

2020 SESSION SUMMARIES

Introduction

The Legal Services Advocacy Project (LSAP) is pleased to present the 2020 Session Summaries. They are divided by topic area of substantive law and reflect the law changes made by the Legislature in 2020 (through the Third Special Session) that in whole or in significant part impact Legal Aid's clients. They do not include every bill enacted into law during the Regular and the Special Sessions. Certain entries applicable to more than one substantive area may be repeated in more than one section.

These summaries have been prepared by the LSAP staff. Some of the source material is derived from bill summaries prepared by Minnesota House Research Department, which provides support, counsel, legal analysis, bill drafting, and other legal and legislative services to all the members of the Minnesota House of Representatives.

We hope you find these Session Summaries useful.

Acronyms

CCAP	=	Child Care Assistance Provider
DHS	=	Minnesota Department of Human Services
MA	=	Medical Assistance
MDH	=	Minnesota Department of Health

ASSET BUILDING

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FAMILY ASSETS FOR INDEPENDENCE (FAIM)

First Special Session, Chapter 2, Article 1, Section 15 (HF 11)

Amends Minn. Stat. § 256E.35

Effective June 17, 2020

Adds a vehicle approved by the FAIM agency as an allowable asset for a FAIM investment. Eliminates the secondary match requirement that had previously been fulfilled by federal grant funds. Allows a full 3:1 match from state FAIM funds for participant savings. Eliminates the annual participant limit on match dollars and raises the lifetime match to \$6,000 lifetime match limit.

CHILD CARE

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I. PROVIDER RATES

First Special Session, Chapter 9, Section 1 (HF 41)
Amends Minn. Stat. § 119B.13, subdivision 1
Effective September 18, 2020

Increases provider rates to comply with federal law.

II. BASIC SLIDING FEE DISTRIBUTION FACTORS

First Special Session, Chapter 9, Section 2 (HF 41)
Session Law
Effective August 1, 2020

Requires DHS to allocate additional basic sliding fee child care funds for calendar year 2021 to counties considering: (1) number of children; (2) provider type; (3) age of children; and (4) amount of the increase in maximum rates.

III. DEFINITION OF CCAP PROVIDER

First Special Session, Chapter 2, Article 1, Section 1 (HF 11)
Amends Minn. Stat. § 119B.011, subdivision 19
Effective July 1, 2020

Adds child care providers licensed by the federal government to CCAP “provider” definition.

IV. BIRTH TO EIGHT PILOT PROJECT

First Special Session, Chapter 2, Article 1, Sections 20-21 (HF 11)
Amends Laws 2017, First Special Session chapter 6, article 7, section 33, subdivisions 2-3
Effective June 17, 2020

Makes key substantive and technical changes to the pilot: (1) extends the program; (2) eliminates weighted scoring as a metric for participant progress, and (3) requires program participants to opt in and provide consent from a parent or guardian who is enrolled in one of an updated list of eligible programs, which includes Women’s Infant & Children (WIC) programs, family home visiting or Follow Along programs, a school’s early childhood screening, or any other Dakota County or school program useful for identifying children at risk of falling below established guidelines.

CONSUMER LAW

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I. WAGE GARNISHMENT

Regular Session, Chapter 86 (SF 2466)

Amends Minn. Stat. §§ 550.136, subdivisions 3, 4, 5, 9, 10, and 12; 551.04, subdivisions 2, 11; 551.06, subdivisions 3, 4, 5, 9, and 12; 571.72, subdivisions 2 and 7; 571.73, subdivision 3; 571.74; 571.75, subdivisions 1 and 2; 571.922; and 571.923

Effective August 1, 2020 and applies to all earnings garnished or levied, or all attorney's summary execution upon earnings, on or after that date.

A. More Funds Protected from Garnishment

Protects more funds from wage garnishment, sheriff's levy, or attorney's summary execution by including state minimum wage exemption, specifically providing that funds protected are the higher of: (1) 25% of disposable income; (2) 40 times federal minimum wage (which is currently set at \$7.25); or (3) now, state minimum wage as of August 1, 2016 (which is \$9.50).

B. Garnishment Period Extended

Extends the garnishment period from 70 to 90 days.

II. FINANCIAL EXPLOITATION OF ELDERS

Regular Session, Chapter 85 (SF 2466)

Amends Minn. Stat. §§ 45A.01; 45A.02; 45A.03; 45A.04; 45A.05; 45A.06; and 45A.07

Effective August 1, 2020

Amends Chapter 45A – Financial Exploitation Protections for Older and Vulnerable Adults -- by adding "financial services providers." Grants authority to the financial services providers to delay or halt a transaction if they fraud/financial exploitation is reasonably suspected.

A. Persons Covered

Applies to persons 65 years of age or older and persons covered by the Vulnerable Adult Act (See Minn. Stat. § 626.5572, subdivision 21).

B. Definition of "Financial Institution"

Defines "financial services provider" as: (1) a bank, bank and trust, trust company with banking powers, savings bank, savings association, or credit union organized under the laws of Minnesota, any other state, or the United States; (2) an industrial loan and thrift under chapter 53; or (3) a regulated lender under chapter 56.

Amends Minn. Stat. § 45A.01 by adding subdivision 6a

C. Powers Granted to Financial Services Providers to Delay/Place Hold on Transactions

1. Requirement to Delay a Transaction

Requires a financial services provider to delay a disbursement from or place a hold on a transaction involving an account of a covered adult or an account on which a covered adult is a beneficiary if the provider receives information from the Department of Commerce, a law enforcement agency, or a prosecuting attorney's office demonstrating a reasonable belief that financial exploitation of a covered adult: (1) may have occurred; (2) may have been attempted; or (3) is being attempted.
Amends Minn. Stat. § 45A.06 by adding subdivision 2(a)

2. Discretion to Delay a Transaction

Permits a financial services provider to delay a disbursement or place a hold on a transaction involving an account of a covered adult or an account on which a covered adult is a beneficiary if the provider: (1) reasonably believes, after an internal review, that the requested disbursement or transaction may result in financial exploitation; (2) immediately (but no later than two business days) provides written notification of the delay or hold to all parties involved (except a party suspected to be the perpetrator); and (3) notifies the state elder abuse reporting center, MAARC.
Amends Minn. Stat. § 45A.06 by adding subdivision 2(a)

3. Expiration of Power to Delay/Place Hold on Transaction

Provides that a delay of a disbursement or hold on a transaction expires upon the sooner of: (1) the time the provider reasonably believes that the disbursement or transaction will not result in financial exploitation; (2) a determination by the Department of Commerce, a law enforcement agency, lead investigative agency, or prosecuting attorney's office that the disbursement or transaction will not result in financial exploitation; or (3) 15 business days after the date on which the financial services provider first delayed disbursement of the funds or held the transaction.
Amends Minn. Stat. § 45A.06 by adding subdivision 2(b)

D. Right to Appeal a Delay/Hold on Transactions

The covered adult or other interested person (as defined in Minn. Stat. § 524.5-102, subdivision 7) may appeal a delay or hold to the Department of Commerce. Financial services providers must notify the covered person or interested person of the right to appeal. Requires the Department of Commerce to render a decision within five business days.
Amends Minn. Stat. § 45A.06 by adding subdivision 2(c)

F. Notification of Suspected Financial Abuse to MAARC and Third Parties

1. Notification to Minnesota Adult Abuse Reporting Center

A financial services provider may notify MAARC if the provider reasonably believes that financial exploitation of an eligible adult: (1) may have occurred; (2) may have been attempted; or (3) is being attempted.

Amends Minn. Stat. § 45A.02

2. Notification to Third Party

Gives financial services providers the authority to notify a third party reasonably associated with the eligible adult if the provider reasonably believes that financial exploitation of an eligible adult: (1) may have occurred; (2) may have been attempted; or (3) is being attempted.

Amends Minn. Stat. § 45A.04

G. Immunity for Disclosure

Immunizes a financial services provider or an employee from administrative, civil, or criminal liability for: (1) making a good faith disclosure to MAARC; (2) cooperates with a civil or criminal investigation of financial exploitation; (3) testifies about alleged financial exploitation of an eligible adult in a judicial or administrative proceeding; (4) makes a disclosure of past or present financial exploitation to a third party reasonably associated with the older or vulnerable adult; (5) delays a disbursement; or (6) places a hold on a transaction.

Amends Minn. Stat. § 45A.03 (disclosures to MAARC)

Amends Minn. Stat. § 45A.05 (disclosures to third parties)

Amends Minn. Stat. § 45A.07(b) (delay of disbursement; placement of hold on transaction)

H. Interaction with Power of Attorney

Provides that good faith compliance with the requirements associated with delaying or placing a hold on a transaction shall not be deemed to have refused to accept the authority of the attorney-in-fact for purposes of Minn. Stat. § 523.20.

Amends Minn. Stat. § 45A.07(c)

III. MONEY TRANSMITTERS

Regular Session, Chapter 107 (SF 3800)

Amends Minn. Stat. § 53B.18

Effective August 1, 2020 and applies to transmissions and merchant agreements with licensees executed on or after that date

Allows money transmitters to put a hold on transmission of funds if the licensee has a reasonable belief or a reasonable basis to believe that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur as a result of transmission.

Provides that the requirement to transmit within five business days does not apply if:

(1) there is the suspicion of a crime or violation; (2) the sender instructs otherwise; or (3) if the transmission is for payment of goods or services. Requires money transmitter to provide the reason to a sender or recipient for failure to timely transmit the funds.

With certain exceptions, including if barred by law, requires refunds within 10 days.

IV. MORTGAGE ORIGINATORS AND SERVICERS

Regular Session, Chapter 80, Article 1, Section 9 (SF 4091)

Amends Minn. Stat. § 58.02, subdivision 21

Effective August 1, 2020

Expands the definition of “residential real property” to “residential real estate” that is:

(1) located in Minnesota; and (2) upon which a dwelling is or is intended to be constructed, whether or not the owner occupies the property.

Note: *Old definition applies only to 1-4 family properties that were improved or intended to be improved.*

V. CREDIT SERVICES ORGANIZATIONS

Regular Session, Chapter 80, Article 1, Sections 25 and 26 (SF 4091)

Amends Minn. Stat. § 332.57, subdivision 2

Adds Minn. Stat. § 332.54, subdivision 8

Effective August 1, 2020

A. Required Disclosure Statement

Makes minor readability changes and adds to the disclosure the following verbatim Statement: “You are entitled to receive a free copy of your credit report if you are unemployed and intend to apply for employment in the next 60 days, if you are a recipient of public welfare assistance, or if you have reason to believe that there is inaccurate information in your credit report due to fraud.”

Amends Minn. Stat. § 332.57, subdivision 2

B. Commerce Department Oversight

Clarifies that the Department of Commerce can use the Nationwide Multistate Licensing System and Registry and designees to conduct background checks on credit services organization license applicants.

Adds Minn. Stat. § 332.54, subdivision 8

VI. REAL ESTATE BROKERS AND SALESPEOPLE

Regular Session, Chapter 80, Article 1, Section 18 (SF 4091)

Amends Minn. Stat. § 82.68, subdivision 2

Effective August 1, 2020

Requires disclosure, in writing before negotiating or consummating a real estate transaction, when one of the principal parties to the transaction is: (1) a real estate licensee; or (2) a relative or business associate of the licensee.

VII. COMMERCE DEPT. OVERSIGHT OF PAYDAY LENDERS, MONEY TRANSMITTERS, OTHERS

Regular Session, Chapter 80, Article 1, Sections 1, 3, 4, 5, 7, 8, 10, 13, 22, 23, 25, 27 and 28 (SF 4091)

Adds Minn. Stat. §§ 47.60, subdivision 7; 53.03, subdivision 9; 53A.03, paragraph (d);

53B.07, subdivision 6; 53C.02, paragraph (f); 56.02, paragraph (c); 58.06, subdivision 4;

59A.03, subdivision 4; 216C.437, subdivision 11, paragraph (f); 332.30, paragraph (e);

332.54, subdivision 8; 332A.03, paragraph (b); and 332B.04, subdivision 8

Effective August 1, 2020

Clarifies that the Department of Commerce can use the Nationwide Multistate Licensing System and Registry and designees to conduct background checks on the following categories of applicants for a license: (1) payday lenders under Minnesota Statutes, Chapter 47; (2) industrial loan and thrifts under Minnesota Statutes, Chapter 53; (3) currency exchanges under Minnesota Statutes, Chapter 53A; (4) money transmitters Minnesota Statutes, Chapter 53B; (5) motor vehicle sales finance companies money transmitters Minnesota Statutes, Chapter 53C; (6) regulated lenders under Chapter 56; (7) mortgage originators under Minnesota Statutes, Chapter 58; (8) insurance premium finance companies; (9) PACE loan administrators under section 216C.437; (10) accelerated mortgage payment providers; (10) credit services organizations; (11) debt management companies; and (12) debt settlement companies.

COURTS

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I. PUBLICATION OF MINNESOTA COURT OF APPEALS DECISIONS

Regular Session, Chapter 82, Section 3 (SF 3072)

Amends Minn. Stat. § 480A.08, subdivision 3

Effective August 1, 2020, and applies to cases filed at the Minnesota Court of Appeals on or after that date

Removes the restrictions on the types of cases the Minnesota Court of Appeals can designate as being a published decision, the effect of which is that the decision to publish an opinion is governed exclusively by the Minnesota Rules of Civil Appellate Procedure.

