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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 8

01/08/2015 Authored by Kresha; Backer; Mullery; Anderson, P.; Bennett and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to human services; updating child protection provisions; amending
1.3 Minnesota Statutes 2014, section 626.556, subdivisions 1, 2, 3, 6a, 7, 10, 11c.
1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2014, section 626.556, subdivision 1, is amended to read:

1.6 Subdivision 1. **Public policy.** (a) The legislature hereby declares that the public
1.7 policy of this state is to protect children whose health or welfare may be jeopardized
1.8 through physical abuse, neglect, or sexual abuse. While it is recognized that most parents
1.9 want to keep their children safe, sometimes circumstances or conditions interfere with their
1.10 ability to do so. When this occurs, ~~families are best served by interventions that engage~~
1.11 ~~their protective capacities and address immediate safety concerns and ongoing risks of~~
1.12 ~~child maltreatment~~ the health and safety of the children shall be of paramount concern.
1.13 Intervention and prevention efforts shall address immediate concerns for child safety and
1.14 the ongoing risk of abuse or neglect and should engage the protective capacities of families.

1.15 In furtherance of this public policy, it is the intent of the legislature under this section to:

- 1.16 (1) protect children and promote child safety;
- 1.17 (2) strengthen the family and;
- 1.18 (3) make the home, school, and community safe for children by promoting
1.19 responsible child care in all settings; and to
- 1.20 (4) provide, when necessary, a safe temporary or permanent home environment for
1.21 physically or sexually abused or neglected children.

1.22 (b) In addition, it is the policy of this state to:

- 1.23 (1) require the reporting of neglect; or physical or sexual abuse of children in the
1.24 home, school, and community settings; to

2.1 (2) provide for the voluntary reporting of abuse or neglect of children; ~~to require~~
 2.2 a family assessment, when appropriate, as the preferred response to reports not alleging
 2.3 substantial child endangerment; to

2.4 (3) require an investigation when the report alleges ~~substantial child endangerment~~
 2.5 physical or sexual abuse or neglect of a child;

2.6 (4) provide a family assessment for those families whose children are determined to
 2.7 be at low risk of abuse or neglect and for whom there are no immediate safety concerns;
 2.8 and to

2.9 (5) provide protective, family support, and family preservation services when
 2.10 needed in appropriate cases.

2.11 Sec. 2. Minnesota Statutes 2014, section 626.556, subdivision 2, is amended to read:

2.12 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings
 2.13 given them unless the specific content indicates otherwise:

2.14 (a) "Family assessment" means a comprehensive assessment of child safety, risk
 2.15 of subsequent child maltreatment, and family strengths and needs that is applied to a
 2.16 child maltreatment report that does not allege substantial child endangerment. Family
 2.17 assessment does not include a determination as to whether child maltreatment occurred
 2.18 but does determine the need for services to address the safety of family members and the
 2.19 risk of subsequent maltreatment.

2.20 (b) "Investigation" means fact gathering related to the current safety of a child
 2.21 and the risk of subsequent maltreatment that determines whether child maltreatment
 2.22 occurred and whether child protective services are needed. An investigation must be used
 2.23 when reports involve substantial child endangerment, and for reports of maltreatment in
 2.24 facilities required to be licensed under chapter 245A or 245D; under sections 144.50 to
 2.25 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and
 2.26 13, and 124D.10; or in a nonlicensed personal care provider association as defined in
 2.27 section 256B.0625, subdivision 19a.

2.28 (c) "Substantial child endangerment" means a person responsible for a child's care,
 2.29 and in the case of sexual abuse includes a person who has a significant relationship to the
 2.30 child as defined in section 609.341, or a person in a position of authority as defined in
 2.31 section 609.341, who by act or omission commits or attempts to commit an act against a
 2.32 child under their care that constitutes any of the following:

2.33 (1) egregious harm as defined in section 260C.007, subdivision 14;

2.34 (2) sexual abuse as defined in paragraph (d);

2.35 (3) abandonment under section 260C.301, subdivision 2;

- 3.1 (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the
3.2 child's physical or mental health, including a growth delay, which may be referred to as
3.3 failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- 3.4 (5) murder in the first, second, or third degree under section 609.185, 609.19, or
3.5 609.195;
- 3.6 (6) manslaughter in the first or second degree under section 609.20 or 609.205;
- 3.7 (7) assault in the first, second, or third degree under section 609.221, 609.222, or
3.8 609.223;
- 3.9 (8) solicitation, inducement, and promotion of prostitution under section 609.322;
- 3.10 (9) criminal sexual conduct under sections 609.342 to 609.3451;
- 3.11 (10) solicitation of children to engage in sexual conduct under section 609.352;
- 3.12 (11) malicious punishment or neglect or endangerment of a child under section
3.13 609.377 or 609.378;
- 3.14 (12) use of a minor in sexual performance under section 617.246; or
- 3.15 (13) parental behavior, status, or condition which mandates that the county attorney
3.16 file a termination of parental rights petition under section 260C.503, subdivision 2.
- 3.17 (d) "Sexual abuse" means the subjection of a child by a person responsible for the
3.18 child's care, by a person who has a significant relationship to the child, as defined in
3.19 section 609.341, or by a person in a position of authority, as defined in section 609.341,
3.20 subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual
3.21 conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),
3.22 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct
3.23 in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual
3.24 abuse also includes any act which involves a minor which constitutes a violation of
3.25 prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes
3.26 threatened sexual abuse which includes the status of a parent or household member
3.27 who has committed a violation which requires registration as an offender under section
3.28 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section
3.29 243.166, subdivision 1b, paragraph (a) or (b).
- 3.30 (e) "Person responsible for the child's care" means (1) an individual functioning
3.31 within the family unit and having responsibilities for the care of the child such as a
3.32 parent, guardian, or other person having similar care responsibilities, or (2) an individual
3.33 functioning outside the family unit and having responsibilities for the care of the child
3.34 such as a teacher, school administrator, other school employees or agents, or other lawful
3.35 custodian of a child having either full-time or short-term care responsibilities including,

