

## 2018 SESSION SUMMARIES

### Introduction

The Legal Services Advocacy Project (LSAP) is pleased to present the 2018 Session Summaries. These summaries cover a wide range of substantive areas and the specific changes to Minnesota law made by the 2018 Legislature that are the most relevant to the lives of low-income and financially-fragile Minnesotans and to the attorneys and advocates who serve and represent them. They are divided by area of substantive law and contain the name and contact information for the LSAP attorney who is the lead in that substantive area. We hope you find them useful.

### A Note on Citations

Each item in this contains the Session Law in which law change described was contained (with the associated bill number – a House File (HF) or Senate File (SF) – in parentheses following the Chapter number). If the new provision is codified, the item often will contain the specific section and subdivision amended, added, or repealed.

### *Session Laws*

Each of the individual bills presented to the Governor for signature is assigned a *Chapter* number, mostly in the order they are presented to the Governor. Collectively, these *Chapters* comprise the 2017 Minnesota Session Laws. Though they use the same term, these Session Law Chapters are not to be confused with Minnesota Statute Chapters, which are the way existing Minnesota law is enumerated and divided by topic.

All the Session Law Chapters may be found on the Minnesota Legislature's award-winning Web site at: [2018 Session Laws](#)

## CHILD CARE/CHILD WELFARE

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### I. CHILD CARE LICENSING/BACKGROUND STUDIES

#### A. General Changes

2018 Minn. Laws, [Chapter 200](#) (SF 3310)

Various Effective Dates

- Effective August 1, 2018
  - Requires DHS consideration of additional variances for child care center staff when the underlying background study issue doesn't impact health or safety. Variance requests must include a plan for the staff person's additional training, experience or education.
  - Requires county or private licensing agencies to notify a provider if the county/agency is recommending DHS licensing action. The notice must include information on the DHS review and the process for reconsideration or appeal, if DHS takes action. Clarifies that county/agency recommendations to DHS are confidential information, to be disclosed only as permitted by law.
- Effective December 31, 2018
  - Requires DHS to obtain child care provider feedback regarding the DHS licensing lookup website information, including licensing updates, inspection results, and posting and monitoring results.
  - Requires DHS to provide technical support and training to county licensors to identify child care provider fraud.
- Effective January 1, 2019
  - Requires notices of license application denials, revocations, suspensions, fines, correction orders, and conditional licenses to be in plain language.
  - Permits flexibility for family group day care providers to operate at different licensing levels depending upon the number and ages of children on any particular day.
  - Amends provider liability insurance notification provisions so that child care providers must only provide a notice to families when insurance lapses or coverage changes, including auto-renewal policies if that is disclosed in the initial disclosure to the family.

## **B. Fingerprinting/Photographs**

2018 Minn. Laws, [Chapter 166](#) (SF 2683)

*Various Effective Dates*

Changes requirements for minor children's background study fingerprinting, adopted in the 2017 legislative session. The intent of the 2018 legislation is to largely return to the pre-2017 practice.

- Replaces “child care staff person” with “background study subject” in the child care context, so conforming changes are made throughout the background study statutory provisions. Anyone supervising children can be a “background study subject” but adds specific exceptions for minors regarding FBI national background studies. Under 2017 legislation, minors were specifically included in the national background studies in all cases, which included submitting fingerprints and photographs.  
*(Effective upon implementation of NETStudy 2.0 for enhanced child care)*
- For adults, fingerprints and photographs must be provided as part of the background study for state and, when legally required, national background study checks.
  - Fingerprints can be legally required when the state has “reasonable cause” that:
    - The person may be a multistate offender;
    - The person may have a criminal record in another state;
    - BCA records show that a minor has a criminal history;
    - The individual lived in another state within the last 5 years, or currently resides in another state.
  - Fingerprints will not be retained at the state level, and the FBI will only retain fingerprints of persons with a criminal history.  
*(Effective August 1, 2018)*
- For minors who reside in a home where there is legal nonlicensed child care, licensed family child care, certified license-exempt child care or a licensed foster care home, a background study will be completed, but a national criminal history check through the FBI, which requires fingerprints and photographs, will only be required if there is “reasonable cause” as defined above. If the minor resides in a home where there is licensed family child care, the background study will be limited to minor children who are employed by the provider or supervise children. If a background study is required, a search of the national Sex Offender public website can still be conducted with a name and date of birth. If there is a potential match, then other provisions require a national criminal history check with the FBI.  
*(Effective June 18, 2018)*

**C. Correction Orders and Conditional Licenses**

2018 Minn. Laws, [Chapter 153](#) (HF 3015)

Effective August 1, 2018

Removes existing child care correction orders from Minnesota law, including posting requirements for full, amended or rescinded correction orders. Existing provisions for conditional license remain unchanged, including existing provisions for posting a conditional license and any maltreatment investigation memorandum.

**II. CHILD CARE CENTERS - POSITIVE SUPPORTS STRATEGIES/RESTRICTIVE INTERVENTIONS**

2018 Minn. Laws, [Chapter 163](#) (SF 2685)

Effective May 20, 2018

- Exempts licensed family child care, group family child care licensees, and child care centers from the requirements of the Positive Supports Strategies and Restrictive Interventions under Minnesota Rules, [Chapter 9544](#).
- Requires child care providers exempted from Positive Supports/Restrictive Intervention Rules to continue to comply with a child's [Individualized Education Program](#) (IEP) or [Individual Child Care Program Plan](#), if one exists, under [Minn. R., 9503.0065](#), governing child care for children with special needs.
- Prohibits licensed family child care, group family child care licensees, and child care centers from using restricted procedures enumerated under [Minn. Stat. § 245D.06, subd. 5](#).

**III. AMERICAN INDIAN CHILD WELFARE ADVISORY COUNCIL**

2018 Minn. Laws, [Chapter 164, Section 4](#) (SF 2685)

Effective June 29, 2018

Extends the expiration of the American Indian Child Welfare Council from June 30, 2018 to June 30, 2023.

## CONSUMER LAW

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### I. PROPERTY ASSESSED CLEAN ENERGY (PACE) LOANS

2018 Minn. Laws, [Chapter 155](#) (SF 3245)

Amends Minn. Stat. §§ 45.011, subd. 1; 46.131, subds. 1, 2, 4, and 11; 216C.435, subd. 1, 2, 3a, 6, 8; 290B.03, subd. 1; 429.011, subd. 2a; 429.021, subd. 1; 429.101, subd.1; and 462A.05, subd. 14b

Adds Minn. Stat. §§ 216C.435, subds. 3b, 3c, 3d, 5a, 7b, 8a, 10a, 10b, 10c, 10d, 10e, 10f, and 13; 216C.436, subd. 1a; and 216C.437

Repeals Minn. Stat. § 216C.435, subd. 5

Effective August 1, 2018

This new law governs the provision of **residential** energy efficiency and renewable energy Improvements financed under the PACE program, which was authorized in 2010 for both commercial and residential properties and which allows bonding authorities to issue bonds to finance these improvements, with repayments made through special assessments to property taxes, thereby encumbering the property and subjecting it to forfeiture or foreclosure upon default. The new law affects only residential programs, which have never been implemented in Minnesota. Commercial programs have been ongoing and successful and are unaffected by this legislation.