II. TOLLING OF STATUTORY DEADLINES DURING PEACETIME EMERGENCY

Regular Session, Chapter 74, Article 1, Section 16 (HF 4556)

Session Law

Effective April 16, 2020 and expires the earlier of 60 days after the end of the peacetime emergency declaration or February 15, 2021 and applies to all deadlines that had not expired as of March 13, 2020, or were triggered on or after that date

Suspends deadlines imposed by statutes governing proceedings in the district and appellate courts, including any statutes of limitations or other time periods prescribed by statute. Allows courts to hold hearings, require an appearance, or issue an order if the judge determines that individual circumstances relevant to public safety, personal safety, or other emergency matters require action in a specific case.

DISABILITY LAW

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GUARDIANSHIP AND CONSERVATORSHIP

I. CHANGES TO GUARDIANSHIP AND CONSERVATORSHIP LAW

Regular Session, Chapter 86, Article 1 (SF 3357)

Amends Minn. Stat. §§ 484.76, subdivision 2; 524.5-102, subdivisions 6, 7, and 13a; 524.5-104; 524.5-110; 524.5-113; 524.5-120; 524.5-205; 524.5-211; 524.5-303; 524.5-304; 524.5-307; 524.5-310; 524.5-311; 524.5-313; 524.5-316; 524.5-317; 524.5-403; 524.5-406; 524.5-408; 524.5-409; 524.5-411; 524.5-412; 524.5-414; 524.5-415; 524.5-416; 524.5-417; 524.5-420; 524.5-423; 524.5-431; 524.5-502; 609.748, subdivision 2; and 611A.01

Adds Minn. Stat. §§ 524.5-102, subdivisions 13b, 13c, 16a; 524.5-121;

Various Effective Dates

A. Provisions Applicable to Both Guardianship and Conservatorship

1. New and Amended Definitions

a. *Incapacitated Person*

Amends definition of “incapacitated person” to remove language regarding: (1) communicating and making “responsible” personal decisions; (2) demonstrating deficits in behavior. Adds supported decision making as a means of assistance.

Amends Minn. Stat. § 524.5-102, subdivision 6

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

b. *Interested Person*

Amends definition of “interested person” to reflect updated terminology for “ward” and “protected person” by replacing these terms with “person subject to guardianship” and “person subject to conservatorship,” respectively. Adds: (1) adult step-children of a living spouse to the list of people included as interested persons; and (2) in the case of a minor who is an Indian as defined under federal law: (i) the tribal chairman or delegated agent and (ii) the regional director of the minor child's tribe and requiring service by registered or certified mail under federal regulations.

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

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

- c. *Interested Party*
 Adds new definition of “interested party,” codifying the definition as developed and standardized in case law, to read: “a person who has suffered some injury-in-fact, a person who is the beneficiary of some legislative enactment granting standing, or a person who must have sufficient personal interest in the matter so that it is appropriate to allow that person to participate in the matter.”
Adds Minn. Stat. § 524.5-102, subdivision 7a
Effective August 1, 2020, and applies to cases commenced before, on, or after that date

- d. *Person Subject to Conservatorship*
 Adds new definition to replace outdated terms “ward” and “protected person,” which reads: “a minor or other individual for whom a conservator has been appointed.”
Adds Minn. Stat. § 524.5-102, subdivision 13a
Effective August 1, 2020, and applies to cases commenced before, on, or after that date

- e. *Person Subject to Guardianship*
 Adds new definition to replace outdated terms “ward” and “protected person,” which “an individual for whom a guardian has been appointed.”
Adds Minn. Stat. § 524.5-102, subdivision 13b
Effective August 1, 2020, and applies to cases commenced before, on, or after that date

- f. *Supported Decision Making*
 Adds new definition of “supported decision making” to read: “assistance from one or more persons of an individual's choosing in understanding the nature and consequences of potential personal and financial decisions which enables the individual to make the decisions and, when consistent with the individual's wishes, in communicating a decision once made.”
Adds Minn. Stat. § 524.5-102, subdivision 16a
Effective August 1, 2020, and applies to cases commenced before, on, or after that date

- 2. Alternative Dispute Resolution
 Amends alternative dispute resolution statute to allow mediation and alternative dispute resolution to be ordered for guardianships and conservatorships.
Amends Minn. Stat. § 484.76, subdivision 2
Effective August 1, 2020, and applies to cases commenced before, on, or after that date

3. Notice
Allows an interested person to opt out of or waive receiving copies of required notices by notifying the court in writing. Allows the court to limit the notices and reports required to the persons the court determines following an initial hearing on any guardianship or conservatorship matter. Makes change so that a bond company needs to be provided notice of a proceeding only if a surcharge is possible in the proceeding.
Amends Minn. Stat. § 524.5-113
Effective August 1, 2020, and applies to cases commenced before, on, or after that date

4. Bill of Rights – Additions and Amendments
Amends Minn. Stat. § 524.5-120
Effective August 1, 2020, and applies to cases commenced before, on, or after that date
 - a. *Preferences and Cultural Practices*
Adds that: (1) due consideration must be made of the preferences and cultural practices of a person subject to guardianship or conservatorship; and (2) health care and medical treatment must not violate preferences.

 - b. *Participation in Decision Making*
Adds that a person subject to guardianship or conservatorship has the right to participate in decision making about health care and medical treatment.

 - c. *Right to Control Life*
Revises the construction of this right to provide that a person subject to guardianship or conservatorship has the right to control all aspects of life “unless specifically delegated” to the guardian or conservator by the court.

Note: The old construction read “the right to control all aspects of life not delegated specifically to the guardian or conservator by the court.”

 - d. *Employment Supports*
Adds that a person subject to guardianship or conservatorship has the right to employment and employment supports.

 - e. *Personal Property*
Adds right of a person subject to guardianship or conservatorship to be consulted concerning, and to decide to the extent possible, the reasonable care and disposition of personal property.

 - f. *Right to Marry*
Removes “and to consent” from regarding the right to marriage.

- g. Petitioning the Court*
Adds the right of a person subject to guardianship or conservatorship to petition the court: (1) “at any time”; and (2) for any decisions of the guardian or conservator, beyond seeking termination of the guardianship or conservatorship.
- h. Personal Image and Name*
Adds right of a person subject to guardianship or conservatorship, unless restricted by the court, to be consulted concerning, and make decisions to the extent possible, about personal image and name.

5. Bill of Particulars

Adds Minn. Stat. § 524.5-121

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

Creates a new part of the pleadings in guardianship and conservatorship matters.

- a. Confidentiality*
Designates the Bill of Particulars as a confidential document so as to give a presumption in favor of filing documents as confidential.
- b. Contents*
Specifies the bill of particulars must: (1) either be filed on a court-approved form or as an attachment to the pleadings; (2) specify the confidential or nonpublic information; (3) refer to where in the pleadings the information is located; and (4) identify it as confidential.
- c. Parties to Be Served; Disclosure Limitations*
Identifies parties on whom the bill of particulars must be served or to whom it must be provided. Limits disclosure by those persons only to those authorized to receive the information.
- d. Intersection with Minnesota Health Records Act*
Provides that filing the bill of particulars does not violate the Minnesota Health Records Act, including Minnesota Statutes, section 144.293.

Note: *This section requires must be filed consistent with Rule 11 of the Minnesota Rules of General Practice and the Rules of Public Access to Records of the Judicial Branch. On July 22, the Minnesota Supreme Court issued two orders: (1) ADM10-8050 (In Re Rules Of Public Access To Records Of The Minnesota Judicial Branch); and (2) ADM09-8009 (In Re General Rules Of Practice), preserving the status quo in regard to access to records in guardianship and conservatorship cases.*

6. Right to Seek Restraining Order on Person's Behalf
Grants guardians and conservators the right to seek a restraining order on behalf a victim of harassment who is the subject of the guardianship or conservatorship.
Amends Minn. Stat. § 609.748, subdivision 2
Effective August 1, 2020, and applies to cases commenced before, on, or after that date

B. Changes Specific to Guardianship

1. ABLE Accounts
Amends Minn. Stat. §§ 524.5-104; 524.5-313; and 524.5-412
Adds Minn. Stat. §§ 524.5-102, subdivision 1a
Effective August 1, 2020, and applies to cases commenced before, on, or after that date

Establishes that a guardian for a minor may receive more funds for the minor than previously allowed and may create an ABLE Account. Permits a guardian for an adult to create ABLE accounts but not administer them.

Note: ABLE accounts are tools that create a tax-free fund for use by persons with disabilities. They are similar to a 529 fund that people use to help students save for post-secondary education.

2. Limited Duration of Guardianship
 - a. *Petition*
Provides that an interested person may petition for a limited duration guardianship.
Amends Minn. Stat. § 524.5-303
Effective August 1, 2020, and applies to cases commenced on or after August 1, 2020
 - b. *Court Order*
Authorizes the court to limit the duration of any guardianship. Specifies that: (1) if the person subject to guardianship is under the age of 30 years old on the date the court files the order appointing a guardian, the guardianship cannot exceed 72 months; and (2) a petition for guardianship for an indefinite period of time may be filed for any person who is 29 years or older and is currently subject to a guardianship of limited duration.
Adds Minn. Stat. § 524.5-310, paragraphs (d) and (e)
Effective August 1, 2020, and applies to cases commenced on or after August 1, 2020

- c. *Termination of Limited Duration Guardianship*
 Specifies that a guardianship terminates upon the expiration of duration of guardianship established in the order appointing the guardian. Provides that a guardian has the right to petition the court for discharge from the guardianship
Amends Minn. Stat. § 524.5-317
Effective August 1, 2020, and applies to cases commenced before, on, or after that date
 - d. Letters of Office
 Requires that any limitation on duration of the guardianship or conservatorship must be included in the letter of guardianship or conservatorship.
Amends Minn. Stat. § 524.5-317
Effective August 1, 2020, and applies to cases commenced before, on, or after that date
- 3. Bill of Rights - Additions
Amends Minn. Stat. § 524.5-120
Effective August 1, 2020, and applies to cases commenced before, on, or after that date
 - a. *Right to Visitors*
 Expands the right to visitors and interactions, limiting the ability of a guardian to restrict visitors only when “interaction with the person poses a risk of significant physical, psychological, or financial harm to the person subject to guardianship, and there is no other means to avoid the significant harm.” Requires the guardian to give written notice of the restriction to the person: (1) subject to guardianship; and (2) being restricted. Grants the right of either the person subject to guardianship or the person restricted to petition to remove or modify the restriction.
 - b. *Election of Sterilization*
 Adds the right of a person subject to guardianship to elect sterilization.
- 4. Bill of Rights – Notice
 Adds that the notice the guardian is required to send or deliver each year to the person subject to the guardianship a copy of the bill of rights.
Amends Minn. Stat. § 524.5-310
Effective August 1, 2020, and applies to cases commenced on or after August 1, 2020

5. Petition for Guardianship

Amends Minn. Stat. § 524.5-303

Effective August 1, 2020, and applies to cases commenced on or after August 1, 2020

Makes the following changes:

a. *Less Restrictive Alternatives*

Requires listing of types and duration of less restrictive means attempted, and reasons they are not sufficient to meet the respondent's identified needs.

b. *Use of Post Office Box*

Allows use of post office box as alternative to address for legal representative for respondent and for any person nominated as a guardian.

c. *Disclosure Bankruptcy Filings*

Limits need to disclose bankruptcy filings by proposed guardian to the previous five years (current law has no limit).

d. *Disclosure of Criminal Convictions*

Limits need to disclose convictions of proposed guardian only for gross misdemeanors or felonies (current law requires disclosure of any convictions than for a petty misdemeanor or traffic offense).

e. *Proposed Guardian Rates*

Requires the petition to include: (1) for proposed professional guardians, the current customary rates; and (2) for nonprofessional guardians, the current anticipated rates.

6. Confidentiality of Certain Document Filings

Makes certain document filings confidential under the new section creating and requirement the inclusion with the petition of a new Bill of Particulars, found at new Minn. Stat. § 524.5-121.

a. *Visitor Reports*

Makes visitor reports required to be filed with the court confidential.

Amends Minn. Stat. § 524.5-304

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

b. *Guardian Reports*

Makes confidential any documents or information disclosing or pertaining to health information in the guardian's required annual report confidential.

Amends Minn. Stat. § 524.5-316

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

c. *Confidentiality of Health or Financial Information*

Makes confidential any documents or information disclosing or pertaining to health or financial information in: (1) petitions for the appointment of guardian or emergency guardian; (2) reports guardians must file with the court; or (3) petitions for termination of guardianship.

Amends Minn. Stat. § 524.5-205 (judicial appointment of guardian for minor)

Amends Minn. Stat. § 524.5-311 (appointment of emergency guardian)

Amends Minn. Stat. § 524.5-317 (termination of guardianship)

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

Amends Minn. Stat. § 524.5-303 (judicial appointment of guardian)

Effective August 1, 2020, and applies to cases commenced on or after August 1, 2020

Note: *On July 22 the Minnesota Supreme Court issued two orders: (1) ADM10-8050 (In Re Rules Of Public Access To Records Of The Minnesota Judicial Branch); and (2) ADM09-8009 (In Re General Rules Of Practice), preserving the status quo in regard to access to records in guardianship and conservatorship cases.*

7. Respondent's Health, Condition, and Capacity at Issue

Declares that, in guardianship proceeding neither the respondent's health, physical, or mental condition nor the respondent's capacity is "in controversy," which makes the medical records and intendent medical exams are not immediately available in discovery.