4.1 but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching,
4.2 and coaching.

4.3 (f) "Neglect" means the commission or omission of any of the acts specified under
4.4 clauses (1) to (9), other than by accidental means:

4.5 (1) failure by a person responsible for a child's care to supply a child with necessary
4.6 food, clothing, shelter, health, medical, or other care required for the child's physical or
4.7 mental health when reasonably able to do so;

4.8 (2) failure to protect a child from conditions or actions that seriously endanger the
4.9 child's physical or mental health when reasonably able to do so, including a growth delay,
4.10 which may be referred to as a failure to thrive, that has been diagnosed by a physician and
4.11 is due to parental neglect;

4.12 (3) failure to provide for necessary supervision or child care arrangements
4.13 appropriate for a child after considering factors as the child's age, mental ability, physical
4.14 condition, length of absence, or environment, when the child is unable to care for the
4.15 child's own basic needs or safety, or the basic needs or safety of another child in their care;

4.16 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
4.17 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
4.18 child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

4.19 (5) nothing in this section shall be construed to mean that a child is neglected solely
4.20 because the child's parent, guardian, or other person responsible for the child's care in
4.21 good faith selects and depends upon spiritual means or prayer for treatment or care of
4.22 disease or remedial care of the child in lieu of medical care; except that a parent, guardian,
4.23 or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report
4.24 if a lack of medical care may cause serious danger to the child's health. This section does
4.25 not impose upon persons, not otherwise legally responsible for providing a child with
4.26 necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

4.27 (6) prenatal exposure to a controlled substance, as defined in section 253B.02,
4.28 subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal
4.29 symptoms in the child at birth, results of a toxicology test performed on the mother at
4.30 delivery or the child at birth, medical effects or developmental delays during the child's
4.31 first year of life that medically indicate prenatal exposure to a controlled substance, or the
4.32 presence of a fetal alcohol spectrum disorder;

4.33 (7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

4.34 (8) chronic and severe use of alcohol or a controlled substance by a parent or
4.35 person responsible for the care of the child that adversely affects the child's basic needs
4.36 and safety; or

5.1 (9) emotional harm from a pattern of behavior which contributes to impaired
5.2 emotional functioning of the child which may be demonstrated by a substantial and
5.3 observable effect in the child's behavior, emotional response, or cognition that is not
5.4 within the normal range for the child's age and stage of development, with due regard to
5.5 the child's culture.

5.6 (g) "Physical abuse" means any physical injury, mental injury, or threatened injury,
5.7 inflicted by a person responsible for the child's care on a child other than by accidental
5.8 means, or any physical or mental injury that cannot reasonably be explained by the child's
5.9 history of injuries, or any aversive or deprivation procedures, or regulated interventions,
5.10 that have not been authorized under section 125A.0942 or 245.825.

5.11 Abuse does not include reasonable and moderate physical discipline of a child
5.12 administered by a parent or legal guardian which does not result in an injury. Abuse does
5.13 not include the use of reasonable force by a teacher, principal, or school employee as
5.14 allowed by section 121A.582. Actions which are not reasonable and moderate include,
5.15 but are not limited to, any of the following ~~that are done in anger or without regard to the~~
5.16 ~~safety of the child:~~

5.17 (1) throwing, kicking, burning, biting, or cutting a child;

5.18 (2) striking a child with a closed fist;

5.19 (3) shaking a child under age three;

5.20 (4) striking or other actions which result in any nonaccidental injury to a child
5.21 under 18 months of age;

5.22 (5) unreasonable interference with a child's breathing;

5.23 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

5.24 (7) striking a child under age one on the face or head;

5.25 (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
5.26 substances which were not prescribed for the child by a practitioner, in order to control or
5.27 punish the child; or other substances that substantially affect the child's behavior, motor
5.28 coordination, or judgment or that results in sickness or internal injury, or subjects the
5.29 child to medical procedures that would be unnecessary if the child were not exposed
5.30 to the substances;

5.31 (9) unreasonable physical confinement or restraint not permitted under section
5.32 609.379, including but not limited to tying, caging, or chaining; or

5.33 (10) in a school facility or school zone, an act by a person responsible for the child's
5.34 care that is a violation under section 121A.58.