### SUMMARY OF RESIDENTIAL PACE GOVERNING PROVISIONS

#### A. Definitions

Adds definitions of, among others, “Residential PACE administrator,” “Residential PACE contract,” “Residential PACE contractor,” “Residential PACE lien,” and “Residential PACE loan.”

Adds Minn. Stat. § 216C.435, subds. 10a, 10b, 10c, 10d, and 10e, respectively.

#### B. Program Purpose

Provides that “the program must serve a public purpose and not primarily be for the benefit of private entities or private investors even though private benefit may result incidentally.”

Adds Minn. Stat. § 216C.437, subd. 2

#### C. Regulatory Oversight

Requires Residential PACE administrators (third-party, nongovernmental entities) to be licensed by the Department of Commerce.

Adds Minn. Stat. § 216C.437, subd. 6

**D. Lien Position**

Makes all PACE tax liens subordinate to first mortgages.

*Adds Minn. Stat. § 216C.437, subd. 4(a)*

**E. Contracts**

1. All Interested Persons Must Sign

Requires signature by all persons on the deed, mortgage, or note having a legal interest in the property.

*Adds Minn. Stat. § 216C.437, subd. 16*

2. Oral Confirmation

Requires a PACE administrator, prior to the execution by the homeowner of a PACE contract and prior to the installation of any energy improvement, to confirm key terms, verify the homeowner understands certain important conditions, and communicate key disclosures and risks of the loan in an oral, live, recorded telephone conversation with the homeowner.

*Adds Minn. Stat. § 216C.437, subd. 18*

3. Disclosures

Mandates a verbatim one-page disclosure – to be given apart from any other document five days before the homeowner signs a PACE loan contract – that highlights the key terms, differences, and risks of a PACE loan. Requires additional, detailed disclosures concerning all the material terms and conditions of the contract, to be provided before the contract is signed.

*Adds Minn. Stat. § 216C.437, subd. 27*

**F. Other Languages**

1. Written PACE Contracts

Requires all PACE contracts be written in English and the primary language of the homeowner: (1) at the homeowner's request; (2) if the PACE loan is advertised in that language; or (3) if the contract was described, discussed, or negotiated in that language, regardless of whether the PACE loan is advertised in that language.

*Adds Minn. Stat. § 216C.437, subd. 16*

2. Oral Confirmation of PACE Contract

Requires the PACE administrator, at the outset of the mandatory oral confirmation provision, to inquire whether the homeowner wishes to communicate primarily in a language other than English.

*Adds Minn. Stat. § 216C.437, subd. 18*

3. Disclosures  
Requires all legally required and voluntary disclosures be made in the primary language of the homeowner: (1) at the homeowner's request; (2) if the PACE loan is advertised in that language; or (3) if the PACE loan contract was described, discussed, or negotiated in that language, regardless of whether the PACE loan is advertised in that language  
*Adds Minn. Stat. § 216C.437, subd. 27*

4. Right to Rescind  
Provides right of homeowner to rescind a Residential PACE contract "without penalty or obligation," until midnight on the third calendar day following execution of the contract. Provides a statutory notice and cancellation form.  
*Adds Minn. Stat. § 216C.437, subd. 19 (right)*  
*Adds Minn. Stat. § 216C.437, subd. 20 (notice and form)*

**G. Interest Rate**

Limits the interest rate on PACE loans to the usury rate (8%) unless the lender is a licensed financial institution with statutory authority to charge a different rate.  
*Adds Minn. Stat. § 216C.437, subd. 16*

**H. Underwriting**

Prohibits third-party Residential PACE administrators from offering PACE loans to any homeowner unless the administrator first verifies that the homeowner has the ability to repay the loan. Defines the ability to repay as having a debt-to-income ratio of no greater than 43% and having sufficient residual income to meet basic living expenses.  
*Adds Minn. Stat. § 216C.437, subd. 17*

**I. Energy Improvements**

1. Cost-Effectiveness  
Requires that any energy efficiency or renewable energy improvements made under the PACE program are cost-effective. Defines cost-effectiveness to mean an improvement eligible for a utility rebate or otherwise determined cost-effective under existing criteria under the state [Conservation Improvement Program](#) (CIP).  
*Adds Minn. Stat. § 216C.437, subd. 2 (cost-effectiveness requirement)*  
*Amends Minn. Stat. § 216C.435, subd. 3a (definition of cost-effective)*
2. Contractors  
Requires all measures financed by a PACE loan to be installed by state licensed contractors and state licensed or registered subcontractors.  
*Adds Minn. Stat. § 216C.437, subd. 21(a)*

3. Prohibited Practices  
Prohibits contractors or subcontractors from commencing PACE work before expiration of the three-day rescission period. Provides that violators: (1) are not entitled to compensation for that work; (2) must restore the property to its original condition at no cost to the homeowner; and (3) immediately and without condition return all money, property, and other consideration given by the homeowner.  
*Adds Minn. Stat. § 216C.437, subd. 21(b)*

**I. Consumer Protections (Prohibited Practices)**

Contains 14 prohibited practices, including, among others, prohibitions against: (1) making false, unfair, unlawful, deceptive, abusive, or misleading statements, or material omissions in connection with the loan and its marketing; (2) indicating or implying that PACE is a free or government program; (3) indicating or implying, without a guarantee, that the energy improvements will pay for themselves; and (4) offering kickbacks to homeowners to use or contractors to push PACE financing.

*Adds Minn. Stat. § 216C.437, subd. 24*

**J. Additional Consumer Protections for Low-Income Homeowners**

Requires a PACE administrator, before entering into a PACE loan contract with a low-income homeowner, to screen for eligibility for the free weatherization program or other relevant programs offered by the [Minnesota Housing Financing Agency](#) or the utilities. Requires administrators to refer the homeowner, if eligible, to the appropriate program.

*Adds Minn. Stat. § 216C.437, subd. 26*

**K. Standard of Conduct/Agency**

1. Standard of Conduct

Requires PACE administrators, PACE contractors (and their subcontractors), or an agent of the administrator or contractor (or subcontractor) to act in good faith toward and in the best interests of the homeowner.