Adds Minn. Stat. § 524.5-307, paragraph (c)

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

8. Findings and Order

Amends Minn. Stat. § 524.5-310

Effective August 1, 2020, and apply to cases commenced on or after August 1, 2020

Modifies what the court must find in order to grant a petition for the appointment of a guardian.

Note: *Nothing changes the evidentiary standard.*

a. *Findings that Respondent's Identified Needs Cannot Be Met*
Adds supported decision making, community or residential services, or appointment of a health care agent to the types of less restrictive means that need to be attempted. Requires the court to make specific findings particular to the respondent why these or other less restrictive alternatives do not work.

b. *Limiting the Duration of Guardianship*
Authorizes the court to limit the duration of any guardianship.

1) **Persons Under the Age of 30**
Specifies that the guardianship period for a person under the age of 30 years old on the date the court files the appointing cannot exceed 72 months.

2) **Persons 29 Years of Age or Older**
Specifies that a petition for guardianship for an indefinite period of time may be filed for any person who is: (1) 29 years or older; and (2) currently subject to a guardianship of limited duration.

c. *Limiting the Duration of Guardianship*
Adds that the annual notice required to be sent or delivered to persons subject to guardianship must include a copy of the Bill of Rights.

9. Delegation of Guardianship Powers Over a Minor or Incapacitated Person

Amends Minn. Stat. § 524.5-111

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

a. *Delegation by Nonprofessional Guardians*
Clarifies that nonprofessional guardians – as well as parents and legal custodians -- of a minor or incapacitated person can delegate guardianship powers for care, custody, or property for no more than one year. (Nothing changes current law that delegation under this section to consent to marriage or adoption of a minor ward person subject to guardianship is prohibited.)

- b. Delegation by Professional Guardians*
Adds that professional guardians – as well as parents and legal custodians -- of a minor or incapacitated person can delegate guardianship powers for no more than 30 days. (Consent to marriage or adoption of a minor ward person subject to guardianship is still prohibited.) A professional guardian delegating parental rights under this section to submit the power of attorney to the court.
10. Emergency Guardian
Establishes a one-time, 60-day maximum extension of an emergency guardian's appointment. Requires a court finding of good cause for the continuation of the guardianship.
Amends Minn. Stat. § 524.5-311
Effective August 1, 2020, and applies to cases commenced before, on, or after that date
11. Powers of Guardian
Amends Minn. Stat. § 524.5-313
Effective August 1, 2020, and applies to cases commenced before, on, or after that date
- a. Visitors*
Provides that a guardian may not restrict the ability of the person subject to guardianship to communicate, visit, or interact with others, including: (1) receiving visitors; or (2) making or receiving telephone calls, personal mail, or electronic communications, including through social media; or (3) participating in social activities. Allows a guardian to restrict those abilities if: (1) the guardian has good cause to believe restriction is necessary because interaction with the person poses a risk of significant physical, psychological, or financial harm to the person subject to guardianship; and (2) there is no other means to avoid such significant harm.”
- b. Notice of Restrictions to the Person Subject to Guardianship*
Requires the guardian to provide written notice of the restrictions imposed to the court to: (1) the person subject to the guardianship; and (2) the person subject to the restrictions.
- c. Right to Petition for Removal of Restrictions*
Establishes the right of a person subject to guardianship or the person subject to restrictions may petition the court to remove or modify the restrictions.

d. Initiating Suit When There Is No Conservator
If there is no conservator appointed for the person subject to guardianship, establishes the power and responsibility of the guardian to initiate actions on behalf of person subject to guardianship and represent the person in: (1) expungement proceedings; (2) harassment proceedings; and (3) all civil court proceedings, including but not limited to: (i) restraining orders; (ii) orders for protection; (iii) name changes; (iv) conciliation, housing, family, probate and juvenile court proceedings. Prohibits a guardian from settling or compromising any claim or debt owed to the estate without court approval.

12. Guardian Reports

Expands reporting requirements to include: (1) more specific information on visitor restrictions; (2) the guardian's current rates. Provides that information disclosing or pertaining to health information in the report is confidential.

Amends Minn. Stat. § 524.5-316

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

13. Communication to Interested Persons of Changes in Health or Dwelling

Adds Minn. Stat. § 524.5-316, paragraph (d)

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

a. Changes in Health

Requires the guardian to communicate to specified interested persons, within one day of discovery, information about the person subject to guardianship concerning: (i) a significant or unexpected change in health or medical condition requiring physician treatment or hospitalization; (ii) a significant situation that requires action by ambulance, law enforcement, or fire department; or (iii) the death of the person (provided that notification of death must also be provided to the court).

b. Change of Dwelling

1) 14 Day Advance Notice for Certain Changes

Requires the guardian to communicate to specified interested persons, at least 14 days in advance of: (1) a permanent change in the primary dwelling of the person; or (2) a permanent move to a nursing home, mental health facility, or other facility, unless the move was by prior order of the court.

- 2) Post-Change Notice Required for Involuntary Changes**
Requires the guardian to communicate to specified interested persons within seven days of a move caused by accident, injury, illness, or other involuntary actions of the person subject to guardianship.
- 3) Interested Persons Designated to Receive Notice**
Provides the advance or subsequent notice of a move be provided to: (1) the person’s legal representative; (2) enumerated family members; (3) an adult person who has lived for more than six months with the person subject to guardianship or the respondent; (4) a health care agent; (5) any person designated by the court; and (5) in the case of a minor who is an Indian, the tribal chairman and the regional directed of the child’s tribe.

14. **Termination and Discharge of Guardianship**
Adds that guardianship also terminates upon the expiration of the duration of guardianship established in the order appointing the guardian. Grants to the guardian the right to petition for discharge of the guardianship.

Amends Minn. Stat. § 524.5-317

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

C. Changes Specific to Conservatorship

1. **Petition for Conservatorship or Protective Order**

Amends Minn. Stat. § 524.5-403

Effective August 1, 2020, and apply to cases commenced on or after August 1, 2020

Note: With respect to criminal history, the requirement to disclose on the petition whether the proposed conservator has ever been convicted of a crime other than a petty misdemeanor or traffic offense remains unchanged. (The requirement of a proposed guardian to disclose criminal history was limited to the five years).

- a. ***Less Restrictive Alternatives***

Requires listing and duration of less restrictive means attempted, and reasons they are not sufficient to meet the respondent’s identified needs.

- b. ***Use of Post Office Box***

Allows use of post office box as alternative to address for legal representative for respondent and for any person nominated as a conservator.

- c. *Disclosure Bankruptcy Filings*
Limits need to disclose bankruptcy filings by proposed conservator to the previous five years (current law has no limit).
 - d. *Proposed Conservator Rates*
Requires the petition to include: (1) for proposed professional conservators, the current customary rates; and (2) for nonprofessional conservators, the current anticipated rates.
2. Emergency or Temporary Conservator
Establishes a one-time, 60-day maximum extension of an emergency conservator's appointment. Requires a court finding of good cause for the continuation of the guardianship.
Amends Minn. Stat. § 524.5-409, subdivision 2
Effective August 1, 2020, and applies to cases commenced on or after August 1, 2020
3. Confidentiality of Certain Document Filings
Makes certain document filings confidential under the new section creating and requirement the inclusion with the petition of a new Bill of Particulars, found at new Minn. Stat. § 524.5-121.
- a. *Health or Financial Information*
Makes any documents or information disclosing or pertaining to health or financial information in: (1) petitions for the appointment of a conservator; (2) petitions for appointment of an emergency conservator; (3) court approval requirements; (4) court procedure in protective arrangements and single transactions; and (5) orders subsequent to appointment.
Amends Minn. Stat. § 524.5-403 (petitions for appointment)
Amends Minn. Stat. § 524.5-409, subdivision 2 (emergency conservators)
Effective August 1, 2020, and apply to cases commenced on or after August 1, 2020
 - Amends Minn. Stat. § 524.5-411 (court approval)*
Amends Minn. Stat. § 524.5-412 (court procedure in protective arrangements)
Amends Minn. Stat. § 524.5-414 (orders subsequent to appointment)
Effective August 1, 2020, and applies to cases commenced before, on, or after that date
 - b. *Allegations of Impairment*
Makes any documents or information containing an allegation, description, and extent of impairment in the respondent's ability to receive and evaluate information confidential.
Amends Minn. Stat. § 524.5-403
Effective August 1, 2020, and apply to cases commenced on or after August 1, 2020

- c. *Information About Health Care Agent*
 Makes any documents or information containing the name and address of a health care agent of the respondent confidential.
Amends Minn. Stat. § 524.5-403
Effective August 1, 2020, and apply to cases commenced on or after August 1, 2020

- d. *Reason for Petition*
 Makes any documents or information containing the reason why conservatorship or other protective orders is in respondent's best interests confidential.
Amends Minn. Stat. § 524.5-403
Effective August 1, 2020, and apply to cases commenced on or after August 1, 2020

- e. *Attempts at Less Restrictive Alternatives*
 Makes any documents or information containing the types and extent of less restrictive measures attempted and why they are insufficient to meet the respondent's needs confidential.
Amends Minn. Stat. § 524.5-403
Effective August 1, 2020, and apply to cases commenced on or after August 1, 2020

- f. *Nature of Conservatorship*
 Makes any documents or information identifying the type of conservatorship sought, and justification if unlimited confidential.
Amends Minn. Stat. § 524.5-403
Effective August 1, 2020, and apply to cases commenced on or after August 1, 2020

- g. *Visitor Reports*
 Makes visitor reports required to be filed with the court confidential.
Amends Minn. Stat. § 524.5-406
Effective August 1, 2020, and applies to cases commenced before, on, or after that date

Note: On July 22, 2020, the Minnesota Supreme Court issued orders ADM09-8009 and ADM10-8050, preserving the status quo in regard to access to records in conservatorship and guardianship cases.

- 4. Respondent's Health, Condition, and Capacity at Issue
 Declares that, in guardianship proceeding neither the respondent's health, physical, or mental condition nor the respondent's capacity is "in controversy," which makes the medical records and intendent medical exams are not immediately available in discovery.
Adds Minn. Stat. § 524.5-408, paragraph (c)
Effective August 1, 2020, and applies to cases commenced before, on, or after that date

5. Findings and Order

Amends Minn. Stat. § 524.5-409, subdivision 1

Effective August 1, 2020, and apply to cases commenced on or after August 1, 2020

Adds supported decision making and the use of a representative payee, trusts, banking or bill paying assistance, or an appointment of an attorney-in-fact to the types of less restrictive means that need to be attempted. Requires the court to make specific findings particular to the respondent why these or other less restrictive alternatives do not work. Modifies what the court must find in order to grant a petition for the appointment of a conservator.

Note: Nothing changes the evidentiary standard.

6. Bill of Rights – Notice

Adds that the notice the conservator is required to send or deliver each year to the person subject to the conservatorship a copy of the bill of rights.

Amends Minn. Stat. § 524.5-409, subdivision 1

Effective August 1, 2020, and applies to cases commenced on or after August 1, 2020

7. ABLE Accounts

Grants power for conservators to establish, fund, and administer an ABLE account for the person subject to conservatorship based on existing law or court order. Applies the standard of a fiduciary to all ABLE account investments by a conservator.

Amends Minn. Stat. §§ 524.5-412 and 524.5-417

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

8. Bonds

Provides that, if the conservator is a bank or trust company, a bond: (1) is not required if the total conservatorship assets do not exceed \$1 million; and (2) is required if conservatorship assets exceed \$1 million.

Amends Minn. Stat. §§ 524.5-415

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

9. Powers of Conservator

Amends Minn. Stat. § 524.5-417

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

a. *Initiating Suit*

Establishes that the powers and duties of a conservator include initiating actions on behalf of person subject to guardianship and representing the person in: (1) expungement proceedings; (2) harassment proceedings; and (3) all civil court proceedings, including but not limited to: (i) restraining orders; (ii) orders for protection; (iii) name changes; and (iv) conciliation, housing, family, probate and juvenile court proceedings.

Amends Minn. Stat. § 524.5-417

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

b. *Wages*

Adds presumption that a person under conservatorship who holds a job will manage their own funds earned from the job and the conservatorship is not required to account for such funds.

Note: *This provision is restored, having previously been in, then deleted, from Minnesota law.*

10. Conservator Reports

Amends Minn. Stat. § 524.5-420

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

a. *Notice in the Absence of Guardian*

Requires that, if there is no acting guardian, a conservator that becomes aware of the death of the person subject to conservatorship must notify all known interested persons and the court as soon as is reasonably practical of the death. Allows notice to be provided: (1) in writing; (2) orally; or (3) by phone, text message, e-mail, or electronic service. Permits conservator to delegate this task under reasonable circumstances.

b. *Waiver of Notice by Interested Person*

Clarifies that if an interested person notifies the court in writing that the person does not wish to receive copies of reports, the court and others are not required to give notice.

c. *Conservator Report is Public Filing*

Clarifies that, unless otherwise ordered by the court, a conservator report is a public filing.

d. *Post Office Box*

Allows use of post office boxes as alternative to address for legal representative for respondent and for any person nominated as a conservator.

11. Sale or Encumbrance

Eliminates discretion of court to approve a transaction involving a conflict of interest where the conservator has a parent-child or sibling relationship with the person subject to conservatorship and the transaction would benefit the conservator, even if the court finds the transaction to be in the best interests of the person under conservatorship.