6.1 (h) "Report" means any report received by the local welfare agency, police
6.2 department, county sheriff, or agency responsible for assessing or investigating
6.3 maltreatment pursuant to this section.

6.4 (i) "Facility" means:

6.5 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
6.6 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
6.7 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245D;

6.8 (2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and
6.9 124D.10; or

6.10 (3) a nonlicensed personal care provider organization as defined in section
6.11 256B.0625, subdivision 19a.

6.12 (j) "Operator" means an operator or agency as defined in section 245A.02.

6.13 (k) "Commissioner" means the commissioner of human services.

6.14 (l) "Practice of social services," for the purposes of subdivision 3, includes but is
6.15 not limited to employee assistance counseling and the provision of guardian ad litem and
6.16 parenting time expeditor services.

6.17 (m) "Mental injury" means an injury to the psychological capacity or emotional
6.18 stability of a child as evidenced by an observable or substantial impairment in the child's
6.19 ability to function within a normal range of performance and behavior with due regard to
6.20 the child's culture.

6.21 (n) "Threatened injury" means a statement, overt act, condition, or status that
6.22 represents a substantial risk of physical or sexual abuse or mental injury. Threatened
6.23 injury includes, but is not limited to, exposing a child to a person responsible for the
6.24 child's care, as defined in paragraph (e), clause (1), who has:

6.25 (1) subjected a child to, or failed to protect a child from, an overt act or condition
6.26 that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a
6.27 similar law of another jurisdiction;

6.28 (2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph
6.29 (b), clause (4), or a similar law of another jurisdiction;

6.30 (3) committed an act that has resulted in an involuntary termination of parental rights
6.31 under section 260C.301, or a similar law of another jurisdiction; or

6.32 (4) committed an act that has resulted in the involuntary transfer of permanent
6.33 legal and physical custody of a child to a relative under Minnesota Statutes 2010, section
6.34 260C.201, subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a
6.35 similar law of another jurisdiction.

7.1 A child is the subject of a report of threatened injury when the responsible social
7.2 services agency receives birth match data under paragraph (o) from the Department of
7.3 Human Services.

7.4 (o) Upon receiving data under section 144.225, subdivision 2b, contained in a
7.5 birth record or recognition of parentage identifying a child who is subject to threatened
7.6 injury under paragraph (n), the Department of Human Services shall send the data to the
7.7 responsible social services agency. The data is known as "birth match" data. Unless the
7.8 responsible social services agency has already begun an investigation or assessment of the
7.9 report due to the birth of the child or execution of the recognition of parentage and the
7.10 parent's previous history with child protection, the agency shall accept the birth match
7.11 data as a report under this section. The agency may use either a family assessment or
7.12 investigation to determine whether the child is safe. All of the provisions of this section
7.13 apply. If the child is determined to be safe, the agency shall consult with the county
7.14 attorney to determine the appropriateness of filing a petition alleging the child is in need
7.15 of protection or services under section 260C.007, subdivision 6, clause (16), in order to
7.16 deliver needed services. If the child is determined not to be safe, the agency and the county
7.17 attorney shall take appropriate action as required under section 260C.503, subdivision 2.

7.18 (p) Persons who conduct assessments or investigations under this section shall take
7.19 into account accepted child-rearing practices of the culture in which a child participates
7.20 and accepted teacher discipline practices, which are not injurious to the child's health,
7.21 welfare, and safety.

7.22 (q) "Accidental" means a sudden, not reasonably foreseeable, and unexpected
7.23 occurrence or event which:

7.24 (1) is not likely to occur and could not have been prevented by exercise of due
7.25 care; and

7.26 (2) if occurring while a child is receiving services from a facility, happens when the
7.27 facility and the employee or person providing services in the facility are in compliance
7.28 with the laws and rules relevant to the occurrence or event.

7.29 (r) "Nonmaltreatment mistake" means:

7.30 (1) at the time of the incident, the individual was performing duties identified in the
7.31 center's child care program plan required under Minnesota Rules, part 9503.0045;

7.32 (2) the individual has not been determined responsible for a similar incident that
7.33 resulted in a finding of maltreatment for at least seven years;

7.34 (3) the individual has not been determined to have committed a similar
7.35 nonmaltreatment mistake under this paragraph for at least four years;

8.1 (4) any injury to a child resulting from the incident, if treated, is treated only with
8.2 remedies that are available over the counter, whether ordered by a medical professional or
8.3 not; and

8.4 (5) except for the period when the incident occurred, the facility and the individual
8.5 providing services were both in compliance with all licensing requirements relevant to the
8.6 incident.

8.7 This definition only applies to child care centers licensed under Minnesota
8.8 Rules, chapter 9503. If clauses (1) to (5) apply, rather than making a determination of
8.9 substantiated maltreatment by the individual, the commissioner of human services shall
8.10 determine that a nonmaltreatment mistake was made by the individual.