*Adds Minn. Stat. § 216C.437, subd. 31(a)*

2. Agency

Makes PACE contractors (and their subcontractors) agents of the PACE administrator and the performance of any act related to a residential PACE loan contract by any of them an act of the administrator (provided the act was within the contractual scope work).

*Adds Minn. Stat. § 216C.437, subd. 31(b)*

**L. Relation to Other Laws**

1. Federal Servicemembers' Civil Relief Act  
Requires that PACE loans comply with the [Servicemember' Civil Relief Act](#) (SCRA), which, among other things, provides that, during deployment, foreclosure is stayed, and interest rates are limited to 6%. Prohibits any waiver of SCRA requirements.  
*Adds Minn. Stat. § 216C.437, subd. 25*
2. Minnesota Foreclosure Relief Act  
Requires that PACE loans comply with Minnesota Statutes, section [582.043](#), which allows for stays or set-asides of foreclosures if loan modification requirements or dual tracking prohibitions under Minnesota law are violated.  
*Adds Minn. Stat. § 216C.437, subd. 25*

**M. Remedies**

- A. Preservation of Claims  
Provides that the homeowner (or subsequent homeowner, successor in interest to, or any person obligated to pay the property taxes on the house encumbered by a PACE lien) may assert all claims and defenses against a subsequent PACE administrator that the original homeowner could assert against the original PACE administrator or servicer.  
*Adds Minn. Stat. § 216C.437, subd. 30*
- B. Private Right of Action  
Gives an aggrieved homeowner the right to: (1) actual, incidental, and consequential damages; (2) statutory damages of \$5,000 or, if the defendant made deceptive statements or made a loan without the ability to pay, \$10,000; and (3) costs and reasonable attorneys' fees. Provides that violations of certain provisions against vulnerable adults subjects the perpetrator to civil remedies under the [Vulnerable Adult Act](#) (Minn. Stat. § 626.557, subd. 20). Provides the remedies are not exclusive.  
*Adds Minn. Stat. § 216C.437, subd. 32*

**N. Waivers**

Prohibits waivers of any of the residential PACE provisions.  
*Adds Minn. Stat. § 216C.437, subd. 33*

## II. ASSIGNMENT OF MILITARY PAY OR BENEFITS

2018 Minn. Laws, [Chapter 174](#) (SF 327)

Adds Minn. Stat. § 325F.992

Effective August 1, 2018 for contracts entered into on or after August 1, 2018.

### A. Definition of “Military Beneficiary”

Defines “military beneficiary” to mean: (1) a current or former member of the armed forces or reserves who receives federal or state pay or benefits for military service; (2) a spouse of the service member; or (3) anyone considered a beneficiary of the service member.

Adds Minn. Stat. § 325F.992, subd. 1(b)

### B. Prohibition on Assignment of Military Pay or Benefits

Prohibits the assignment of military pay or benefits in violation of federal law relating to assignments of pay ([37 U.S.C. § 701](#)) or veterans’ benefits ([38 U.S.C. § 5301](#)). Prohibits “any agreement, device, scheme, or other artifice with a military beneficiary, including but not limited to a purchase and sale agreement, that assigns or sells all or a portion of the military beneficiary's military pay or military benefits.” Provides that any such agreements are void and a military beneficiary does have to disgorge or repay any consideration received under the agreement.

Adds Minn. Stat. § 325F.992, subd. 2

### C. Public Enforcement

Authorizes enforcement by the Attorney General.

Adds Minn. Stat. § 325F.992, subd. 3

### D. Private Remedies

Gives the military beneficiary a cause of action for violation to recover: damages and reasonable attorneys’ fees and costs.

Adds Minn. Stat. § 325F.992, subd. 3

## III. HEALTH/MEDICAL SAVINGS ACCOUNT EXEMPTION FROM GARNISHMENT/ATTACHMENT

2018 Minn. Laws, [Chapter 111](#) (HF 2391)

Amends Minn. Stat. § 550.37 by adding subdivision 26

Effective August 1, 2018

### A. Exempt Funds

Exempts up to \$25,000 held in a: (1) a health savings account (as defined in the [Internal Revenue Code of 1986, section 223\(d\)](#)); and (2) a medical savings account (as defined in the [Internal Revenue Code of 1986, section 220\(d\)\(1\)](#)).

Adds Minn. Stat. §§ 550.37, subd. 26(a) (health savings accounts) and 550.37, subd. 26(b) (medical savings accounts)

**B. Exception**

Provides that the exemptions do not apply pursuant to: (1) the division of marital assets under Minn. Stat. § [518.58](#); (2) a surviving spouse benefit under Minn. Stat. § 518.581; and (3) a support order under Minn. Stat. § [518A.53](#).  
*Adds Minn. Stat. §§ 550.37, subd. 26(c)*

**IV. MOTOR VEHICLE SERVICE CONTRACTS**

*2018 Minn. Laws, [Chapter 112](#) (HF 3418)*

*Amends Minn. Stat. § 59B.02, subd. 11*

*Adds Minn. Stat. § 59B.02, subd. 14*

*Effective August 1, 2018*

**A. Added Services**

Adds the following services that can be covered under a service contract: repair or replacement of tires or wheels damaged from a road hazard; (2) removal of dents that do not require painting or other body work; (3) repair of chips or cracks in a windshield or replacement of windshield damaged by a road hazard; (4) replacement of a key or key fob if inoperable, lost, or stolen; or (5) other services as approved by the Department of Commerce.

*Amends Minn. Stat. § 59B.02, subd. 11*

**B. Definition of Road Hazard**

Defines “road hazard” to mean: “a danger encountered while driving a motor vehicle including, but not limited to, potholes, rocks, weed debris, metal parts, glass, plastic, curbs, or composite scraps.”

*Adds Minn. Stat. § 59B.02, subd. 14*

**V. SECURITY FREEZES ON CONSUMER CREDIT REPORTS**

*2018 Minn. Laws, [Chapter 158](#) (HF 1243)*

*Amends Minn. Stat. § 13C.016, subd. 8*

*Adds Minn. Stat. § 13C.10*

*Various Effective Dates*

**A. Security Freezes - Generally**

Broadens the law to prohibit a consumer reporting agency from charging, under any circumstances, of a \$5 fee to a consumer for the placement, temporary lifting, or removal of a security freeze on a consumer credit report.

*Amends Minn. Stat. § 13C.016, subd. 8*

*Effective May 20, 2018 and applies to security freezes placed, temporarily lifted, or removed on or after that date*

**B. Security Freezes – Youth (“Protected Persons”)**

*Effective January 1, 2019*

1. Definitions

a. *“Protected Person”*

Defines “protected person” as “a person under the age of 16 at the time of a request” for a security freeze.