Amends Minn. Stat. § 524.5-423

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

12. Termination of Conservatorship

Amends Minn. Stat. § 524.5-431

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

Requires that the termination order include payment of administration expenses fees and costs of final administration for guardians, conservators, and attorneys. Permits a conservator to petition the court for discharge from the conservatorship.

13. Conservator Now Covered Under Crime Victims Statutes (Chapter 611A)

Adds “conservator” to the definition of “victim,” granting the scope of rights to conservators to which other victims of crime are entitled.

Amends Minn. Stat. § 524.5-431

Effective August 1, 2020, and applies to cases commenced before, on, or after that date

II. GUARDIANSHIP BACKGROUND STUDIES

First Special Session, Chapter 2, Article 1, Section 18 (HF 11)

Amends Minn. Stat. § 245.735, subdivision 3

Effective January 1, 2021

Requires that a background study of a guardian or conservator be conducted once every five years (current law requires it once every two years) and include a national criminal history record check. Requires: (1) a court's request to DHS for a background study be accompanied by an acknowledgement that the study subject received a privacy notice; and (3) DHS to provide the results of the background study to the court within 20 working days (under current law, it must be provided within 15 working days). Requires DHS to provide information related to the study subject's history with a professional licensing agency if the study subject indicates a current or prior affiliation.

PUBLIC PROGRAMS

I. HOME AND COMMUNITY BASED SERVICES

A. Corporate Foster Care Moratorium

First Special Session, Chapter 2, Article 2, Section 2 (HF 11)
Amends Minn. Stat. § 245A.11, subdivision 2a
Effective August 1, 2020

Extends adult foster care moratorium until December 31, 2020 and directs DHS to continue to permit facilities to continue with a facility of five adults through December 31, 2020 if requirements are met.

B. Sexual Violence Prevention Training

Special Session, Chapter 2, Article 2, Sections 3, and 6-8 (HF 11)
Amends Minn. Stat. § 245D.09, subdivisions 4, 4a, and 5
Adds Minn. Stat. § 245D.02, subdivision 32a
Effective August 1, 2020

Requires 245D license holders to ensure that the staff have completed training on strategies to minimize the risk of sexual violence toward people with disabilities within 60 days of hiring direct support staff. Adds definition of “sexual violence” for the purposes of this training.

C. Initial Services Planning

First Special Session, Chapter 2, Article 2, Section 4 (HF 11)
Amends Minn. Stat. § 245D.081, subdivision 3
Effective August 1, 2020

1. Timelines

Modifies the existing timelines regarding the planning meeting, allowing providers to conduct the meeting the earlier of: (1) before the 45th day of service is provided; or (2) within 60 days of service initiation. (Under current law, the planning meeting must occur within 45 days of service initiation.)

2. Items to be Discussed

Expands the list of items that must be discussed with service recipients at the 45-day planning meeting to include opportunities: (1) to develop and maintain essential and life-enriching skills, abilities, strengths, interests, and preferences; (2) for community access, participation, and inclusion in preferred community activities; (3) to develop and strengthen personal relationships with other persons of the person's choice in the community; and (4) to seek competitive employment and work at competitively paying jobs in the community.

D. Annual Service Planning

First Special Session, Chapter 2, Article 4, Section 1 (HF 11)
Amends Minn. Stat. § 245D.071, subdivision 5
Effective August 1, 2020

To promote more independent living, requires 245D licensed residential services and supports providers to include in annual service plan reviews discussions of transitioning: (1) out of a setting controlled by a provider into a more independent setting; and (2) to an employment service. Requires providers to document the discussion by summarizing the discussion and next steps in a person’s coordinated service and support plan addendum. Clarifies that service recipients are entitled to invite people of their own choosing to participate in planning their services.

E. Designated Staff Person for Coordinating and Evaluating Service Delivery

First Special Session, Chapter 2, Article 2, Section 5 (HF 11)
Amends Minn. Stat. § 245D.081, subdivision 2
Effective August 1, 2020

Permits the staff member of a 245D licensed HCBS provider who is responsible for coordinating the delivery and evaluation of a waiver recipient’s care to delegate the direct observation and assessment of a direct support staff to an individual the coordinator has previously deemed competent in the activities of the direct support staff that are being observed and assessed.

F. Officer-Involved Community Based Care Coordination

First Special Session, Chapter 2, Article 2, Section 13 (HF 11)
Amends Minn. Stat. § 256B.056, subdivision 56a
Effective August 1, 2020

Renames services known as “post-arrest community-based service coordination” to “officer-involved community-based care coordination.” Updates terminology and procedures for providing those services. Provides for service coordination by tribes but maintains county share of costs.

G. Providers for Home Care Services and Skilled Nurse Visits

First Special Session, Chapter 2, Article 2, Sections 14-20, and 36 (HF 11)
Amends Minn. Stat. § 256B.056, subdivisions 1, 2a, 4, 5, and 7
Effective June 17, 2020

Expands authority to permits advanced practice registered nurses and physician assistants to order home care therapies and home care nursing under MA, including: (1) skilled nursing visits; (2) home care therapies; (3) face to face encounters; and (4) home care nursing service.

H. Consumer-Directed Community Supports Conforming Change

*First Special Session, Chapter 2, Article 2, Sections 21, 29-32, and 34-35
Amends Minn. Stat. §§ 256B.0711, subdivision 1; 256B.49, subdivision 16; 256B.4911;
256S.01, subdivision 6; and 256S.19, subdivision 4
Effective August 1, 2020*

Makes technical changes related to the codification of Consumer-Directed Community Supports under HCBS waivers without making any substantive change any existing policy related to consumer-directed community supports.

I. Employment, Independent Living, Self-Direction First

*First Special Session, Chapter 2, Article 3, Section 1 (HF 11)
Adds Minn. Stat. § 256B.4905
Effective June 17, 2020*

Announces state policy concerning employment first, independent living first, and self-direction first for Minnesotans with disabilities.

1. Employment First

a. *State Policy*

Declares as policy of the state that all working-age Minnesotans with disabilities: (1) can work, (2) want to work; (3) can achieve competitive integrated employment; and (4) be offered the opportunity to work and earn a competitive wage. Requires offer of work and earning opportunities before an offer of other supports and services.

Adds Minn. Stat. § 256B.4905, subdivision 1

b. *Disability Waivers*

Requires DHS to ensure that disability waivers under Minn. Stat. §§ 256B.092 and 256B.49 support the presumption of the policy statement.

Adds Minn. Stat. § 256B.4905, subdivision 2

c. *Offer of Work*

Requires that each waiver recipient of working age be offered, after an informed decision-making process and during a person-centered planning process, the opportunity to work and earn a competitive wage before being offered exclusively day services.

Adds Minn. Stat. § 256B.4905, subdivision 2

2. Independent Living

a. *State Policy*

Declares as policy of the state that all adult Minnesotans with disabilities can and want to live independently with proper supports and services. Requires these adults to be offered the opportunity to live as independently as possible before being offered supports and services in provider-controlled settings.

Adds Minn. Stat. § 256B.4905, subdivision 3

b. *Disability Waivers*

Requires DHS to ensure that disability waivers under Minn. Stat. §§ 256B.092 and 256B.49 support the presumption of the policy statement.

Adds Minn. Stat. § 256B.4905, subdivision 4

c. *Offer of Opportunity to Live Independently*

Requires that each waiver recipient of working age be offered, after an informed decision-making process and during a person-centered planning process, the opportunity to live as independently as possible before being offered customized living services provided in a single family home or residential supports and services unless the residential supports and services are provided in a family adult foster care residence under a shared living option.

Adds Minn. Stat. § 256B.4905, subdivision 4

3. Self-Direction

a. *State Policy*

Declares as state policy that adult Minnesotans with disabilities and families of children with disabilities can and want to use self-directed services and supports. Requires that each these adults and families be offered the opportunity to choose self-directed services and supports before being offered services and supports that are not self-directed.

Adds Minn. Stat. § 256B.4905, subdivision 5

b. *Disability Waivers*

Requires DHS to ensure that disability waivers under Minn. Stat. §§ 256B.092 and 256B.49 support the presumption of the policy statement.

Adds Minn. Stat. § 256B.4905, subdivision 6

- c. Offer of Self-Directed Services and Supports
Requires that each waiver recipient be offered, after an informed decision-making process and during a person-centered planning process, the opportunity to choose self-directed services and supports, including self-directed funding options, before being offered services and supports that are not self-directed.

Adds Minn. Stat. § 256B.4905, subdivision 6

J. Waiver Reconfiguration

First Special Session, Chapter 2, Article 3, Section 2 (HF 11)

Amends Laws 2019, First Special Session chapter 9, article 5, section 86

Effective June 17, 2020

- 1. Amendments to 2019 Law
Amends waiver reconfiguration laws passed in 2019 to require that disability waiver reconfiguration: (1) incentivize inclusive, person-centered, individualized supports, and services; (2) enhance each person's self-determination and personal authority over the person's service choice; (3) align benefits across waivers; (4) ensure equity across programs and populations; (5) promote long-term sustainability of needed services; and (6) maintain service stability and continuity of care while prioritizing, promoting, and creating incentives for independent integrated, and individualized supports and services chosen by each person through an informed decision-making process and person-centered planning.
- 2. Mandates of Waiver Reconfiguration Made Absolute
Makes the requirements of the disability waiver reconfiguration absolute by removing the qualifier that the compliance must be “to maximum extent possible.” Adds requirement that waiver reconfiguration proposal include options to self-direct services in each home and community-based waiver program.

II. CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINICS (CCBHC)

Special Session, Chapter 2, Article 2, Sections 1, 12

Amends Minn. Stat. § 245.735, subdivision 3; and 256B.0625, subdivision 5m

Effective August 1, 2020

A. County Share

Transfers language prohibiting a county share when medical assistance pays a clinic the CCBHC prospective payment from Chapter 245 to Chapter 256.

B. Removal of Cap of CCBHCs for Prospective Payment System

Removes DHS’ authority to limit the number of CCBHCs for the prospective payment system.

- C. Federal Approval of Rate Methodology**
Requires DHS to seek federal approval for a CCBHC rate methodology that allows for rate modifications based on changes in scope for an individual CCBHC.
- D. Managed Care Plans/County-Based Purchasing Plans**
Requires managed care plans and county-based purchasing plans to reimburse CCBHC providers at the MA prospective payment rate. Specifies DHS duties and duties of managed care and county-based purchasing plans for any contract year.

III. MnCHOICES

First Special Session, Chapter 2, Article 4, Sections 3-5

Amends Minn. Stat. §§ 256B.0911, subdivision 1a, 3a, and 3f

Effective August 1, 2020

A. Definitions

1. “Long-Term Consultation Services”
Expands the definition of “long-term care consultation services,” MnCHOICES assessments, to include – in order to ensure informed choice – information about: (1) independent living to ensure that an informed choice; and (2) self-directed services and supports, including self-directed funding options, to ensure that an informed choice about self-directed options can be made.
Adds Minn. Stat. § 256B.0911, subdivision 1a(a) (10) and (11)
2. Person-Centered Planning
Expands the definition of “person-centered planning” to include making meaningful and informed choices about the settings in which a person receives services and the setting in which a person lives.
Amends Minn. Stat. § 256B.0911, subdivision 1a(f)
3. Informed Choice
Expands the existing definition of “informed choice” to: (1) include making choices about the settings in which the person receives services and the person’s living arrangement; and (2) clarify that an informed choice requires that the person receive accurate and complete information in a way the person can understand.
Amends Minn. Stat. § 256B.0911, subdivision 1a(g)

4. “Available Options”
Introduces new definition of "available service and setting options" or "available options" applying to the home and community-based waivers under chapter 256S and sections 256B.092 and 256B.49 to mean all services and settings defined under the waiver plan for which a waiver applicant or waiver participant is eligible.
Adds Minn. Stat. § 256B.0911, subdivision 1a(h)
5. Independent Living
Introduces new definition of “independent living” to mean “living in a setting that is not controlled by a provider.”
Adds Minn. Stat. § 256B.0911, subdivision 1a(i)

B. Assessment and Support Planning

1. 90-day notice
Reinstates language inadvertently repealed following the 2019 session that requires DHS to notify lead agencies 90-days prior to full implementation of certain long-term care consultation service requirements.
Amends Minn. Stat. § 256B.0911, subdivision 3a(a)
2. Assessment
 - a. *Person-Centered*
Adds requirement that community support plans must be “person-centered.”
Amends Minn. Stat. § 256B.0911, subdivision 3a(c)
 - b. *Certified Assessors*
Clarifies that assessments be conducted by a certified assessor.
Amends Minn. Stat. § 256B.0911, subdivision 3a(d)
3. Community Support Plan
Adds requirements to what must be included in written community support plan to include all available options for: (1) employment services, settings, and providers; (2) living arrangements; and (3) self-directed services and supports, including self-directed budget options.
Amends Minn. Stat. § 256B.0911, subdivision 3a(g)

4. Decision Rights
Adds to existing final decision rights, the right to decide between: (1) community placement in a setting controlled by a provider and living independently in a setting not controlled by a provider; (2) day services and employment services. Grants additional final decision right regarding available options for self-directed services and supports, including self-directed funding options
Amends Minn. Stat. § 256B.0911, subdivision 3a(i)

5. Documentation
Adds requirement that MnCHOICES assessor provide a person with documentation that the assessor described to the person all available employment services, independent living options, and self-direction options.
Amends Minn. Stat. § 256B.0911, subdivision 3a(j)

6. Reassessments
 - a. *Persons Receiving Residential Services and Supports*
Clarifies that, at the time of reassessment, assessors must determine if a person currently receiving residential services and supports has made a fully informed choice regarding living in a setting controlled by a service provider.
Amends Minn. Stat. § 256B.0911, subdivision 3a(n)

 - b. *Persons Receiving Waiver Day Services*
Adds requirement that, at the time of reassessment, certified assessors must, for persons receiving waiver day services: (1) determine, for each person receiving waiver day services, if the person would prefer to receive employment services; and (2) describe through a person-centered planning process the option to receive employment services.
Adds Minn. Stat. § 256B.0911, subdivision 3a(o)

 - c. *Persons Receiving Non-Self-Directed Waiver Services*
Adds requirement that, at the time of reassessment, certified assessors must, for persons receiving non-self-directed waiver services: (1) determine if that person would prefer an available service and setting option that would permit self-directed services and supports; and (2) describe through a person-centered planning process the option to receive self-directed services and supports.
Adds Minn. Stat. § 256B.0911, subdivision 3a(p)

IV. CASE MANAGEMENT SERVICES

First Special Session, Chapter 2, Article 4, Sections 6-8 (HF 11)

*Amends Minn. Stat. §§ 256B.092, subdivisions 1a and 1b; and Minn. Stat. § 256B.49, subdivision 13
Effective August 1, 2020*

Adds requirements and specifications for case management services provided to persons with developmental disabilities under Minn. Stat. § 256B.092 and to persons with brain injuries, and those subject to community access for disability inclusion and community alternative care waivers under Minn. Stat. § 256B.49.