8.11 Sec. 3. Minnesota Statutes 2014, section 626.556, subdivision 3, is amended to read:

8.12 Subd. 3. **Persons mandated to report.** (a) A person who knows or has reason
8.13 to believe a child is being neglected or physically or sexually abused, as defined in
8.14 subdivision 2, or has been neglected or physically or sexually abused within the preceding
8.15 three years, shall immediately report the information to the local welfare agency, agency
8.16 responsible for assessing or investigating the report, police department, or the county
8.17 sheriff if the person is:

8.18 (1) a professional or professional's delegate who is engaged in the practice of
8.19 the healing arts, social services, hospital administration, psychological or psychiatric
8.20 treatment, child care, education, correctional supervision, probation and correctional
8.21 services, or law enforcement; or

8.22 (2) employed as a member of the clergy and received the information while
8.23 engaged in ministerial duties, provided that a member of the clergy is not required by
8.24 this subdivision to report information that is otherwise privileged under section 595.02,
8.25 subdivision 1, paragraph (c).

8.26 The police department or the county sheriff, upon receiving a report, shall
8.27 immediately notify the local welfare agency or agency responsible for assessing or
8.28 investigating the report, orally and in writing. The local welfare agency, or agency
8.29 responsible for assessing or investigating the report, ~~upon receiving a report,~~ shall
8.30 immediately notify the local police department or the county sheriff orally and in writing
8.31 when a report is received, including reports that are not accepted for investigation or
8.32 assessment. The county sheriff and the head of every local welfare agency, agency
8.33 responsible for assessing or investigating reports, and police department shall each
8.34 designate a person within their agency, department, or office who is responsible for
8.35 ensuring that the notification duties of this paragraph and paragraph (b) are carried out.

9.1 Nothing in this subdivision shall be construed to require more than one report from any
 9.2 institution, facility, school, or agency.

9.3 (b) Any person may voluntarily report to the local welfare agency, agency
 9.4 responsible for assessing or investigating the report, police department, or the county
 9.5 sheriff if the person knows, has reason to believe, or suspects a child is being or has been
 9.6 neglected or subjected to physical or sexual abuse. The police department or the county
 9.7 sheriff, upon receiving a report, shall immediately notify the local welfare agency or
 9.8 agency responsible for assessing or investigating the report, orally and in writing. The
 9.9 local welfare agency or agency responsible for assessing or investigating the report, ~~upon~~
 9.10 ~~receiving a report,~~ shall immediately notify the local police department or the county
 9.11 sheriff orally and in writing when a report is received, including reports that are not
 9.12 accepted for investigation or assessment.

9.13 (c) A person mandated to report physical or sexual child abuse or neglect occurring
 9.14 within a licensed facility shall report the information to the agency responsible for
 9.15 licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or
 9.16 chapter 245D; or a nonlicensed personal care provider organization as defined in section
 9.17 256B.0625, subdivision 19. A health or corrections agency receiving a report may request
 9.18 the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b. A
 9.19 board or other entity whose licensees perform work within a school facility, upon receiving
 9.20 a complaint of alleged maltreatment, shall provide information about the circumstances of
 9.21 the alleged maltreatment to the commissioner of education. Section 13.03, subdivision 4,
 9.22 applies to data received by the commissioner of education from a licensing entity.

9.23 (d) Any person mandated to report shall receive a summary of the disposition of
 9.24 any report made by that reporter, including whether the case has been opened for child
 9.25 protection or other services, or if a referral has been made to a community organization,
 9.26 unless release would be detrimental to the best interests of the child. Any person who is
 9.27 not mandated to report shall, upon request to the local welfare agency, receive a concise
 9.28 summary of the disposition of any report made by that reporter, unless release would be
 9.29 detrimental to the best interests of the child.

9.30 (e) For purposes of this section, "immediately" means as soon as possible but in
 9.31 no event longer than 24 hours.

9.32 Sec. 4. Minnesota Statutes 2014, section 626.556, subdivision 6a, is amended to read:

9.33 Subd. 6a. **Failure to notify.** If a local welfare agency receives a report under
 9.34 subdivision 3 10, paragraph (a) ~~or (b)~~, and fails to notify the local police department or
 9.35 county sheriff as required by subdivision 3 10, paragraph (a) ~~or (b)~~, the person within

10.1 the agency who is responsible for ensuring that notification is made shall be subject to
10.2 disciplinary action in keeping with the agency's existing policy or collective bargaining
10.3 agreement on discipline of employees. If a local police department or a county sheriff
10.4 receives a report under subdivision 3, paragraph (a) or (b), and fails to notify the local
10.5 welfare agency as required by subdivision 3, paragraph (a) or (b), the person within
10.6 the police department or county sheriff's office who is responsible for ensuring that
10.7 notification is made shall be subject to disciplinary action in keeping with the agency's
10.8 existing policy or collective bargaining agreement on discipline of employees.