*Adds Minn. Stat. § 13C.10, subd. 1(b)*

b. *“Representative”*

Defines “representative” to mean a person “who provides to a consumer reporting agency “sufficient proof of authority” to act on behalf of the protected person.

*Adds Minn. Stat. § 13C.10, subd. 1(d)*

c. *“Sufficient Proof of Authority”*

Defines “sufficient proof of authority” to mean a: (1) court order; (2) valid power of attorney; or (3) written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected person.

*Adds Minn. Stat. § 13C.10, subd. 1(f)*

2. Requirement to Freeze Records

Requires a consumer reporting agency to freeze a protected person’s records within 30 days of receipt of a request from the protected person’s representative. Provides the consumer reporting agency cannot charge fees for freezing or unfreezing the record.

*Adds Minn. Stat. § 13C.10, subd. 2 (requirement to freeze)*

*Adds Minn. Stat. § 13C.10, subd. 3 (timing to implement the freeze)*

*Adds Minn. Stat. § 13C.10, subd. 9 (no fees)*

3. Lifting of the Freeze

Prohibits the lifting of the freeze unless: (1) enumerated procedures are followed by the protected person or the person’s representative; or (2) the protected person or the person’s representative has made a material misrepresentation of facts.

*Adds Minn. Stat. § 13C.10, subd. 5 (duration of freeze)*

*Adds Minn. Stat. § 13C.10, subd. 6 (procedures for lifting freeze)*

*Adds Minn. Stat. § 13C.10, subd. 9 (material misrepresentation of facts)*

## VI. FINANCIAL EXPLOITATION OF ELDERS AND VULNERABLE ADULTS

2018 Minn. Laws, [Chapter 161](#) (HF 3833)

Adds Minn. Stat., ch. 45A (Minn. Stat. §§ 45A.01 – 45A.07)

Effective August 1, 2018

Creates financial exploitation protections for adults aged 65 or older and vulnerable adults.

### A. Disclosure Allowed

#### 1. To Government or Abuse Reporting Center

Permits broker-dealers and investment advisors to disclose information to/notify the Department of Commerce or the Minnesota Adult Abuse Reporting Center (“MAARC”) if they reasonably believe that financial exploitation may have occurred or is or has been attempted.

*Adds Minn. Stat § 45A.02*

#### 2. To Third Parties

Permits broker-dealers and investment advisors to disclose information to/notify third parties associated with the elder or vulnerable adult if they reasonably believe that financial exploitation may have occurred or is or has been attempted.

*Adds Minn. Stat § 45A.04*

### B. Immunity Provided

Immunizes from administrative or civil liability a broker-dealer or investment adviser who: (1) in good faith discloses information about actual or possible financial exploitation; and (2) delays or puts hold on disbursements from the elder or vulnerable adult’s account.

*Adds Minn. Stat § 45A.03 (immunity from disclosures to government)*

*Adds Minn. Stat § 45A.05 (immunity from disclosures to third-parties)*

*Adds Minn. Stat § 45A.075 (immunity for delaying/placing hold on disbursements)*

### C. Delayed Disbursements/Transactions

#### 1. Required

Requires a broker-dealer or investment advisor to delay or stop a transaction involving an eligible adult’s account if the Department of Commerce, a law enforcement agency, or prosecuting attorney’s office requests so based on the belief that financial exploitation may or has occurred.

*Adds Minn. Stat § 45A.06*

2. Authorized

Allows a broker-dealer or investment adviser to delay a disbursement from or place a hold on a transaction involving an account of an eligible adult or an account on which an eligible adult is a beneficiary if the broker-dealer or investment adviser: (1) after an internal review, reasonably suspects financial exploitation; (2) immediately provides written notice of the delay or hold (and the reason) to all parties involved; (3) immediately notifies the Department of Commerce; and (4) documents the internal review upon request by the appropriate government entity.

*Adds Minn. Stat § 45A.06*

**VIII. DAMAGES RELATED TO CONSTRUCTION ON REAL PROPERTY – STATUTE OF LIMITATIONS**

*2018 Minn. Laws, [Chapter 116](#) (HF 2743)*

*Amends Minn. Stat. § 541.051, subd. 1*

*Effective May 9, 2018 and applies to causes of action accruing on or after that date.*

Amends the statute of limitations related to claims brought for actions to recover damages related to construction on real property, providing that a cause of action in these cases accrues: (1) in a case for damages related to bodily injury or wrongful death, from the time of the discovery of the injury; and (2) in an action related to damages to real property or personal property upon discovery of the injury, but not before the construction is completed, stopped, or when the construction project is abandoned (whichever occurs first).

## DISABILITY LAW

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### I. MISREPRESENTATION OF SERVICE ANIMALS

2018 Minn. Laws, [Chapter 106](#), Section 1 (HF 3157)

Adds Minn. Stat. § 609.833

Effective August 1, 2018 and applies to acts committed on or after that date.

#### A. Definitions

1. “Service Animal”

Defines “service animal” to have the meaning given in 28 C.F.R. 36.104.

Adds Minn. Stat. § 609.833, subd. 1(2)

*Note: 28 C.F.R. 36.104 defines “service animal” to mean “any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.”*

2. “Place of Public Accommodation”

Defines “owner” to have the meaning given in Minn. Stat. § 363A.03, subd. 34.

Adds Minn. Stat. § 609.833, subd. 1(1)

*Note: Minn. Stat. § 363A.03, subd. 34 defines “place of public accommodation” to mean “a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.”*

#### B. Misrepresentation Prohibited

Prohibits a person from, directly or indirectly through statements or conduct, intentionally misrepresenting an animal in that person's possession as a service animal in any place of public accommodation when the person knows the person is not entitled to those rights or privileges.

Adds Minn. Stat. § 609.833, subd. 2

#### C. Criminal Penalty for Misrepresentation

Makes the first offense a petty misdemeanor and the second offense a misdemeanor.

Adds Minn. Stat. § 609.833, subd. 3

**D. Information to Business Owners**

Provides that the Council on Disability may make available to business owners a brochure that details permissible questions a business owner may ask to determine whether an animal is a service animal, proper answers to those questions, and guidelines defining unacceptable behavior.

*Adds Minn. Stat. § 609.833, subd. 4(b)*

**II. IMMUNITY OF PROPERTY OWNERS FOR DAMAGES CAUSED BY ASSISTANCE ANIMALS**

2018 Minn. Laws, [Chapter 106](#), Section 2 (HF 3157)

*Adds Minn. Stat. § 604A.302*

*Effective August 1, 2018*

**A. Definitions**

1. “Assistance Animal”

Defines “assistance animal” to mean “an animal that assists, supports, or provides a service to a person with a disability.”