A. Information About Options

Requires case management services to include informing the waiver participants of all available service options and assisting the participant to identify potential service providers, including: (1) employment service providers; (2) residential service providers other than those providing service in a setting controlled by a service provider; and (3) financial management service providers who assist with self-directing services.

B. Case Manager Training

Specifies that the existing training for case managers include training on person-centered planning, as newly defined under Minn. Stat. § 256B.0911, subdivision 1a(f) to include making meaningful and informed choices about the settings in which a person receives services and the setting in which a person lives.

C. Coordinated Services and Support Plan

Specifies that the written coordinated services and support plan developed by the case manager identify that waiver recipient's choices regarding living arrangements and makes other clarifying changes.

IV. DEFINITION OF “COMMUNITY LIVING SETTINGS”

First Special Session, Chapter 2, Article 4, Section 10 (HF 11)

*Amends Minn. Stat. §§ 256B.49, subdivision 23
Effective August 1, 2020*

Modifies definition of Community Living Settings to clarify that it does not include a home or dwelling unit that the service provider owns, operates, or leases or in which the service provider has a direct or indirect financial interest. Establishes requirements to ensure that a service recipient or their family maintains control over the home or dwelling unit. Clarifies the circumstances under which a service provider can cosign a lease with a service recipient without the setting being a provider-controlled setting.

**V. FOSTER CARE LICENING
(Chapter 245A)**

*First Special Session, Chapter 2, Article 5, Section 4
Amends Minn. Stat. § 245A.03, subdivision 7
Effective June 17, 2020*

Removes two items from the list of exceptions to the foster care initial license moratorium, licenses for transitioning individuals: (1) from PCA assistance to home and community-based services; and (2) from residential care waiver services to foster care services.

**VI. RIGHTS OF PERSONS RECEIVING HOME AND COMMUNITY-BASED SERVICES
(Chapter 245D)**

*First Special Session, Chapter 2, Article 2, Section 23
Amends Minn. Stat. § 245D.04, subdivision 3
Effective August 1, 2020*

Clarifies that an individual receiving home and community-based services has the right to associate with other persons of the person's choice in the community, not just in their service program.

VII. HOUSING SUPPORTS

*First Special Session, Chapter 2, Article 5, Sections 50, and 52-57
Amends Minn. Stat. §§ 256I.03, subdivision 3; 256I.04, subdivision 2b; 256I.05, subdivisions 1c, 1n, and 8; and 256I.06, subdivisions 2
Adds Minn. Stat. § 256I.03, subdivision 10
Effective August 1, 2020*

A. Definition of "Housing Support"

Replaces references to "group residential housing" with "housing support."
Amends Minn. Stat. §§ 256I.03, subdivision 3

B. Absences

Replaces the requirement for prior approval of absences from a housing support program with advanced reporting of the absences.
Amends Minn. Stat. §§ 256I.05, subdivision 1c

C. Overpayments

Requires DHS to correct and recover housing support overpayments and underpayments. Relieves recipients from repayment of overpayments that were the result of agency error unless they are large enough for a reasonable person to know the payment is the result of an error.
Adds Minn. Stat. § 256I.03, subdivision 10

MENTAL HEALTH

I. PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES (PRTF)

First Special Session, Chapter 2, Article 2, Sections 22 and 23 (HF 11)

Amends Minn. Stat. § 256B.0941, subdivisions 1 and 3

Various Effective Dates

A. DHS Duties

Eliminates the requirement that state's medical review agent be involved in PRTF services and referrals, and instead requires the DHS to oversee PRTF referrals and care quality, including keeping a statewide list of youth meeting medical criteria for PRTF care who are awaiting admission to a facility. Precludes DHS and any recipient of the list from using the list to direct admission of children and youth to specific facilities.

Amends Minn. Stat. § 256B.0941, subdivision 1

Effective June 17, 2020

B. Per Diem Rate

Requires DHS to establish a per diem rate per provider for PRTF services for individuals under the age of 21 and permits either the PRTF facility or provider to bill for arranged services.

Amends Minn. Stat. § 256B.0941, subdivision 3

Effective September 1, 2020, or upon federal approval, whichever is later.

II. CHILDREN'S MENTAL HEALTH CRISIS INTERVENTION AND INTENSIVE NONRESIDENTIAL REHABILITATIVE SERVICES

First Special Session, Chapter 2, Article 2, Sections 24-28 (HF 11)

Amends Minn. Stat. §§ 256B.09444, subdivision 1; and 256B.0947, subdivisions 4-6

Adds Minn. Stat. § 256B.0947, subdivision 2(m)

Effective August 1, 2020

A. Definitions

1. "Mental Health Mobile Crisis Intervention Services"

Amends the definition of "mental health mobile crisis intervention services" to require only that such services be provided outside of an inpatient hospital setting.

Amends Minn. Stat. § 256B.09444, subdivision 1

2. "Family Peer Specialist"

Adds a definition for "family peer specialist" to mean a staff person qualified (certified) under Minn. Stat. § 256B.0616.

Adds Minn. Stat. § 256B.0947, subdivision 2(m)

B. Provider Contract Requirements

Removes the requirement that DHS develop administrative and clinical contract standards regarding intensive rehabilitative mental health services. Updates the list of core team members to include a: (1) case management service provider; and (2) family peer specialist.

Amends Minn. Stat. § 256B.0947, subdivision 5

C. Provider Standards

Modifies the service standards for providers intensive nonresidential rehabilitative mental health services by requiring: (1) services to be age-appropriate and specific to each client’s needs; (2) an individual treatment plan to be based on a diagnostic assessment and baselines to identify goals and objectives of treatment; (3) consultation with minor patients’ parents or guardians in developing treatment plan; and (4) review and approval by the clinical supervisor.

Amends Minn. Stat. § 256B.0947, subdivision 6

III. CHILDREN’S MENTAL HEALTH ACT

First Special Session, Chapter 2, Article 5, Sections 1-3 (HF 11)

Amends Minn. Stat. §§ 245.4885, subdivision 1; and 245.4889, subdivision 1

Adds Minn. Stat. § 245.4871, subdivision 32a

Effective September 30, 2021

A. Definitions

Adds definition of “responsible social services agency,” cross-referencing the definition found in the juvenile protection statutes (Minn. Stat. § 260C.007, subdivision 27a).

Adds Minn. Stat. § 245.4871, subdivision 32a

B. Screening for Inpatient and Residential Treatment

Makes conforming changes to incorporate admission criteria and processes for foster care placements in qualified residential treatment facilities.

Amends Minn. Stat. § 245.4885, subdivision 1

C. Grants for Respite Care

Authorizes DHS to make grants for respite care services for children with emotional disturbances (current law limits grants for services for children with severe emotional disturbances). Specifies that a child is not required to be receiving case management services to be eligible to receive respite care services.

Amends Minn. Stat. § 245.4889, subdivision 1

DISABILITY SERVICES FOR CHILDREN

I. DIALECTICAL BEHAVIORAL THERAPY FOR CHILDREN

First Special Session, Chapter 2, Article 5, Section 38 (HF 11)
Amends Minn. Stat. § 256B.0625, subdivision 5I
Effective August 1, 2020

Removes the provision that limits MA coverage for intensive mental health outpatient treatment to adults only.

II. RESPONSIBILITY FOR HOME CARE SERVICES IN FOSTER CARE

First Special Session, Chapter 2, Article 5, Section 40 (HF 11)
Amends Minn. Stat. § 256B.0625, subdivision 10
Effective August 1, 2020

Clarifies that DHS may not authorize home care services, including PCA services, as MA services when those services have been determined to be the responsibility of the foster care parents as a result of assessments under the Northstar or pre-Northstar Care for Children programs. Allows DHS to authorize Home Care Services in a child foster care home with a license capacity greater than six to accommodate sibling groups

III. EARLY INTENSIVE DEVELOPMENTAL AND BEHAVIORAL INTERVENTION (EIDBI)

First Special Session, Chapter 2, Article 5, Sections 41-48 (HF 11)
Amends Minn. Stat. § 256B.0949, subdivisions 2, 5, 6, 9, and 13-16
Effective August 1, 2020

A. Definition of “Autism Spectrum Disorder”

Updates the definition of “autism spectrum disorder” to include additional criteria to identify the condition, including: (1) interpersonal interaction; (2) behavioral challenges; and (3) needing a high level of support regarding behavioral challenges, cognition, and learning and play.

Amends Minn. Stat. § 256B.0949, subdivision 2

B. Comprehensive Multidisciplinary Evaluation

Requires the provider conducting the evaluation to: (1) confirm the person being evaluated has an eligible diagnosis; and (2) certify that the diagnostic assessment used to make the diagnosis met statutory requirements.

Amends Minn. Stat. § 256B.0949, subdivision 5

C. Individual Treatment Plan

Eliminates the requirement the individual treatment plan for the EIDBI denote any specialized equipment or materials required to meet the goals and objectives of the plan.

Amends Minn. Stat. § 256B.0949, subdivision 6

D. Covered Services

Clarifies the treatment goals of EIDBI services and makes the following changes: (1) specifies that qualified EIDBI providers must document their qualifications; (2) defines “intervention” as a covered service; and (3) eliminates the existing three telemedicine services per calendar week limit for MA coverage.

Amends Minn. Stat. § 256B.0949, subdivision 13

E. Person’s Rights

Adds a new right to the list of rights of a person receiving EIDBI services: freedom from the prohibited use of chemical restraints, mechanical restraints, manual restraints, time out, seclusion, or any other aversive or deprivation procedure.

Amends Minn. Stat. § 256B.0949, subdivision 14

F. EIDBI Provider Qualifications

Modifies the EIDBI provider qualification for level III treatment providers to allow an employee of an agency who is at least 18 years old and has completed both the level III training requirement and all required EIDBI training within six months of employment to qualify.

Amends Minn. Stat. § 256B.0949, subdivision 15

G. EIDBI Provider in Located in Border State

Permits an agency providing EIDBI services with an office in a bordering state to provide EIDBI services in Minnesota.

Amends Minn. Stat. § 256B.0949, subdivision 16

STATE-OPERATED SERVICES

STATE OPERATED COMMUNITY SERVICES

First Special Session, Chapter 2, Article 5, Sections 24 and 25 (HF 11)

Amends Minn. Stat. §§ 245D.06, subdivision 2; and 245D.10, subdivision 3a

Effective August 1, 2020

A. Access to Dangerous Instruments for Individuals with Restrictions

Adds a requirement that license holders ensure that individuals whose discharge plan restricts access to dangerous instruments do not obtain access to sharpened or metal knives unless unsupervised access has been approved for that individual.

Amends Minn. Stat. § 245D.06, subdivision 2

B. Discharge

Permits an individual who no longer demonstrates complex behavioral needs to be discharged from a state-operated community-based services program. Requires consultation process to: (1) develop person-centered plan; and (2) ensure that private community-based providers can meet the person’s needs.

Amends Minn. Stat. § 245D.10, subdivision 3a

RELEVANT CRIMINAL JUSTICE REFORMS

I. SAFER INTERACTIONS BETWEEN POLICE AND PERSONS WITH AUTISM

Second Special Session, Chapter 1, Sections 21 and 22 (HF 1)

Amends Minn. Stat. § 626.8469, subdivision 1

Adds Minn. Stat. § 626.8474

Effective August 1, 2020

A. Development of Learning Objectives

Requires, by January 1, 2021, that the Board of Peace Officer Standards and Training prepare learning objectives for preservice and in-service training on ensuring safer interactions between peace officers and persons with autism, addressing, among other things: (1) autism overview and behavioral understanding; (2) best practices for interventions and de-escalation strategies; and (3) prevention and crisis reduction models. Requires consultation with: (1) individuals with autism; (2) family members of individuals with autism; (3) autism experts; and (4) peace officers.