10.9 Sec. 5. Minnesota Statutes 2014, section 626.556, subdivision 7, is amended to read:

10.10 Subd. 7. **Report; information provided to parent.** (a) An oral report shall be made
10.11 immediately by telephone or otherwise. An oral report made by a person required under
10.12 subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and
10.13 holidays, by a report in writing to the appropriate police department, the county sheriff, the
10.14 agency responsible for assessing or investigating the report, or the local welfare agency.
10.15 The local welfare agency shall determine if the report is accepted for an assessment or
10.16 investigation as soon as possible but in no event longer than 24 hours after the report is
10.17 received. The local welfare agency shall immediately notify local law enforcement when
10.18 a report is received, including reports that are not accepted for investigation or assessment.

10.19 (b) Any report shall be of sufficient content to identify the child, any person believed
10.20 to be responsible for the abuse or neglect of the child if the person is known, the nature
10.21 and extent of the abuse or neglect and the name and address of the reporter. The local
10.22 welfare agency or agency responsible for assessing or investigating the report shall
10.23 accept a report made under subdivision 3 notwithstanding refusal by a reporter to provide
10.24 the reporter's name or address as long as the report is otherwise sufficient under this
10.25 paragraph. Written reports received by a police department or the county sheriff shall be
10.26 forwarded immediately to the local welfare agency or the agency responsible for assessing
10.27 or investigating the report. The police department or the county sheriff may keep copies of
10.28 reports received by them. Copies of written reports received by a local welfare department
10.29 or the agency responsible for assessing or investigating the report shall be forwarded
10.30 immediately to the local police department or the county sheriff.

10.31 (c) When requested, the agency responsible for assessing or investigating a report
10.32 shall inform the reporter within ten days after the report was made, either orally or in
10.33 writing, whether the report was accepted or not. If the responsible agency determines the
10.34 report does not constitute a report under this section, the agency shall advise the reporter

11.1 the report was screened out. ~~A screened-out report must not be used for any purpose other~~
 11.2 ~~than making an offer of social services to the subjects of the screened-out report.~~

11.3 (d) Notwithstanding paragraph (a), the commissioner of education must inform the
 11.4 parent, guardian, or legal custodian of the child who is the subject of a report of alleged
 11.5 maltreatment in a school facility within ten days of receiving the report, either orally or
 11.6 in writing, whether the commissioner is assessing or investigating the report of alleged
 11.7 maltreatment.

11.8 (e) Regardless of whether a report is made under this subdivision, as soon as
 11.9 practicable after a school receives information regarding an incident that may constitute
 11.10 maltreatment of a child in a school facility, the school shall inform the parent, legal
 11.11 guardian, or custodian of the child that an incident has occurred that may constitute
 11.12 maltreatment of the child, when the incident occurred, and the nature of the conduct
 11.13 that may constitute maltreatment.

11.14 (f) A written copy of a report maintained by personnel of agencies, other than
 11.15 welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential.
 11.16 An individual subject of the report may obtain access to the original report as provided
 11.17 by subdivision 11.

11.18 Sec. 6. Minnesota Statutes 2014, section 626.556, subdivision 10, is amended to read:

11.19 Subd. 10. **Duties of local welfare agency and local law enforcement agency upon**
 11.20 **receipt of report.** (a) Upon receipt of a report, the local welfare agency shall determine
 11.21 whether to conduct a family assessment or an investigation as appropriate to prevent or
 11.22 provide a remedy for child maltreatment. The local welfare agency must notify local
 11.23 law enforcement when a report is received, including reports that are not accepted for
 11.24 investigation or assessment. The local welfare agency:

11.25 (1) shall conduct an investigation on reports involving substantial child
 11.26 endangerment;

11.27 (2) shall begin an immediate investigation if, at any time when it is using a family
 11.28 assessment response, it determines that there is reason to believe that substantial child
 11.29 endangerment or a serious threat to the child's safety exists;

11.30 (3) may conduct a family assessment for reports that do not allege substantial child
 11.31 endangerment. In determining that a family assessment is appropriate, the local welfare
 11.32 agency may consider issues of child safety, parental cooperation, and the need for an
 11.33 immediate response; and

11.34 (4) may conduct a family assessment on a report that was initially screened and
 11.35 assigned for an investigation. In determining that a complete investigation is not required,

12.1 the local welfare agency must document the reason for terminating the investigation and
12.2 notify the local law enforcement agency if the local law enforcement agency is conducting
12.3 a joint investigation.

12.4 If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian,
12.5 or individual functioning within the family unit as a person responsible for the child's
12.6 care, or sexual abuse by a person with a significant relationship to the child when that
12.7 person resides in the child's household or by a sibling, the local welfare agency shall
12.8 immediately conduct a family assessment or investigation as identified in clauses (1) to
12.9 (4). In conducting a family assessment or investigation, the local welfare agency shall
12.10 gather information on the existence of substance abuse and domestic violence and offer
12.11 services for purposes of preventing future child maltreatment, safeguarding and enhancing
12.12 the welfare of the abused or neglected minor, and supporting and preserving family
12.13 life whenever possible. If the report alleges a violation of a criminal statute involving
12.14 sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the
12.15 local law enforcement agency and local welfare agency shall coordinate the planning and
12.16 execution of their respective investigation and assessment efforts to avoid a duplication of
12.17 fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of
12.18 the results of its investigation. In cases of alleged child maltreatment resulting in death,
12.19 the local agency may rely on the fact-finding efforts of a law enforcement investigation
12.20 to make a determination of whether or not maltreatment occurred. When necessary the
12.21 local welfare agency shall seek authority to remove the child from the custody of a parent,
12.22 guardian, or adult with whom the child is living. In performing any of these duties, the
12.23 local welfare agency shall maintain appropriate records.