*Adds Minn. Stat. § 604A.302, subd. 1(b)*

2. “Owner”

Defines “owner” to mean “the owner of real property, a contract for deed vendee, receiver, personal representative, trustee, lessor, lessee, agent, or other person directly or indirectly in control of the real property.”

*Adds Minn. Stat. § 604A.302, subd. 1(c)*

**B. Immunity**

Exempts property owners from liability for any injury or damage caused by an assistance animal if: (1) the property owner believes or the individual using the animal represents the animal is an assistance animal; (2) the injury or damage is not caused by negligence; and (3) the property owner isn’t otherwise liable under Minnesota animal law, Minn. Stat. § 347.22.

*Adds Minn. Stat. § 604A.302, subd. 2*

### III. COMMISSION OF THE DEAF, DEAFBLIND, AND HARD-OF-HEARING

2018 Minn. Laws, [Chapter 121](#), Section 2 (SF 2777)

Amends Minn. Stat. § 256C.28, subs. 1, 2, 3a, and 5

Adds Minn. Stat. § 256C.28, subd. 1a

Effective August 1, 2018

#### A. Name Change

Changes the name of the Commission of Deaf, DeafBlind, and Hard-of-Hearing Minnesotans to the Commission of the Deaf, DeafBlind, and Hard-of-Hearing.

#### B. Terms of Commission Members

Extends the terms of commission members from three to four years and limits the total number of terms to three (12 years in total).

#### C. Establishment of Executive Committee

Authorizes the commission to establish an executive committee and permits the executive committee to: (1) exercise any powers of the commission except those exclusively reserved to the commission; and (2) approve contracts over \$50,000.

#### D. Duties of the Commission

Adds to the existing statutory duties the duty to: (1) research, formulate, and present plans, programs, and policies serving the needs of the population served; and (2) encourage and assist in the development of coordinated, interdepartmental goals and objectives, and the coordination of programs, services, and facilities among all state departments, political subdivisions, and private providers of service.

### IV. CIVIL COMMITMENT - DISCHARGE

2018 Minn. Laws, [Chapter 194](#) (SF 3673)

Amends Minn. Stat. §§ 253B.18, subd. 15; and 253D.31

Effective May 30, 2018 for commitment discharge or reduction cases that are pending and have not received a final order or ruling that is subject to appeal.

#### A. Persons Committed as Mentally Ill and Dangerous

Prohibits discharge of person committed as mentally ill and dangerous if the person still requires treatment and supervision, whether or not inpatient. (Currently, discharge is prohibited only if inpatient treatment and supervision is necessary.)

Amends Minn. Stat. § 253B.18, subd. 15

#### B. Persons Committed as Mentally Ill and Dangerous

Prohibits discharge of person committed as sexually dangerous or one with a sexual psychopathic personality if the person still requires treatment and supervision, whether or not inpatient. (Currently, discharge is prohibited only if inpatient treatment and supervision is necessary.)

Amends Minn. Stat. § 253D.31

**V. POSITIVE SUPPORTS STRATEGIES/RESTRICTIVE INTERVENTIONS: CHILD CARE CENTERS**

2018 Minn. Laws, [Chapter 163](#) (SF 2685)

Adds Minn. Stat. § 245A.23

Effective May 20, 2018

- Exempts, and specifically prohibits child care centers, licensed family child care and group family child care from the requirements of the Positive Supports Strategies and Restrictive Interventions under Minnesota Rules, [Chapter 9544](#).
- Requires child care providers exempted from Positive Supports/Restrictive Intervention Rules to continue to comply with a child’s [Individualized Education Program](#) (IEP) or [Individual Child Care Program Plan](#) under subdivision 3, if one exists.

**VI. MENTAL HEALTH PROVIDERS**

2018 Minn. Laws, [Chapter 128](#), Section 2 (SF 3066)

Amends Minn. Stat. § 245.462, subds. 4 and 17; 245.4871, subds. 4 and 26; 256.0522, subd. 7a; 256.0623, subd. 5; 256B.0943, subd. 1; 256B.0944, subd. 7; and 256B.0946, subd. 1a

Adds Minn. Stat. § 256.0625, subd. 65

Effective May 12, 2018

**A. Definitions**

Modifies the qualification requirements of:

- (1) “Case Management Service Provider” in the Adult Mental Health Act and Children’s Mental Health Act;
- (2) “Mental Health Service Provider” in the Adult Mental Health Act and Children’s Mental Health Act and the statutes governing Children’s Therapeutic Services and Supports and Intensive Treatment in Foster Care; and
- (3) Adult Rehabilitative Mental Health Services staff in the Medical Assistance statute.

**B. Medical Assistance Coverage**

Provides that Medical Assistance covers diagnostic assessment, explanation of findings, and psychotherapy when the services are performed by a mental health practitioner working as a clinical trainee.

Adds Minn. Stat. § 256.0625, subd. 65

**VI. TRAUMATIC BRAIN INJURY ADVISORY COMMITTEE**

2018 Minn. Laws, [Chapter 164](#), Section 3 (SF 2685)

Effective June 29, 2018

Extends the expiration of the Traumatic Brain Injury Advisory Committee from June 30, 2018 to June 30, 2023.

## ELDER LAW

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### I. FINANCIAL EXPLOITATION OF ELDERS AND VULNERABLE ADULTS

2018 Minn. Laws, [Chapter 161](#) (HF 3833)

Adds Minn. Stat., ch. 45A (Minn. Stat. §§ 45A.01 – 45A.07)

Effective August 1, 2018

Creates financial exploitation protections for adults aged 65 or older and vulnerable adults.

#### A. Disclosure Allowed

1. To Government or Abuse Reporting Center  
Permits broker-dealers and investment advisors to disclose information to/notify the Department of Commerce or the Minnesota Adult Abuse Reporting Center (“MAARC”) if they reasonably believe that financial exploitation may have occurred or is or has been attempted.  
*Adds Minn. Stat § 45A.02*
2. To Third Parties  
Permits broker-dealers and investment advisors to disclose information to/notify third parties associated with the elder or vulnerable adult if they reasonably believe that financial exploitation may have occurred or is or has been attempted.  
*Adds Minn. Stat § 45A.04*

#### B. Immunity Provided

Immunizes from administrative or civil liability a broker-dealer or investment adviser who: (1) in good faith discloses information about actual or possible financial exploitation; and (2) delays or puts hold on disbursements from the elder or vulnerable adult’s account.

*Adds Minn. Stat § 45A.03 (immunity from disclosures to government)*

*Adds Minn. Stat § 45A.05 (immunity from disclosures to third-parties)*

*Adds Minn. Stat § 45A.075 (immunity for delaying/placing hold on disbursements)*

## C. Delayed Disbursements/Transactions

### 1. Required

Requires a broker-dealer or investment advisor to delay or stop a transaction involving an eligible adult's account if the Department of Commerce, a law enforcement agency, or prosecuting attorney's office requests so based on the belief that financial exploitation may or has occurred.

