn. Stats. §§ 256.9831, subd. 2; and 256.987, subd. 2
Adds Minn. Stat. § 256.9831, subd. 4
Effective June 1, 2012

Clarifies that: (1) a person may not use an EBT card in a liquor store, tobacco store, or tattoo parlor; and (2) DHS is prohibited from taking the needs of a person disqualified for purchasing tobacco or alcohol with the cash portion of an EBT card into account in determining the grant level: (i) for one year after the first offense; (ii) for two years after the second offense, and (iii) permanently after the third or subsequent offense.

2. Restriction to Certain States
Chapter 247, Article 3, Section 8 (HF 2294)
Amends Minn. Stat. § 256.987 by adding subd. 3
Effective March 1, 2013

Prohibits EBT cardholders from using the cash portion of the EBT card at vendors and ATM machines outside of Minnesota, Iowa, North Dakota, South Dakota, or Wisconsin.

3. Separate EBT
Chapter 247, Article 3, Section 6 (HF 2294)
Amends Minn. Stat. § 256.987, subd. 1
Effective July 1, 2012

Repeals the requirement of a "separate" EBT card for cash benefits.

G. Family Stabilization Services (FSS)

Chapter 253, Article 2, Sections 2, 3, 4, and 5 (HF 2627)

Chapter 247, Article 3, Sections 17, 18, 19, 20, and 21 (HF 2294)

Amends Minn. Stat. § 256J.575, subs. 1, 2, 5, and 6

Effective August 1, 2012

Removes the prescriptive requirements of the FSS plan and clarifies certain other aspects of the program, including:

- Eliminating the requirement for a "case management" model and for providing a "case manager";
- Clarifying that FSS is intended for families not making progress in the MFIP regular employment and training track;
- Clarifying that the FSS plan must have an appropriate number of hours of activities based on the needs of the participant and the participant's family;
- Requiring the county agency to "attempt" to meet with participants to develop an FSS plan within 30 days of referral; and
- Removing a person's activity waiver from the FSS plan when activities are not available.

H. Reporting Potential Fraud

Chapter 247, Article 3, Section 23 (HF 2294)

Adds Minn. Stat. § 626.5533

Effective August 1, 2012

Requires peace officers to report to law enforcement every arrest where the person possesses more than one EBT card. Requires the local law enforcement agency to forward the report to DHS within 30 days for investigation. Requires DHS, in consultation with the Bureau of Criminal Apprehension, to adopt the appropriate reporting forms.

I. Waiver of Face-to-Face MFIP Recertification Interview

Chapter 216, Article 8, Section 3 (SF 1675)

Amends Minn. Stat. § 256J.32, subd. 6

Effective October 1, 2012

Requires county agencies to give employed participants the option of a telephone interview in lieu of a face-to-face interview at recertification.

J. Work Participation Bonus
Chapter 216, Article 8, Section 4 (SF 1675)
Amends Minn. Stat. § 256J.621
Effective August 1, 2012

Requires at least one parent in a two-parent family be employed 130 hours per month (a change from "an average of at least" 130 hours per month).

III. MINNESOTA VISIBLE CHILD WORK GROUP

Chapter 247, Article 3, Section 27 (HF 2294)
Uncodified Language
Effective July 1, 2012

Creates the Minnesota Visible Child Work Group to address child homelessness to include: (1) legislators; (3) representatives from family shelter, transitional housing, and supportive housing providers; (4) persons who have experienced homelessness; (5) housing and children's advocates; (6) representatives from the business or philanthropic community; and (7) children's cabinet members, or their designees. Requires recommendations to the Legislature to improve the well-being of children who are homeless or have experienced homelessness by December 15, 2012. The group expires June 30, 2013.

IV. PARTIAL RESTORATION OF FAMILY ASSETS FOR INDEPENDENCE IN MINNESOTA PROGRAM (FAIM)

Chapter 247, Article 3, Section 12 (HF2294)
Amends Minn. Stat. § 256E.35, subd. 6
Effective July 1, 2012

Restores \$250,000 (half the original appropriation) for the FAIM program, whose funding was zeroed out in the 2011 session. (Note: under the program, the state matches \$1.50 for every \$1 in savings contributed by the participant, up to \$720 per year or \$3,000 lifetime).

REAL PROPERTY LAW

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I. RESPONSIBILITY OF REAL ESTATE BROKER LICENSEES FOR THEIR OWN REAL PROPERTY

Chapter 134 (HF 2152)

Amends Minn. Stat. § 82.73, subd. 3

Effective March 21, 2012 and applies to property management activities performed on or after that date

Provides that a real estate licensee is not held to a higher standard of care than any other rental property owner with respect to operating or maintaining rental property owned by the licensee, clarifying that the obligation under statute requiring brokers to "adequately supervise the activities of the broker's salespersons and employees" does not extend to circumstances where the licensee has an exclusive or partial interest in the real property.

UNEMPLOYMENT INSURANCE (UI) LAW

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I. AGREEMENTS NOT ALLOWED

Chapter 201, Article 2, Section 7 (SF 2224)

Amends Minn. Stat. § 268.192 by adding subd. 1(a)

Effective July 1, 2012

Prohibits an employer from making an agreement not to contest an unemployment application in exchange for the worker: (1) quitting; (2) taking a leave of absence; or (3) withdrawing a grievance or appeal of a termination. Does not provide an enforcement mechanism or remedy.

II. AVAILABLE FOR SUITABLE EMPLOYMENT

Chapter 201, Article 3, Section 8 (SF 2224)

Amends Minn. Stat. § 268.085, subd. 15

Effective July 1, 2012

Modifies the definition of "available for suitable employment" from "ready and willing" to "ready, willing, and able" to accept suitable employment.

III. BURDEN OF PROOF

Chapter 201, Article 3, Section 5 (SF 2224)

Amends Minn. Stat. § 268.069, subd. 2

Effective July 1, 2012

Clarifies that an applicant's entitlement to UI must be determined based upon information available and "without regard to a burden of proof."

IV. DEDUCTIBLE EARNINGS

Chapter 201, Article 2, Section 4 (SF 2224)

Amends Minn. Stat. § 268.085, subd. 5

Effective July 1, 2013

Changes the applicant's earnings deduction from 55% to 50% of the weekly benefit amount.

V. EMPLOYMENT MISCONDUCT - SINGLE INCIDENT

Chapter 201, Article 3, Section 9 (SF 2224)

Amends Minn. Stat. § 268.095, subd. 6

Effective July 1, 2012

Clarifies that the Department of Employment and Economic Development does not need to make a specific acknowledgement or explanation of whether conduct for which the applicant was discharged involved only a single incident.

VI. OVERPAYMENTS

Chapter 201, Article 2, Section 6 (SF 2224)

Amends Minn. Stat. § 268.18, subd. 4

Effective July 1, 2012 and applies retroactively to all overpayments

Requires the Department of Employment and Economic Development to cancel an overpayment balance not repaid within 10 years. (Note: the prior standard was 15 years.)