12.24 If the family assessment or investigation indicates there is a potential for abuse of
12.25 alcohol or other drugs by the parent, guardian, or person responsible for the child's care,
12.26 the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota
12.27 Rules, part 9530.6615.

12.28 (b) When a local agency receives a report or otherwise has information indicating
12.29 that a child who is a client, as defined in section 245.91, has been the subject of physical
12.30 abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section
12.31 245.91, it shall, in addition to its other duties under this section, immediately inform the
12.32 ombudsman established under sections 245.91 to 245.97. The commissioner of education
12.33 shall inform the ombudsman established under sections 245.91 to 245.97 of reports
12.34 regarding a child defined as a client in section 245.91 that maltreatment occurred at a
12.35 school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

13.1 (c) Authority of the local welfare agency responsible for assessing or investigating
13.2 the child abuse or neglect report, the agency responsible for assessing or investigating
13.3 the report, and of the local law enforcement agency for investigating the alleged abuse or
13.4 neglect includes, but is not limited to, authority to interview, without parental consent,
13.5 the alleged victim and any other minors who currently reside with or who have resided
13.6 with the alleged offender. The interview may take place at school or at any facility or
13.7 other place where the alleged victim or other minors might be found or the child may be
13.8 transported to, and the interview conducted at, a place appropriate for the interview of a
13.9 child designated by the local welfare agency or law enforcement agency. The interview
13.10 may take place outside the presence of the alleged offender or parent, legal custodian,
13.11 guardian, or school official. For family assessments, it is the preferred practice to request
13.12 a parent or guardian's permission to interview the child prior to conducting the child
13.13 interview, unless doing so would compromise the safety assessment. Except as provided in
13.14 this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible
13.15 local welfare or law enforcement agency no later than the conclusion of the investigation
13.16 or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota
13.17 Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte
13.18 motion by the local welfare agency, order that, where reasonable cause exists, the agency
13.19 withhold notification of this interview from the parent, legal custodian, or guardian. If the
13.20 interview took place or is to take place on school property, the order shall specify that
13.21 school officials may not disclose to the parent, legal custodian, or guardian the contents
13.22 of the notification of intent to interview the child on school property, as provided under
13.23 this paragraph, and any other related information regarding the interview that may be a
13.24 part of the child's school record. A copy of the order shall be sent by the local welfare or
13.25 law enforcement agency to the appropriate school official.

13.26 (d) When the local welfare, local law enforcement agency, or the agency responsible
13.27 for assessing or investigating a report of maltreatment determines that an interview should
13.28 take place on school property, written notification of intent to interview the child on school
13.29 property must be received by school officials prior to the interview. The notification
13.30 shall include the name of the child to be interviewed, the purpose of the interview, and
13.31 a reference to the statutory authority to conduct an interview on school property. For
13.32 interviews conducted by the local welfare agency, the notification shall be signed by the
13.33 chair of the local social services agency or the chair's designee. The notification shall be
13.34 private data on individuals subject to the provisions of this paragraph. School officials
13.35 may not disclose to the parent, legal custodian, or guardian the contents of the notification
13.36 or any other related information regarding the interview until notified in writing by the

14.1 local welfare or law enforcement agency that the investigation or assessment has been
14.2 concluded, unless a school employee or agent is alleged to have maltreated the child.
14.3 Until that time, the local welfare or law enforcement agency or the agency responsible
14.4 for assessing or investigating a report of maltreatment shall be solely responsible for any
14.5 disclosures regarding the nature of the assessment or investigation.

14.6 Except where the alleged offender is believed to be a school official or employee,
14.7 the time and place, and manner of the interview on school premises shall be within the
14.8 discretion of school officials, but the local welfare or law enforcement agency shall have
14.9 the exclusive authority to determine who may attend the interview. The conditions as to
14.10 time, place, and manner of the interview set by the school officials shall be reasonable and
14.11 the interview shall be conducted not more than 24 hours after the receipt of the notification
14.12 unless another time is considered necessary by agreement between the school officials and
14.13 the local welfare or law enforcement agency. Where the school fails to comply with the
14.14 provisions of this paragraph, the juvenile court may order the school to comply. Every
14.15 effort must be made to reduce the disruption of the educational program of the child, other
14.16 students, or school staff when an interview is conducted on school premises.

14.17 (e) Where the alleged offender or a person responsible for the care of the alleged
14.18 victim or other minor prevents access to the victim or other minor by the local welfare
14.19 agency, the juvenile court may order the parents, legal custodian, or guardian to produce
14.20 the alleged victim or other minor for questioning by the local welfare agency or the local
14.21 law enforcement agency outside the presence of the alleged offender or any person
14.22 responsible for the child's care at reasonable places and times as specified by court order.