*Adds Minn. Stat § 45A.06*

### 2. Authorized

Allows a broker-dealer or investment adviser to delay a disbursement from or place a hold on a transaction involving an account of an eligible adult or an account on which an eligible adult is a beneficiary if the broker-dealer or investment adviser: (1) after an internal review, reasonably suspects financial exploitation; (2) immediately provides written notice of the delay or hold (and the reason) to all parties involved; (3) immediately notifies the Department of Commerce; and (4) documents the internal review upon request by the appropriate government entity.

*Adds Minn. Stat § 45A.06*

## FAMILY LAW/DOMESTIC VIOLENCE

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### I. CHILD SUPPORT MODIFICATION

2018 Minn. Laws, [Chapter 118](#) (HF 3389)  
Amends Minn. Stat. § 518A.39, subd. 2  
Effective August 1, 2018

Codifies existing case law, Rose v. Rose 765 N.W.2d 142 (Minn. App. 2004) and its progeny that a statutory change alone can be the basis of a child support modification motion, if the other child support modification criteria in Minn. Stat. § [518A.39](#). In other words, if a child support statute changes a child support order by 20% and \$75, the initial “substantial change of circumstances” burden for order modification is met.

### II. CHILD SUPPORT – EQUAL PARENTING TIME CALCULATION FOR ORDERS NOT MODIFIED

#### UNDER NEW PARENTING EXPENSE ADJUSTMENT

2018 Minn. Laws, [Chapter 182, Section 101](#) (SF 3326)

Amends Minn. Stat. § 518A.39, subd. 2

Effective August 1, 2018 (same date as new parenting expense adjustment changes)

- Fixes technical error in 2017 legislation that inadvertently moved a decimal point.
- As part of the 2017 legislation establishing a new parenting expense adjustment, in cases where the number of overnights a child spends with a parent cannot be determined, the parenting expense adjustment will continue under the previous parenting expense adjustment calculations until or unless the underlying parenting time order is modified so that the number of overnights can be determined.
- The provisions of existing law (which will be “old law” when the new parenting expense adjustment becomes effective on August 1, 2018) included the calculation for equal parenting time cases. When the “old law” was moved to another place in the statute, a typo moved the decimal point so that the step to multiply the parents’ combined support obligation by .75 was changed to .0075, which would drop orders dramatically.
- For cases where the number of overnights cannot be determined, and the parenting time was presumed equal, the correct multiplier of .75 is reinstated.

### III. **PATERNITY – JOINT PETITION FOR PARENTS WHO SIGN A RECOGNITION OF PARENTAGE (ROP)**

2018 Minn. Laws, [Chapter 127](#) (HF 3295)

Amends Minn. Stat. § 518.156

Effective August 1, 2018 and applies to cases commenced on or after that date

- Creates a joint petition for resolving custody, parenting time and child support for parents who signed and filed a Recognition of Parentage (ROP). The process is similar to the process for dissolution joint petitions.
- In addition to information establishing jurisdiction, venue, identification of parties and children, and financial information needed to establish child support, joint petitions must also include information regarding:
  - A copy of the executed and filed ROP and a statement that the ROP was executed and filed, and no other presumed or alleged father exists;
  - Whether or not any other proceeding for custody, parenting time or child support exists;
  - If required, whether the county is in agreement with the contents of the joint petition;
  - Whether there is an Order for Protection in Minnesota or similar order of another state in effect;
  - Waiver of right to counsel on the issue of parentage; and
  - If a party is not represented by counsel, a waiver of genetic testing.
- If these requirements are met, the process for filing, review and court approval are identical to joint petition procedures for [dissolutions](#) (specifically subdivision 5).
- Once approved, cases may only be reopened consistent with existing provisions for reopening a Judgment and Decree under [Minn. Stat. §518.145, subd. 2.](#)

### IV. **SAFE AT HOME PROGRAM**

2018 Minn. Laws, [Chapter 109](#) (HF 3551)

Amends Minn. Stat. §§ 5B.02; 5B.03; 5B.05; and 5B.07, subd. 1

Effective August 1, 2018

Enacts policy and technical changes sought by the Office of the Secretary of State, that administers the Safe at Home Program. Changes include:

- Requiring date of birth on the program application form;
- States that program participation cannot be used as evidence to support underlying allegations that may have determined the person’s decision to enter the program;
- Permits only one designated address to which the program will forward mail;
- Limits requirement to update the Safe at Home Program of changes in information to changes to address, telephone number or change of legal name;

- Requires a person or entity to use the Safe at Home designated address for all mail correspondence, even if the actual address is known;
- Specifically applies the restrictions of using Safe at Home participant data to Guardians ad Litem, including actions and reports, except that the Guardian may use the participant’s name; and
- Clarifies that the participant’s name and designated address are not private data. All other participant information remains private data.

**V. DOMESTIC VIOLENCE/SEXUAL ASSAULT – SEXUAL ASSAULT TESTING KITS**

*2018 Minn. Law, [Chapter 160](#) (SF 2863)*

*Amends Minn. Stat. § 44.6586, subd. 2*

*Adds Minn. Stat. § 299C.106*

*Effective August 1, 2018*

- Establishes rights for victims in sexual assault testing, including:
  - Notice that the victim has the right to obtain information about the status of the kit testing;
  - Upon the victim’s written request, and unless disclosure will interfere with an investigation, law enforcement must disclose when the kit was submitted for testing, and whether any DNA profile was obtained.
  - Requires law enforcement:
    - Not later than January 1, 2019, to adopt policies and procedures to:
      - ✓ Identify a liaison between victims and the forensic laboratory;
      - ✓ Respond to inquiries within 30 days, unless the data release will interfere with an investigation;
      - ✓ Permit victims to authorize another person to act on the victim’s behalf;
      - ✓ Permit victims to request that a “restricted” kit be reclassified to an “unrestricted” kit. The difference between the two is whether or not the victim has signed a release allowing the kit to be submitted for testing;
    - To retrieve an unrestricted testing kit within ten days of notification by a health care provider;
    - To submit an unrestricted kit for testing within 60 days, unless the kit testing would add no evidentiary value to the case.

## **FOOD SUPPORTS**

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### **I. TOWN APPROPRIATIONS TO FOOD SHELVES**

2018 Minn. Laws, [Chapter 105](#) (HF 2636)

Amends Minn. Stat. § 465.039

Effective: August 1, 2018

Gives towns (in addition to cities and counties) the authority to appropriate money to grants to nonprofit organizations operating community food shelves.