Adds Minn. Stat. § 626.8474, subdivision 1

B. Prerequisite to Take Peace Officer Licensing Examination

Makes a candidate ineligible to take the peace officer licensing examination after July 1, 2021, unless the individual has received the training.

Adds Minn. Stat. § 626.8474, subdivision 2

C. In-Service Training Required

Requires the chief law enforcement officer of every state and local law enforcement agency, beginning July 1, 2021, to provide in-service autism training to every peace officer and part-time peace officer employed by the agency that complies with the learning objectives.

Adds Minn. Stat. § 626.8474, subdivision 3

II. CRISIS INTERVENTION AND MENTAL ILLNESS CRISIS TRAINING

Second Special Session, Chapter 1, Section 21 (HF 1)

Adds Minn. Stat. § 626.8469, subdivision 1a

Effective August 1, 2020

Requires the Board of Peace Officer Standards and Training – in consultation with DHS And “mental health stakeholders” -- to create a list of approved entities and training courses to instruct peace officers in techniques for responding to a mental illness crisis. Requires that the course include scenario-based instruction, covering, among other things: (1) techniques for relating to individuals with mental illnesses and the individuals' families; (2) techniques for crisis de-escalation; and (3) community resources and supports for individuals experiencing a mental illness crisis and for the individuals' families.

MISCELLENEOUS

I. **PRENATAL ALCOHOL SCREENING**

First Special Session, Chapter 2, Article 1, Section 17

Amends Minn. Stat. § 260C.219, subdivision 7

Effective for children who enter foster care on or after August 1, 2020

Requires responsible social services agencies to: (1) coordinate a prenatal alcohol exposure screening for any child who enters foster care within 45 days of the child being removed from the home (excluding children who have already had a screening or been identified as being prenatally exposed to alcohol); and (2) ensure the screening complies with existing best practices and criteria developed by a statewide organization that focuses solely on prevention and intervention with fetal alcohol spectrum disorder.

II. **DISABILITY HUB**

First Special Session, Chapter 2, Article 5, Section 97

Revisor Instruction

Effective August 1, 2020

Instructs the Revisor of Statutes to substitute “Disability Linkage Line” for “Disability Hub” in the relevant statutes.

III. **GRANT PROGRAMS**

1. **Fetal Alcohol Spectrum Disorders Grants**

Special Session, Chapter 2, Article 2, Sections 9, 33 (HF 11)

Amends Minn. Stat. § 254A.21; and Laws 2019, First Special Session, Chapter 9, Article 14, Section 2, Subdivision 23

Effective August 1, 2020

Codifies Fetal Alcohol Spectrum Disorder Regional Grant Program.

2. **Self-Directed Caregiver Grants Program**

First Special Session, Chapter 2, Article 2, Section 10

Amends Minn. Stat. § 256.975, subdivision 12

Effective August 1, 2020

Requires annual progress reports on the self-directed caregiver grants program starting January 2022.

EDUCATION LAW

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I. PRESCHOOL DISMISSALS

First Special Session, Chapter 8, Article 5, Section 2 (HF 33)

Adds Minn. Stat. § 121A.425

Effective August 1, 2020

Prohibits suspensions under the Pupil Fair Dismissal Act for students in pre-kindergarten programs. Limits expulsions and exclusions for pre-kindergarten students to circumstances where there is an ongoing serious safety threat to the child or others and only after certain resources have been exhausted, including:

(1) collaborating with the pupil's family or guardian, child mental health consultant or provider, education specialist, or other community-based support;

(2) creating a plan, written with the parent or guardian, that details the action and support needed for the pupil to fully participate in a preschool or prekindergarten program; or

(3) providing a referral for needed support services, including parenting education, home visits, other supportive education interventions, or, where appropriate, an evaluation to determine if the pupil is eligible for special education services or section 504 services.

II. DYSLEXIA SCREENING REPORTING

First Special Session, Chapter 8, Article 2, Section 1 (HF 33)

Amends Minn. Stat. § 120B.12, subdivision 2

Effective August 1, 2020

Modifies school districts' reporting requirements regarding screening and identifying students who demonstrate the characteristics of dyslexia by: (1) striking requirements regarding students with convergence insufficiency disorder; and (2) requiring districts to report efforts to screen for dyslexia, the number of students screened, and the number of students demonstrating characteristics of dyslexia.

III. STUDENT MEDICATIONS

First Special Session, Chapter 8, Article 3, Sections 2-3 (HF 33)

Amends Minn. Stat. § 122A.22, subdivision 1

Adds Minn. Stat. § 122A.22, subdivision 4a

Effective August 1, 2020

A. Reporting

Adds new requirements on parents/guardians to: (1) for controlled substances, inform schools of any drug or medicine the school is requested to administer or store; (2) for other drugs and medicines: (i) specify that the parent must retrieve the drug when requested by the school; and (ii) authorize the school district to transport unused drug or medication for destruction.

Amends Minn. Stat. § 122A.22, subdivision 1

B. Unclaimed Drugs or Medication

1. Collection Procedure

Requires a school district to: (1) adopt a procedure to collect and transport unclaimed or abandoned prescription drugs or over-the-counter medications left with school personnel; and (2) make a reasonable attempt to return the unused drug to the student's parent. Requires the district's procedure to provide for at least annual transportation of unclaimed drugs.

Adds Minn. Stat. § 122A.22, subdivision 4a

2. Drop-off or collection site

Allows a school district to: (1) designate an individual to transport unclaimed drugs that are not controlled substances or are over-the-counter medications to a designated drop-off box or collection site; or (2) request that a law enforcement agency transport the drugs to a drop-off box or collection site on behalf of the district.

Adds Minn. Stat. § 122A.22, subdivision 4a

3. Controlled Substances

Prohibits a school district or school personnel from transporting unclaimed drugs that are controlled substances to a drop-off box or collection site. Requires a district to request that a law enforcement agency transport the drug to a collection bin that complies with Drug Enforcement Agency regulations, or under the agency's procedure for transporting drugs.

IV. FUNCTIONAL BEHAVIORAL ASSESSMENTS

First Special Session, Chapter 8, Article 4, Section 1 (HF 33)
Amends Minn. Stat. § 125A.08
Effective August 1, 2020

Allows a school district to conduct a functional behavior assessment (FBA) as a stand-alone evaluation without conducting a comprehensive evaluation of the student.

V. ALTERNATIVE DELIVERY OF SPECIALIZED INSTRUCTION SERVICES

First Special Session, Chapter 8, Article 4, Section 2 (HF 33)
Amends Minn. Stat. § 125A.50
Effective August 1, 2020

Allows a student who receives special education services to participate in Alternative Delivery of Specialized Instruction Services (ADSIS) as long as participation does not result in an increase in costs for the program or displace a pupil who does not currently have a disability. (Under current law, a student with an individualized education program cannot receive ADSIS services in addition to special education services.)

VI. VERIFICATION OF AGE FOR ADMISSION TO SCHOOL

First Special Session, Chapter 8, Article 5, Section 1 (HF 33)
Amends Minn. Stat. § 120A.20
Effective August 1, 2020

Aligns with federal guidance prohibiting a school district from requiring a birth certificate to enroll in a public school. Allows for the following mechanisms for verifying student age: (1) passport; (2) a hospital birth record or physician's certificate; (3) a baptismal or religious certificate; (4) an adoption record, health records; (5) immunization records; (6) immigration records; (7) previously verified school records; (8) early childhood screening records; (9) Minnesota Immunization Information Connection records; or (10) an affidavit from a parent.

VII. ENROLLMENT OF A STUDENT IN FOSTER CARE

First Special Session, Chapter 2, Article 1, Section 4 (HF 11)
Adds Minn. Stat. § 120A.21
Effective August 1, 2020

Requires that: (1) a student placed in foster care remain enrolled in the student's prior school unless the enrollment is not in the student's best interests; and (2) a student who does not remain enrolled in the prior school must be enrolled in a new school within seven school days.

VIII. ANNUAL CHILD MALTREATMENT AND OUT OF HOME PLACEMENT REPORT

First Special Session, Chapter 2, Article 1, Section 16 (HF 11)

Amends Minn. Stat. § 257.0725

Effective August 1, 2020

Requires DHS to include school enrollments within seven days of placement in the annual report on child maltreatment and children in out-of-home placement.

FAMILY LAW/DOMESTIC VIOLENCE

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I. CRIME OF HARRASSMENT

Regular Session, Chapter 96, Sections 2 and 3 (HF 4137)

Amends Minn. Stat. § 609.749, subdivision 2

Repeals Minn. Stat. § 609.749, subdivisions 1 and 1a

Effective August 1, 2020, and applies to crimes committed on or after that date

Addresses a November 2019 Minnesota Supreme Court decision in Matter of Welfare of A.J.B., 929 N.W.2d 840 (Minn. 2019), finding a portion of Minnesota's harassment statute unconstitutional because it prohibits a substantial amount of speech protected by the First Amendment. Adopts the standards for a mental state and causation of the conduct that are in current federal law.

A. Definitions

1. "Family or Household Members"

Defines "family or household members" as: (1) spouses and former spouses; (2) parents and children; (3) persons related by blood; (4) persons who are presently residing together or who have resided together in the past; (5) persons who have a child in common regardless of whether they have been married or have lived together at any time; (6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and (7) persons involved in a significant romantic or sexual relationship.

2. "Substantial Emotional Distress"

Defines "substantial emotional distress" as "mental distress, mental suffering, or mental anguish as demonstrated by a victim's response to an act including but not limited to seeking psychotherapy as defined in section 604.20, losing sleep or appetite, being diagnosed with a mental-health condition, experiencing suicidal ideation, or having difficulty concentrating on tasks resulting in a loss of productivity."

B. Intent

Adds the requirement of intent as a necessary element of proving the crime. Requires a showing of a mental state of intending to kill, injure, harass, or intimidate another person.

C. Causation

Establishes a causation element in the crime of harassment requiring that harassing conduct either: (1) place the victim or a family or household member in reasonable fear of substantial bodily harm; or (2) cause substantial emotional distress.

II. CRIME OF MAKING OBSCENE OR HARASSING CALLS

Regular Session, Chapter 96, Section 4 (HF 4137)

Amends Minn. Stat. § 609.79, subdivision 1

Effective August 1, 2020, and applies to crimes committed on or after that date

Adds the requirement of intent as a necessary element of proving the crime. Requires a showing of a mental state of intending to harass or intimidate another person by either making a telephone call or making or causing the telephone of another to repeatedly or continuously ring. Establishes a causation element in the crime of harassment requiring that harassing conduct either: (1) place the victim or a family or household member in reasonable fear of substantial bodily harm; or (2) cause substantial emotional distress.

III. CRIME OF HARASSMENT BY MAIL

Regular Session, Chapter 96, Section 4 (HF 4137)

Amends Minn. Stat. § 609.79, subdivision 1

Effective August 1, 2020, and applies to crimes committed on or after that date

Adds the requirement of intent as a necessary element of proving the crime. Requires a showing of a mental state of intending to harass or intimidate another person by repeatedly mailing or delivering or causing the delivery by any means, including electronically, of letters or packages.

IV. CHILD SUPPORT

A. **Motions Contesting Child Support Cost-of-Living Adjustments During COVID-19**

Regular Session, Chapter 74, Article 1, Section 17 (HF 4556)

Session Law

Effective April 16, 2020

1. Extension of Time to File Motion

Provides that, notwithstanding Minn. Stat. § 518.75, subdivision 2a, and section 16, a court has the discretion to order a full or partial adjustment to the child support obligation or decline to order an adjustment to the child support obligation if a child support obligor is unable due to circumstances related to COVID-19 to file a motion contesting a child support cost-of-living adjustment before June 30, 2020 but files the motion before October 31, 2020.

2. Conditions of Adjustment

Provides that: (1) any full or partial adjustment is effective on May 1, 2020, unless the court selects an alternative effective date based on the circumstances of the case; and (2) if the effective date creates an overpayment of support, the overpayment shall be reconciled according to Minn. Stat. § 518A.52.

B. **Release of Private Data – Joint Children Where Public Assistance Provided**

First Special Session, Chapter 2, Article 5, Sections 37 and 65 (HF 11)

Amends Minn. Stat. §§ 256.87, subdivision 8; and 257.70

Effective August 1, 2020

Clarifies that the prohibition on the release of private data on the location of a party to an action against parents for public assistance furnished applies to a joint child. Conforming amendments made to the Parentage Act (Hearings and Records section).

C. **Income Withholding**

First Special Session, Chapter 2, Article 5, Section 93 (HF 11)

Amends Minn. Stat. § 518A.53, subdivision 11

Effective August 1, 2020

To comply with federal law, deletes exception from the Consumer Credit Protection Act withholding limits for lump-sum collections for child support obligations.

D. Restoration of Suspended Recreational Licenses

First Special Session, Chapter 2, Article 5, Section 94 (HF 11)
Amends Minn. Stat. § 518A.68
Effective August 1, 2020

Removes service requirements to obligor on motion to suspend the obligor’s recreational license for nonpayment of child support. Provides that a motion by the obligor, obligee, or public authority may be granted if the court finds: (1) the obligor is in compliance with payment agreements or a subpoena; (2) the obligor has paid arrears in full; or (3) for an original motion brought by the public authority, the authority attests that the IV-D case is eligible for closure.

E. Reporting Child Support Arrears to Consumer Reporting Agencies

First Special Session, Chapter 2, Article 5, Section 95 (HF 11)
Amends Minn. Stat. § 518A.685
Effective August 1, 2020

Because it otherwise is unable to comply with national standards, deletes the requirement that DHS report child support arrears to a consumer reporting agency.