14.23 (f) Before making an order under paragraph (e), the court shall issue an order to
14.24 show cause, either upon its own motion or upon a verified petition, specifying the basis for
14.25 the requested interviews and fixing the time and place of the hearing. The order to show
14.26 cause shall be served personally and shall be heard in the same manner as provided in
14.27 other cases in the juvenile court. The court shall consider the need for appointment of a
14.28 guardian ad litem to protect the best interests of the child. If appointed, the guardian ad
14.29 litem shall be present at the hearing on the order to show cause.

14.30 (g) The commissioner of human services, the ombudsman for mental health and
14.31 developmental disabilities, the local welfare agencies responsible for investigating reports,
14.32 the commissioner of education, and the local law enforcement agencies have the right to
14.33 enter facilities as defined in subdivision 2 and to inspect and copy the facility's records,
14.34 including medical records, as part of the investigation. Notwithstanding the provisions of
14.35 chapter 13, they also have the right to inform the facility under investigation that they are
14.36 conducting an investigation, to disclose to the facility the names of the individuals under

15.1 investigation for abusing or neglecting a child, and to provide the facility with a copy of
15.2 the report and the investigative findings.

15.3 (h) The local welfare agency responsible for conducting a family assessment or
15.4 investigation shall collect available and relevant information to determine child safety,
15.5 risk of subsequent child maltreatment, and family strengths and needs and share not public
15.6 information with an Indian's tribal social services agency without violating any law of the
15.7 state that may otherwise impose duties of confidentiality on the local welfare agency in
15.8 order to implement the tribal state agreement. The local welfare agency or the agency
15.9 responsible for investigating the report shall collect available and relevant information
15.10 to ascertain whether maltreatment occurred and whether protective services are needed.
15.11 Information collected includes, when relevant, information with regard to the person
15.12 reporting the alleged maltreatment, including the nature of the reporter's relationship to the
15.13 child and to the alleged offender, and the basis of the reporter's knowledge for the report;
15.14 the child allegedly being maltreated; the alleged offender; the child's caretaker; and other
15.15 collateral sources having relevant information related to the alleged maltreatment. The
15.16 local welfare agency or the agency responsible for investigating the report may make a
15.17 determination of no maltreatment early in an investigation, and close the case and retain
15.18 immunity, if the collected information shows no basis for a full investigation.

15.19 Information relevant to the assessment or investigation must be asked for, and
15.20 may include:

15.21 (1) the child's sex and age, prior reports of maltreatment, information relating
15.22 to developmental functioning, credibility of the child's statement, and whether the
15.23 information provided under this clause is consistent with other information collected
15.24 during the course of the assessment or investigation;

15.25 (2) the alleged offender's age, a record check for prior reports of maltreatment, and
15.26 criminal charges and convictions. The local welfare agency or the agency responsible for
15.27 assessing or investigating the report must provide the alleged offender with an opportunity
15.28 to make a statement. The alleged offender may submit supporting documentation relevant
15.29 to the assessment or investigation;

15.30 (3) collateral source information regarding the alleged maltreatment and care of the
15.31 child. Collateral information includes, when relevant: (i) a medical examination of the
15.32 child; (ii) prior medical records relating to the alleged maltreatment or the care of the
15.33 child maintained by any facility, clinic, or health care professional and an interview with
15.34 the treating professionals; and (iii) interviews with the child's caretakers, including the
15.35 child's parent, guardian, foster parent, child care provider, teachers, counselors, family

16.1 members, relatives, and other persons who may have knowledge regarding the alleged
16.2 maltreatment and the care of the child; and

16.3 (4) information on the existence of domestic abuse and violence in the home of
16.4 the child, and substance abuse.

16.5 Nothing in this paragraph precludes the local welfare agency, the local law
16.6 enforcement agency, or the agency responsible for assessing or investigating the report
16.7 from collecting other relevant information necessary to conduct the assessment or
16.8 investigation. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare
16.9 agency has access to medical data and records for purposes of clause (3). Notwithstanding
16.10 the data's classification in the possession of any other agency, data acquired by the
16.11 local welfare agency or the agency responsible for assessing or investigating the report
16.12 during the course of the assessment or investigation are private data on individuals and
16.13 must be maintained in accordance with subdivision 11. Data of the commissioner of
16.14 education collected or maintained during and for the purpose of an investigation of
16.15 alleged maltreatment in a school are governed by this section, notwithstanding the data's
16.16 classification as educational, licensing, or personnel data under chapter 13.

16.17 In conducting an assessment or investigation involving a school facility as defined
16.18 in subdivision 2, paragraph (i), the commissioner of education shall collect investigative
16.19 reports and data that are relevant to a report of maltreatment and are from local law
16.20 enforcement and the school facility.