## JUVENILE/YOUTH LAW

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### I. FOSTER CARE – TRAINING

2018 Minn. Laws, [Chapter 188, Section 1](#) (HF 3265)  
Effective August 1, 2018

Amends existing annual foster care training to include minimum of one hour of training on fetal alcohol spectrum disorders. The training counts toward the annual training hours.

### II. FOSTER CARE – PAYMENTS

2018 Minn. Laws, [Chapter 188, Section 2](#) (HF 3265)  
Effective August 1, 2018.

Requires DHS, in consultation with communities of color, to review and revise the Minnesota assessment of parenting for children and youth (MAPCY) to incorporate changes that consider different cultures and needs within communities of color.

### III. FOSTER CARE – SIBLING BILL OF RIGHTS

2018 Minn. Laws, [Chapter 188, Section 3](#) (HF 3265)  
Adds Minn. Stat. § 260C.008  
Various Effective Dates

Effective August 1, 2018, for all children entering foster care on or after that date

- States that relative to their siblings, foster care children have the following rights:
  - Placement with siblings, when it is in each children’s interests, or in close geographic proximity if not possible to place together;
  - Frequent contact with siblings in or out of foster care placement;
  - Annual sibling contact information, including updated photographs;
  - Face to face visits, unless contrary to a sibling’s safety or well-being;
  - Active involvement in life celebrations, including birthdays, graduations and discharge from foster care;
  - Promptly informed about life changes, including foster care placement changes or discharge;
  - Inclusion in sibling permanency decisions, if appropriate;
  - Informed of possibility of contact after a sibling’s adoption or transfer of legal custody to a relative.

- States that adult siblings have the right to be considered as foster care providers, placement or adoptive parents, or relative custodians for their minor siblings.
- Clarifies that these changes do not diminish or replace the rights of children, adult children, parents, relatives or responsible social services agencies.

Effective August 1, 2018 and applies to all children in foster care on that date, regardless of when the child entered foster care

- Requires DHS notice all children, adult siblings (if known) and foster care providers (1) explaining the Sibling Bill of Rights; (2) the address and telephone number of the Office of the Ombudsman for Families; and (3) a brief statement describing how to file a complaint with the Office of the Ombudsman for Families.

#### IV. **SEXUALLY EXPLOITED YOUTH – TRAFFICKING TRAINING**

2018 Minn. Laws, [Chapter 179](#) (SF 3367)

Effective August 1, 2018

- Requires Minnesota Department of Health (MDH), in consultation with state hotel and lodging association, to develop training for hotel and motel employees for prompt identification, reporting or response to suspected sex trafficking.
- Employees must be trained within the later of 90 days of hire, or within 120 days of August 1, 2018. Employees who work only in a restaurant or catering, are under age 16 (unless cleaning rooms), or have no contact with guests or guest rooms are exempt.
- Requires MDH to grant six-month compliance before imposing additional sanctions for non-compliance.
- Shields a hotel/motel operator or employee from liability for good faith reporting of sex trafficking activities.

#### IV. **SEXUALLY EXPLOITED YOUTH – DATA, FINES, AND FUNDING**

2018 Minn. Laws, [Chapter 144](#) (SF 2554)

Effective August 1, 2018

- Requires Department of Public Safety (DPS) to add data related to convictions for possession of pornography involving minors and dissemination/display of pornographic materials to minors to the existing data analyzed by DPS to examine progress against sex trafficking.
- Requires DPS to specifically examine pornography as a social factor that contributes to sex trafficking.

- Adds convictions related to coercion, trafficking, solicitation, housing individuals engaged in prostitution, and various child pornography convictions to existing statutory category that permits additional fines that are used to help fund prosecution for combatting sexual exploitation of children/youth and the Safe Harbor Program;
- Moves forfeiture funds from specified convictions for labor or sex trafficking from DPS to MDH. MDH will distribute funds to organizations that provide crime victim services to trafficking victims.

## UTILITIES LAW

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### I. PROPERTY ASSESSED CLEAN ENERGY (PACE) LOANS

2018 Minn. Laws, [Chapter 155](#) (SF 3245)

Amends Minn. Stat. §§ 45.011, subd. 1; 46.131, subds. 1, 2, 4, and 11; 216C.435, subd. 1, 2, 3a, 6, 8; 290B.03, subd. 1; 429.011, subd. 2a; 429.021, subd. 1; 429.101, subd. 1; and 462A.05, subd. 14b  
Adds Minn. Stat. §§ 216C.435, subds. 3b, 3c, 3d, 5a, 7b, 8a, 10a, 10b, 10c, 10d, 10e, 10f, and 13; 216C.436, subd. 1a; and 216C.437

Repeals Minn. Stat. § 216C.435, subd. 5

Effective: August 1, 2018

This new law governs the provision of **residential** energy efficiency and renewable energy improvements financed under the PACE program, which was authorized in 2010 for both commercial and residential properties and which allows bonding authorities to issue bonds to finance these improvements, with repayments made through special assessments to property taxes, thereby encumbering the property and subjecting it to forfeiture or foreclosure upon default. The new law affects only residential programs, which have never been implemented in Minnesota. Commercial programs have been ongoing and successful and are unaffected by this legislation.

### SUMMARY OF RESIDENTIAL PACE GOVERNING PROVISIONS

#### A. Definitions

Adds definitions of, among others, “Residential PACE administrator,” “Residential PACE contract,” “Residential PACE contractor,” “Residential PACE lien,” and “Residential PACE loan.”

Adds Minn. Stat. § 216C.435, subds. 10a, 10b, 10c, 10d, and 10e, respectively.

#### B. Program Purpose

Provides that “the program must serve a public purpose and not primarily be for the benefit of private entities or private investors even though private benefit may result incidentally.”

Adds Minn. Stat. § 216C.437, subd. 2

#### C. Regulatory Oversight

Requires Residential PACE administrators (third-party, nongovernmental entities) to be licensed by the Department of Commerce.

Adds Minn. Stat. § 216C.437, subd. 6

#### D. Lien Position

Makes all PACE tax liens subordinate to first mortgages.