V. PROHIBITION OF MARRIAGES BY MINORS

Regular Session, Chapter 76 (HF 745)
Amends Minn. Stat. §§ 517.02; 517.03, subdivision 1; 517.08, subdivision 1a; and 517.08, subdivision 1b
Adds Minn. Stat. § 517.08, subdivision 1d
Effective August 1, 2020 and applies to marriages entered into on or after that date and applications filed with the local registrar after that date

Prohibits: (1) marriages for individuals under 18; (2) the recognition of marriages of Minnesota residents under the age of 18 who married in other jurisdictions outside the state. Requires proof of age of individuals when applying for a license to marry, and establishes sufficient proofs may be established by presentation of: (1) an original or certified copy of a birth certificate or birth record; (2) a driver's license or other identification card issued by a government entity or school; or (3) a school record, immigration record, naturalization record, court record, or other document or record issued by a government entity that contains the date of birth of a party.

VI. WILLS – HARMLESS ERROR

Regular Session, Chapter 74, Article 1, Section 2 (HF 4556)

Adds Minn. Stat. §§ 524.2-503

Effective to documents and writings executed on or after March 13, 2020, but before February 15, 2021

Provides that if a will was not executed in full compliance with the Uniform Probate Code section applicable to the execution of wills (Minn. Stat. § 524.2-502), it will be treated as if it had been executed in compliance with the applicable section the proponent of the document or writing establishes by clear and convincing evidence that the decedent intended the document or writing to constitute: (1) the decedent's will; (2) a partial or complete revocation of the will; (3) an addition to or an alteration of the will; or (4) a partial or complete revival of the decedent's formerly revoked will or of a formerly revoked portion of the will.

FARM LAW

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FARMER-LENDER MEDIATION

Regular Session, Chapter 97 (HF 4599)

Session Law, Amending Chapter 74, Article 1, Section 19 (HF 4556)

Effective April 16, 2020

Until 150 days after the date the debtor files a mediation request the Minnesota Extension Service, or December 1, 2020, whichever is later, prohibits a creditor from: (1) initiating or continuing proceedings to enforce a debt subject to the Farmer-Lender Mediation Act under Minnesota Statutes, Chapter 580 or 581, or Minn. Stat. §§ 336.9-501 to 336.9-508 336.9-601 to 336.9-624; (2) terminating a contract for deed to purchase agricultural property under Minn. Stat. § 559.21; or (3) garnishing, levying on, executing on, seizing, or attaching agricultural property.

FOOD SUPPORTS

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I. SNAP COVID-19 WAIVERS

First Special Session, Chapter 7, Section 1 (HF105)

Session Law

Effective June 24, 2020

Provides that when the peacetime emergency ends, the following COVID-19 related SNAP waivers may continue as allowed under federal law or state plan: (1) waiver of work requirements for SNAP participants, (2) extension of recertification dates for SNAP and the Minnesota Food Assistance Program, and (3) emergency increases in SNAP and Minnesota Food Assistance Program benefits.

HEALTH LAW

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MEDICAL ASSISTANT (MA)

I. **COVERAGE FOR UNINSURED INDIVIDUALS NEEDING COVID-19 TESTING**

Regular Session, Chapter 74, Article 1, Sections 11 and 12 (HF 4556)

Session Law

Effective upon federal approval

Provided a diagnostic product has received U.S. Food and Drug Administration Emergency Use Authorization, MA is authorized to cover a diagnostic product necessary to diagnose COVID-19, and the associated visit, for uninsured individuals.

II. **ELIGIBILITY FOR MA**

Regular Session, Chapter 115, Article 3, Sections 16 – 22, and 40 (SF 13)

Amends Minn. Stat. §§ 256B.056, subdivisions 1a, 4, 7, 7a, and 10; 256B.0561, subdivision 2; and 256B.057, subdivisions 1 and 10

Repeals Minn. Stat. § 256B.057, subdivision 8

Effective May 28, 2020

A. **Income and Assets**

For individuals whose income is determined using modified adjusted gross income methodology, adds that: (1) the individual's current monthly income and household size is used to determine eligibility for the 12-month eligibility period; and (2) if an individual's income is expected to vary month to month, eligibility is determined based on the income predicted for the 12-month eligibility period.

Amends Minn. Stat. § 256B.056, subdivisions 1a

B. **Change in Income**

For a person eligible for an “insurance affordability program” who reports a change in income that makes the person eligible for MA, eligibility is available for the month the change was reported and for three months prior to the month the change was reported, if the person was eligible in those prior months.

Note: “Insurance affordability programs” consist of: (1) MA; (2) MinnesotaCare; (3) a Basic Health Plan; or (4) a program that provides premium tax credits or cost-sharing.

Amends Minn. Stat. § 256B.056, subdivision 7

C. Eligibility Periods, Verification, and Special Categories

1. Period of Eligibility

Provides that persons eligible for MA through spenddown shall be subject to a review of eligibility every six months.

Note: Current law requires eligibility renewal every six months.

Amends Minn. Stat. § 256B.056, subdivision 7a

2. Eligibility Verification

a. *Persons Who Are Elderly, Blind, or Have Disabilities*

Requires persons who are elderly, blind, or have disabilities, and any other person subject to an MA asset test, to authorize DHS to obtain information from financial institutions to identify unreported accounts.

Amends Minn. Stat. § 256B.056, subdivision 10 by adding paragraph (e)

b. *County and Tribal Agencies*

Requires county and tribal agencies to comply with the standards established by DHS for appropriate use of the asset verification system.

Amends Minn. Stat. § 256B.056, subdivision 10 by adding paragraph (f)

3. Periodic Data Matching

Specifies that a recipient whose eligibility for MA or MinnesotaCare was terminated due to periodic data matching is eligible no earlier than the first day of the month in which the recipient demonstrates eligibility.

Amends Minn. Stat. § 256B.0561, by adding subdivision 2(d)

4. Eligibility of Infants and Pregnant Women

a. *Infants*

Increases the income threshold for eligibility for infants under the age of two years from 275% to 283% of FPG.

Amends Minn. Stat. § 256B.057, subdivision 1(a)

Repeals Minn. Stat. § 256B.057, subdivision 8 (duplicative language)

b. *Pregnant Women*

Increases the income threshold for eligibility for pregnant women from 275% to 278% of FPG.

Adds Minn. Stat. § 256B.057, subdivision 1(b)

III. BENEFITS FOR INSTITUTIONALIZED PERSONS

Regular Session, Chapter 115, Article 3, Section 24 (SF 13)
Amends Minn. Stat. § 256B.0575, subdivision 2
Effective August 1, 2020

Specifies that the amount that may be retained (and not applied to the cost of institutional care) is the greater of the amount of the personal needs allowance or the amount of an improved pension from the Veterans Administration for: (1) a veteran who does not have a spouse or child, or (2) the surviving spouse of a veteran with no child.

IV. HEALTH CARE HOMES

Regular Session, Chapter 115, Article 3, Sections 29, 39, and 40 (SF 13)
Amends Minn. Stat. § 256B.0751, subdivision 2
Repeals Minn. Stat. § 256B.05752
Revisor Instructions
Effective May 28, 2020

A. Oversight Authority

Switches oversight authority of Health Care Homes from DHS to MDH. Deletes the definition of “state health care programs” (which are defined to mean MA and MinnesotaCare).

Amends Minn. Stat. § 256B.0575, subdivision 2

B. Recodification

Directs the Revisor of Statutes to change the applicable references to Minnesota Statutes, section 256B.0751, to section 62U.03.

Note: Section 62U.03 is the Payment Restructuring and Care Coordination Payments section of the Health Care Payment and Pricing Reform Chapter.

Revisor’s Instructions

C. Reporting

Eliminates Health Care Home reporting requirement.

Repeals Minn. Stat. § 256B.0752

V. PAYMENT OF “REASONABLE EXPENSES” FOR RESIDENTS OF ASSISTED LIVING FACILITIES

Regular Session, Chapter 115, Article 3, Section 25 (SF 13)
Amends Minn. Stat. § 256B.0575, subdivision 2
Effective May 28, 2020

Includes private room fees for an assisted living resident in the list of expenses that are not “reasonable expenses” that may not be deducted from the income.

MINNESOTACARE

I. COVERED SERVICES

Regular Session, Chapter 115, Article 3, Section 25 (SF 13)
Amends Minn. Stat. § 256L.03, subdivision 1
Effective May 28, 2020

Adds behavioral health home services to the list of MA covered services that are not also covered under MinnesotaCare.

II. APPLICATION BY CERTAIN FAMILIES

Regular Session, Chapter 115, Article 3, Section 40 (SF 13)
Repeals Minn. Stat. § 256L.04, subdivision 13
Effective May 28, 2020

Repeals application provisions for families with relative caretakers, foster parents, or legal guardians.

HIGHER EDUCATION LAW

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I. SEXUAL HARASSMENT AND VIOLENCE POLICY – DEFINITION OF SEXUAL ASSAULT

Regular Session, Chapter 109, Article 1, Section 2 (SF 3683)

Amends Minn. Stat. § 135A.15, subdivision 1a

Effective August 1, 2020

Adds to the law governing sexual harassment and violence policy in public postsecondary schools the definition “incident.” Provides that “incident means one report of sexual assault to a postsecondary institution, regardless of the number of complainants included in the report, the number of respondents included in the report, and whether or not the identity of any party is known by the reporting postsecondary institution. Incident encompasses all nonconsensual events included within one report if multiple events have been identified.”

II. PROHIBITION ON SUSPENSION FOR SCHOOLS RECEIVING STATE GRANTS

Regular Session, Chapter 109, Article 1, Section 7 (SF 3683)

Adds Minn. Stat. § 136A.121, subdivision 21

Effective August 1, 2020

Prohibits postsecondary institutions that receive state grants from suspending or withdrawing students from attending classes or receiving resources for any unpaid student account balance unless the student is eligible for a full tuition and fee refund.

JUVENILE/YOUTH LAW

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I. JUVENILE SAFETY AND PLACEMENT

*First Special Session, Chapter 2, Article 1, Section 17 and Article 5, Sections 67 – 91 (HF 11)
Amends Minn. Stat. §§ 260C.157, subdivision 3; 260C.202; 260C.204; 260C.212, subdivisions 1,2,
4a; 260C.219; 260C.227; and 260C.4412*

*Adds Minn. Stat. § 260C.07, subdivisions 16a, 16b, 21a, 25a, 26c, 26d, and 27b; 260C.212,
subdivision 1a; 260C.503, subdivision 4; 260C.702; 260C.704; 206C.706; 260C.708; 260C.71;
260C.712; and 260C.714*

Various Effective Dates

A. Definitions

1. "Family and Permanency Team"
Defines "family and permanency team" to mean "a team consisting of:
(1) the child's parent or legal custodian; (2) relatives; (3) foster care
providers; and (4) professionals who are resources to the child's family
such as teachers, medical or mental health providers who have treated
the child, or clergy. For Indian children, adds: (1) tribal representatives;
(2) delegates; and (3) cultural resources as identified by the child's tribe.
Adds Minn. Stat. § 260C.07, subdivisions 16a
Effective September 30, 2021
2. "Family Foster Home"
Defines "family foster home" to mean "the home of an individual or
family who is licensed for child foster care and meets relevant standards.
Provides that family foster home includes an emergency unlicensed
relative placement
Adds Minn. Stat. § 260C.07, subdivisions 16b
Effective September 30, 2021
3. "Legal Authority to Place the Child"
Defines "legal authority to place the child" to mean "that the agency has
legal responsibility for the care and control of the child while the child is
in foster care. Includes the ways in which an agency may have legal
authority to place a child.
Adds Minn. Stat. § 260C.07, subdivisions 21a
Effective September 30, 2021

4. “Permanency Plan”
Defines "permanency plan" to mean “the established goal in the out-of-home placement plan that will achieve a safe, permanent home for the child. Establishes four permanency goals for children: (1) reunification with the child's parent or legal guardian; (2) placement with other relatives; (3) adoption; or (4) establishment of a new legal guardianship.
Adds Minn. Stat. § 260C.07, subdivisions 25a
Effective September 30, 2021
5. “Qualified Individual”
Defines "qualified individual" to mean “a trained culturally competent professional or licensed clinician, including a mental health professional, who is not an employee of the responsible social services agency and who is not connected to or affiliated with any placement setting in which a responsible social services agency has placed children.
Adds Minn. Stat. § 260C.07, subdivisions 26c
Effective September 30, 2021
6. “Qualified Residential Treatment Program”
Defines "qualified residential treatment program" to mean a licensed program or one approved by a tribe to receive foster care maintenance payments. Establishes eight additional characteristics.
Adds Minn. Stat. § 260C.07, subdivisions 26d
Effective September 30, 2021
7. “Residential Treatment Facility”
Defines "residential treatment facility" to mean “a 24-hour-a-day program that provides treatment for children with emotional disturbance and includes a licensed residential program specializing in caring 24 hours a day for children with a developmental delay or related condition. Excludes a psychiatric residential treatment facility or a family foster home.
Adds Minn. Stat. § 260C.07, subdivisions 27b
Effective August 1, 2020

B. Juvenile Treatment Screening Teams

1. Purpose of Screening
Requires a juvenile treatment screening team to screen a child for treatment in a residential treatment facility for emotional disturbance, developmental disability, or related condition.
Amends Minn. Stat. § 260C.157, subdivision 3(a)
Effective September 30, 2021

2. Composition of Screening Team
Adds that the screening team may include the child's relatives, the child's foster care provider, and resource professionals (such as teachers, medical or mental health providers, and clergy). Requires the responsible social services agency, to ensure that the team is family-centered and will act in the child's best interest, to consult with: (1) a child age 14 or older; (2) the child's parents; and (3) if applicable, the child's tribe.
Amends Minn. Stat. § 260C.157, subdivision 3(b)
Effective September 30, 2021
3. Procedures for Indian Children
Specifies procedure to follow if the child is an Indian child. Adds that the relevant portions of the following laws apply: (1) the Indian Child Welfare Act of 1978; and (2) the Minnesota Indian Family Preservation Act.
Amends Minn. Stat. § 260C.157, subdivision 3(b)
Effective September 30, 2021
4. Court Proposed Placement
Requires the responsible social services agency to conduct a screening if the court proposes to place a child with an emotional disturbance or developmental disability or related condition in residential treatment
Amends Minn. Stat. § 260C.157, subdivision 3(d)
Effective September 30, 2021
5. Responsible Social Services Agency Obligations and Documentation
Specifies the obligations, such as conducting an assessment, and documentation requirements of the responsible social services agency.
Amends Minn. Stat. § 260C.157, subdivision 3, paragraphs (e) and (f)
Effective September 30, 2021

- C. Court Review of Foster Care and Permanency Proceedings and Review**
Requires the responsible social services agency to submit evidence to the court when a child is placed in a qualified residential treatment program setting
Amends Minn. Stat. § 260C.202 (Court Review)
Amends Minn. Stat. § 260C.204 (Permanency Progress Review)
Adds Minn. Stat. § 260C.503, subdivision 4 (Permanency Proceedings)
Effective September 30, 2021

D. Out-of-Home Placements

1. Initial Plan

Requires the responsible social services agency to file with the court an initial out-of-home placement plan within 30 days of placing the child in foster care.