16.21 (i) Upon receipt of a report, the local welfare agency shall conduct a face-to-face
16.22 contact with the child reported to be maltreated and with the child's primary caregiver
16.23 sufficient to complete a safety assessment and ensure the immediate safety of the child.
16.24 The face-to-face contact with the child and primary caregiver shall occur immediately
16.25 if substantial child endangerment is alleged and within five calendar days for all other
16.26 reports. If the alleged offender was not already interviewed as the primary caregiver, the
16.27 local welfare agency shall also conduct a face-to-face interview with the alleged offender
16.28 in the early stages of the assessment or investigation. At the initial contact, the local child
16.29 welfare agency or the agency responsible for assessing or investigating the report must
16.30 inform the alleged offender of the complaints or allegations made against the individual in
16.31 a manner consistent with laws protecting the rights of the person who made the report.
16.32 The interview with the alleged offender may be postponed if it would jeopardize an active
16.33 law enforcement investigation.

16.34 (j) When conducting an investigation, the local welfare agency shall use a question
16.35 and answer interviewing format with questioning as nondirective as possible to elicit

17.1 spontaneous responses. For investigations only, the following interviewing methods and
17.2 procedures must be used whenever possible when collecting information:

17.3 (1) audio recordings of all interviews with witnesses and collateral sources; and

17.4 (2) in cases of alleged sexual abuse, audio-video recordings of each interview with
17.5 the alleged victim and child witnesses.

17.6 (k) In conducting an assessment or investigation involving a school facility as
17.7 defined in subdivision 2, paragraph (i), the commissioner of education shall collect
17.8 available and relevant information and use the procedures in paragraphs (i), (k), and
17.9 subdivision 3d, except that the requirement for face-to-face observation of the child
17.10 and face-to-face interview of the alleged offender is to occur in the initial stages of the
17.11 assessment or investigation provided that the commissioner may also base the assessment
17.12 or investigation on investigative reports and data received from the school facility and
17.13 local law enforcement, to the extent those investigations satisfy the requirements of
17.14 paragraphs (i) and (k), and subdivision 3d.

17.15 Sec. 7. Minnesota Statutes 2014, section 626.556, subdivision 11c, is amended to read:

17.16 Subd. 11c. **Welfare, court services agency, and school records maintained.**

17.17 Notwithstanding sections 138.163 and 138.17, records maintained or records derived
17.18 from reports of abuse by local welfare agencies, agencies responsible for assessing or
17.19 investigating the report, court services agencies, or schools under this section shall be
17.20 destroyed as provided in paragraphs (a) to (d) by the responsible authority.

17.21 (a) For reports alleging child maltreatment that were not accepted for assessment
17.22 or investigation, family assessment cases, and cases where an investigation results in no
17.23 determination of maltreatment or the need for child protective services, the assessment
17.24 or investigation records must be maintained for a period of ~~four~~ five years after the date
17.25 of the final entry in the case record. Records under this paragraph may not be used for
17.26 employment, background checks, or purposes other than to assist in future risk and
17.27 safety assessments.

17.28 (b) All records relating to reports which, upon investigation, indicate either
17.29 maltreatment or a need for child protective services shall be maintained for ten years after
17.30 the date of the final entry in the case record.

17.31 (c) All records regarding a report of maltreatment, including any notification of intent
17.32 to interview which was received by a school under subdivision 10, paragraph (d), shall be
17.33 destroyed by the school when ordered to do so by the agency conducting the assessment or
17.34 investigation. The agency shall order the destruction of the notification when other records
17.35 relating to the report under investigation or assessment are destroyed under this subdivision.

18.1 (d) Private or confidential data released to a court services agency under subdivision
18.2 10h must be destroyed by the court services agency when ordered to do so by the local
18.3 welfare agency that released the data. The local welfare agency or agency responsible for
18.4 assessing or investigating the report shall order destruction of the data when other records
18.5 relating to the assessment or investigation are destroyed under this subdivision.

18.6 ~~(e) For reports alleging child maltreatment that were not accepted for assessment
18.7 or investigation, counties shall maintain sufficient information to identify repeat reports
18.8 alleging maltreatment of the same child or children for 365 days from the date the report
18.9 was screened out. The commissioner of human services shall specify to the counties the
18.10 minimum information needed to accomplish this purpose. Counties shall enter this data
18.11 into the state social services information system.~~

18.12 Sec. 8. **INSTRUCTIONS TO THE COMMISSIONER; SCREENING**
18.13 **GUIDELINES.**

18.14 (a) No later than August 1, 2015, the commissioner of human services shall
18.15 update the child maltreatment screening guidelines to require agencies to consider prior
18.16 screened-out reports when determining whether a new report will be screened out or will
18.17 be accepted for investigation or assessment. The updated guidelines must emphasize that
18.18 intervention and prevention efforts are to focus on child safety and the ongoing risk of
18.19 child abuse or neglect and that the health and safety of children are of paramount concern.

18.20 (b) No later than September 30, 2015, the commissioner shall publish and distribute
18.21 the updated guidelines and ensure that all agency staff have received training on the
18.22 updated guidelines.

18.23 (c) Agency staff must implement the guidelines on October 1, 2015.