Adds Minn. Stat. § 216C.437, subd. 4(a)

## **E. Contracts**

1. All Interested Persons Must Sign  
Requires signature by all persons on the deed, mortgage, or note having a legal interest in the property.  
*Adds Minn. Stat. § 216C.437, subd. 16*
2. Oral Confirmation  
Requires a PACE administrator, prior to the execution by the homeowner of a PACE contract and prior to the installation of any energy improvement, to confirm key terms, verify the homeowner understands certain important conditions, and communicate key disclosures and risks of the loan in an oral, live, recorded telephone conversation with the homeowner.  
*Adds Minn. Stat. § 216C.437, subd. 18*
3. Disclosures  
Mandates a verbatim one-page disclosure – to be given apart from any other document five days before the homeowner signs a PACE loan contract – that highlights the key terms, differences, and risks of a PACE loan. Requires additional, detailed disclosures concerning all the material terms and conditions of the contract, to be provided before the contract is signed.  
*Adds Minn. Stat. § 216C.437, subd. 27*

## **F. Other Languages**

1. Written PACE Contracts  
Requires all PACE contracts be written in English and the primary language of the homeowner: (1) at the homeowner's request; (2) if the PACE loan is advertised in that language; or (3) if the contract was described, discussed, or negotiated in that language, regardless of whether the PACE loan is advertised in that language.  
*Adds Minn. Stat. § 216C.437, subd. 16*
2. Oral Confirmation of PACE Contract  
Requires the PACE administrator, at the outset of the mandatory oral confirmation provision, to inquire whether the homeowner wishes to communicate primarily in a language other than English.  
*Adds Minn. Stat. § 216C.437, subd. 18*

3. Disclosures  
Requires all legally required and voluntary disclosures be made in the primary language of the homeowner: (1) at the homeowner's request; (2) if the PACE loan is advertised in that language; or (3) if the PACE loan contract was described, discussed, or negotiated in that language, regardless of whether the PACE loan is advertised in that language  
*Adds Minn. Stat. § 216C.437, subd. 27*

4. Right to Rescind  
Provides right of homeowner to rescind a Residential PACE contract "without penalty or obligation," until midnight on the third calendar day following execution of the contract. Provides a statutory notice and cancellation form.  
*Adds Minn. Stat. § 216C.437, subd. 19 (right)*  
*Adds Minn. Stat. § 216C.437, subd. 20 (notice and form)*

**G. Interest Rate**

Limits the interest rate on PACE loans to the usury rate (8%) unless the lender is a licensed financial institution with statutory authority to charge a different rate.  
*Adds Minn. Stat. § 216C.437, subd. 16*

**H. Underwriting**

Prohibits third-party Residential PACE administrators from offering PACE loans to any homeowner unless the administrator first verifies that the homeowner has the ability to repay the loan. Defines the ability to repay as having a debt-to-income ratio of no greater than 43% and having sufficient residual income to meet basic living expenses.  
*Adds Minn. Stat. § 216C.437, subd. 17*

**I. Energy Improvements**

1. Cost-Effectiveness  
Requires that any energy efficiency or renewable energy improvements made under the PACE program are cost-effective. Defines cost-effectiveness to mean an improvement eligible for a utility rebate or otherwise determined cost-effective under existing criteria under the state Conservation Improvement Program (CIP).  
*Adds Minn. Stat. § 216C.437, subd. 2 (cost-effectiveness requirement)*  
*Amends Minn. Stat. § 216C.435, subd. 3a (definition of cost-effective)*
2. Contractors  
Requires all measures financed by a PACE loan to be installed by state licensed contractors and state licensed or registered subcontractors.  
*Adds Minn. Stat. § 216C.437, subd. 21(a)*

3. Prohibited Practices  
Prohibits contractors or subcontractors from commencing PACE work before expiration of the three-day rescission period. Provides that violators: (1) are not entitled to compensation for that work; (2) must restore the property to its original condition at no cost to the homeowner; and (3) immediately and without condition return all money, property, and other consideration given by the homeowner.  
*Adds Minn. Stat. § 216C.437, subd. 21(b)*

**I. Consumer Protections (Prohibited Practices)**

Contains 14 prohibited practices, including, among others, prohibitions against: (1) making false, unfair, unlawful, deceptive, abusive, or misleading statements, or material omissions in connection with the loan and its marketing; (2) indicating or implying that PACE is a free or government program; (3) indicating or implying, without a guarantee, that the energy improvements will pay for themselves; and (4) offering kickbacks to homeowners to use or contractors to push PACE financing.

*Adds Minn. Stat. § 216C.437, subd. 24*

**J. Additional Consumer Protections for Low-Income Homeowners**

Requires a PACE administrator, before entering into a PACE loan contract with a low-income homeowner, to screen for eligibility for the free weatherization program or other relevant programs offered by the Minnesota Housing Finance Agency or the utilities. Requires administrators to refer the homeowner, if eligible, to the appropriate program.

*Adds Minn. Stat. § 216C.437, subd. 26*

**K. Standard of Conduct/Agency**

1. Standard of Conduct

Requires PACE administrators, PACE contractors (and their subcontractors), or an agent of the administrator or contractor (or subcontractor) to act in good faith toward and in the best interests of the homeowner.

*Adds Minn. Stat. § 216C.437, subd. 31(a)*

2. Agency

Makes PACE contractors (and their subcontractors) agents of the PACE administrator and the performance of any act related to a residential PACE loan contract by any of them an act of the administrator (provided the act was within the contractual scope work).

*Adds Minn. Stat. § 216C.437, subd. 31(b)*

**L. Relation to Other Laws**

1. Federal Servicemembers' Civil Relief Act  
Requires that PACE loans comply with the Servicemembers' Civil Relief Act (SCRA), which, among other things, provides that, during deployment, foreclosure is stayed, and interest rates are limited to 6%. Prohibits any waiver of SCRA requirements.  
*Adds Minn. Stat. § 216C.437, subd. 25*
2. Minnesota Foreclosure Relief Act  
Requires that PACE loans comply with Minnesota Statutes, section 582.043, which allows for stays or set-asides of foreclosures if loan modification requirements or dual tracking prohibitions under Minnesota law are violated.  
*Adds Minn. Stat. § 216C.437, subd. 25*

**M. Remedies**

- A. Preservation of Claims  
Provides that the homeowner (or subsequent homeowner, successor in interest to, or any person obligated to pay the property taxes on the house encumbered by a PACE lien) may assert all claims and defenses against a subsequent PACE administrator that the original homeowner could assert against the original PACE administrator or servicer.  
*Adds Minn. Stat. § 216C.437, subd. 30*
- B. Private Right of Action  
Gives an aggrieved homeowner the right to: (1) actual, incidental, and consequential damages; (2) statutory damages of \$5,000 or, if the defendant made deceptive statements or made a loan without the ability to pay, \$10,000; and (3) costs and reasonable attorneys' fees. Provides that violations of certain provisions against vulnerable adults subjects the perpetrator to civil remedies under the Vulnerable Adult Act (Minn. Stat. § 626.557, subd. 20). Provides the remedies are not exclusive.  
*Adds Minn. Stat. § 216C.437, subd. 32*

**N. Waivers**

Prohibits waivers of any of the residential PACE provisions.  
*Adds Minn. Stat. § 216C.437, subd. 33*