*Adds Minn. Stat. § 260C.212, subdivision 1a
Effective September 30, 2021*

2. Plan Update

Requires the responsible social services agency to file with the court updates to the out-of-home placement plan 180 days after the child's initial placement and every six months thereafter or earlier when the agency: (1) moves a child to a different foster care setting; (2) places a child in a qualified residential treatment program; (3) places a child with the child's parent in a licensed residential family-based substance use disorder treatment program; or (4) is otherwise obligated under law.

*Adds Minn. Stat. § 260C.212, subdivision 1a
Effective September 30, 2021*

E. Placement Based on Best Interests of the Child

Adds that the responsible social services agency must establish a juvenile treatment screening team to determine whether it is necessary and appropriate to recommend placing a child in a qualified residential treatment program.

*Adds Minn. Stat. § 260C.212, subdivision 2
Effective September 30, 2021*

F. Placements in Qualified Residential Treatment Programs

Adds eight sections that comprise what may be cited as "Placements in Qualified Residential Treatment Programs," which collectively implement the requirements of the Family First Prevention Services Act of 2018, Public Law 115-123, and apply to children for whom the juvenile treatment screening team recommends placement in a qualified residential treatment program.

1. Requirements for Placements in Qualified Residential Treatment Programs

Establishes criteria for the responsible social services agency to place a child in a qualified residential treatment program, which include: (1) an assessment; (2) a family and permanency team; (3) an out-of-home placement plan; (4) court approval; (5) ongoing reviews and permanency hearings; and (6) a court review of any extended placement.

*Adds Minn. Stat. § 260C.702
Effective September 30, 2021*

2. Requirements for Assessments
Requires a completion of an assessment of the child prior to or within 30 days of the child's placement in the residential treatment program. Specifies elements of the assessment, including, for Indian children, following the order of placement preferences in the Indian Child Welfare Act of 1978. Provides that child or, where appropriate, the child's parents may request that a specific culturally competent qualified individual complete the child's assessment. Requires the agency to move the child out of the program and transition the child to a less restrictive setting within 30 days of a determination that the child's family or a family foster home or other less restrictive placement may meet the child's needs.
Adds Minn. Stat. § 260C.704
Effective September 30, 2021

3. Family and Permanency Team Requirements
Requires the responsible social service agency to assemble a family and permanency team upon an agency recommendation for placement. Specifies the team must include all appropriate biological family members, the child's parents, legal guardians or custodians, foster care providers, and relatives. Lists additional requirements.
Adds Minn. Stat. § 260C.706
Effective September 30, 2021

4. Out-of-home Placement Plan
Specifies requirements for the out-of-home placement plan when the responsible social services agency places a child in a qualified residential treatment program.
Adds Minn. Stat. § 260C.708
Effective September 30, 2021

5. Court Approval Requirements
Requires the court, within 60 days of the start of a placement in a qualified residential treatment program, to: (1) consider the assessment; (2) determine whether a family foster home can meet the child's needs; (3) determine whether placement in a residential treatment program is necessary and appropriate and the least restrictive possible environment; (4) determine whether the placement is consistent with goals specified in the permanency plan; and (5) approve or disapprove of the placement. Requires documentation of the court's approval or disapproval.
Adds Minn. Stat. § 260C.71
Effective September 30, 2021

6. Ongoing Reviews and Permanency Requirements
Requires the responsible social services agency to submit evidence at each administrative review, court review, and permanency hearing while a child remains in a qualified residential treatment program. Specifies what the evidence must demonstrate and document.
Adds Minn. Stat. § 260C.712
Effective September 30, 2021
7. Review of Extended Placements
Requires the responsible social services agency to submit signed approval by the county social services director and evidence supporting the child placement at the most recent court review or permanency hearing when a child is in a qualified residential treatment program for: (1) more than 12 consecutive months; (2) 18 nonconsecutive months; or (3) for children under 13 years of age, for more than six consecutive or nonconsecutive months.
Adds Minn. Stat. § 260C.714
Effective September 30, 2021

G. Agency Responsibilities for Parents and Children in Placement

1. Reorganization of Section
Replaces paragraphs (a) through (e) with subdivisions, entitled, respectively:
 - Responsibilities for parents; noncustodial parents (Subdivision 1);
 - Notice to parent or guardian (Subdivision 2);
 - Information for a parent considering voluntary placement (Subdivision 3);
 - Medical examinations (Subdivision 4); and
 - Children reaching age of majority; copies of records (Subdivision 5).*Amends Minn. Stat. § 260C.219*
Effective for children who enter foster care on or after August 1, 2020
2. Initial Foster Care Phone Call
Requires the responsible social services agency should attempt to coordinate a phone call between the foster parent or facility and the child's parent or legal guardian when a child enters foster care or moves to a new foster care placement. Indicates the purposes of the call are to: (1) establish a connection and encourage ongoing information sharing between the child's parent or legal guardian and the foster parent or facility; and (2) provide an opportunity to share any information regarding the child, the child's needs, or the child's care that would facilitate the child's adjustment to the foster home, promote stability, reduce the risk of trauma, or otherwise improve the quality of the child's care. Requires that the call should make the attempt to coordinate the call as soon as practicable after the child arrives at the placement but no later than 72 hours after the child's placement. Provides exceptions.
Amends Minn. Stat. § 260C.219
Effective for children entering out-of-home placement or moving between placements on or after November 1, 2020

3. Prenatal Alcohol Exposure Screening
Requires the responsible social services agency to coordinate a prenatal alcohol exposure screening, according to existing criteria, for any child who enters foster care as soon as practicable but no later than 45 days after the removal of the child from the child's home, if the agency has determined that the child has not previously been screened or identified as prenatally exposed to alcohol.
Amends Minn. Stat. § 260C.219
Effective for children who enter foster care on or after August 1, 2020

II. MINOR CONSENT TO HOMELESS AND SEXUALLY EXPLOITED YOUTH SERVICES

First Special Session, Chapter 2, Article 5, Section 59 (HF 11)

Adds Minn. Stat. § 256K.451

August 1, 2020

Permits a minor who lives separately from their parent or guardian to consent to receive homeless youth services and services for sexually exploited youth

III. MINNESOTA INDIAN FAMILY PRESERVATION ACT

First Special Session, Chapter 2, Article 5, Section 66 (HF 11)

Adds Minn. Stat. § 260.7611

August 1, 2020

Allows tribes and counties to enter into written agreements transferring screening and initial response responsibilities for maltreatment reports involving Indian children from the county to the tribe. Requires that agreements made under this subdivision specify which entity is responsible for ongoing case management.

IV. MALTREATMENT OF MINORS ACT REORGANIZATION

First Special Session, Chapter 2, Article 7 (HF 11)

Adds Minn. Stat. §§ 260E.01 – 260E.38

Repeals Minn. Stat. §§ 626.556; 626.5591; and 626.561 [replaced by new sections in Chapter 260E]

August 1, 2020

Reorganizes, recodifies, and makes clarifying changes to the Maltreatment of Minors Act (Minn. Stat. § 626.556) into a new chapter (260E). Makes conforming changes throughout Minnesota Statutes. Removes the requirement for health care and social services professionals (who are mandated reporters of suspected child maltreatment) to report a woman's use of a controlled substance for a nonmedical purpose or excessive consumption of alcohol during pregnancy to the local welfare agency, if the professional is providing the woman with prenatal care or other health care services.

PUBLIC BENEFITS LAW

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I. REFUGEE CASH ASSISTANCE COVID-19 WAIVERS

First Special Session, Chapter 7, Section 1 (HF105)
Session Law
Effective June 24, 2020

Provides that when the peacetime emergency ends, COVID-19 related refugee cash assistance and services waivers may continue as allowed under federal law or state plan. Extends the eligibility period for Refugee Cash Assistance from eight to 18 months, with the extra months not to extend beyond September 30, 2020. Provides for modified eligibility period for Refugee Social Services, extending the 60-month eligibility period, with extra months not to extend beyond September 30, 2020.

II. HOUSING SUPPORT OVERPAYMENTS

First Special Session, Chapter 2, Article 5, Section 57 (HF11)
Adds Minn. Stat. § 256I.06 subdivision. 10
Effective August 1, 2020

Creates a new standard of review for housing support overpayments caused by agency error. Holds harmless a recipient or former recipient for an overpayment due to agency error unless the amount of the overpayment is large enough that a reasonable person would know it is an error.

III. DEFINITION OF QUALIFIED PROFESSIONAL

First Special Session, Chapter 2, Article 5, Sections 58 and 64 (HF11)
Adds Minn. Stat. § 256P.01 subdivision 6a
Repeals Minn. Stat. § 256J.08 subdivision 73a
Effective August 1, 2020

Clarifies who is a qualified professional for purposes of making determinations about public benefits eligibility, services, and work activity requirements and exemptions.

IV. MINOR CONSENT TO HOMELESS AND SEXUALLY EXPLOITED YOUTH SERVICES

First Special Session, Chapter 2, Article 5, Section 59 (HF 11)

Adds Minn. Stat. § 256K.451

August 1, 2020

Permits a minor living separately from the minor's parent or legal guardian to give consent to receive homeless youth services and services for sexually exploited youth. Provides that a minor's consent to receive services does not affect a parent or legal guardian's custody of the minor.

UNEMPLOYMENT INSURANCE LAW

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I. SUITABLE EMPLOYMENT DURING COVID-19 PANDEMIC

Regular Session, Chapter 71, Article 2, Section 20 (HF 4531)

Session Law

Effective March 29, 2020, retroactive to March 1, 2020

Provides that, notwithstanding the definition of "suitable employment" provided in Minnesota Statutes, section 268.035, subdivision 23a, employment is not suitable if: (1) the employment puts the health and safety of the applicant at risk due to potential exposure of the applicant to COVID-19; or (2) the employment puts the health and safety of other workers and the general public at risk due to potential exposure of the other workers and the general public to COVID-19.

II. SUSPENSION OF ONE-WEEK WAITING PERIOD DURING COVID-19 PANDEMIC

Regular Session, Chapter 71, Article 2, Section 21 (HF 4531)

Session Law

Effective March 29, 2020, retroactive to March 1, 2020

Temporarily suspends the one-week non-payable waiting period to receive unemployment benefits for applicants who establish benefit accounts between March 1, 2020, and December 21, 2020.

III. SUSPENSION OF BUSINESS OWNER BENEFIT LIMITATION DURING COVID-19

Regular Session, Chapter 71, Article 2, Section 22 (HF 4531)

Session Law

Effective March 29, 2020, retroactive to March 1, 2020

Temporarily suspends the five-week limitation on receipt of unemployment benefits for business owners where the benefit account is established between March 1, 2020, and December 31, 2020.

IV. LEAVE OF ABSENCE DUE TO COVID-19

Regular Session, Chapter 71, Article 2, Section 23 (HF 4531)

Session Law

Effective March 29, 2020, retroactive to March 1, 2020

Creates a temporary presumption that an involuntary leave of absence does not make an applicant ineligible for unemployment insurance benefits where: (1) health care professionals have determined the applicant's presence in the workplace would jeopardize others; (2) a quarantine or isolation order has been issued; (3) health professionals have advised self-isolation or self-quarantine; (4) the applicant was asked not to come to work due to an outbreak of a communicable disease; or (5) the applicant received a notification from a school district, day care, or other child care provider that either: (i) classes are canceled; or (ii) the applicant's ordinary child care is unavailable, provided that the applicant made reasonable effort to obtain other child care and requested time off or other accommodation from the employer and no reasonable accommodation was available.