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Senate

State of Minnesota

**S.F. No. 9 – Omnibus Human Services Policy Provisions Modification
(First Special Session)**

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ARTICLE 1

Children and Family Services

Article 1, Section 1 (119B.011, subdivision 19) adds federally licensed child care providers to the definition of “provider” for purposes of the Child Care Assistance Program statutes.

Article 1, Section 2 (119B.21) amends the statute establishing child care grants, in part by renaming the grants “child care services grants.”

Subdivision 1 makes technical updates to cross-references, and clarifies the purposes of the child care services grant program.

Subdivision 1a lists the program types that are eligible to receive a child care services grant, and adds tribally licensed child care programs to the list.

Subdivision 3 makes a technical update to a cross-reference and updates the reference to the grant program, and authorizes a stipend for grant proposal review committee members instead of cost reimbursement.

Subdivision 5 updates a cross-reference, clarifies the meaning of how grant funds may be used for facility improvements, permits the commissioner to define other authorized uses of grant funds, and replaces the maximum grant amount of \$1,000 for family day care providers with an undefined amount to be determined by the commissioner for each type of eligible program.

Article 1, Section 3 (119B.26) clarifies that the commissioner may waive requirements under chapter 119B beginning on the date of a declared disaster; and amends the requirement for the commissioner to require the commissioner to report any waivers to the legislature within five days of the waiver, instead of ten days prior to the waiver taking effect.

Article 1, Section 4 [120A.21] requires a student in foster care to be enrolled in school within seven days of a determination that enrollment in the student's current school is not in the student's best interests.

Article 1, Section 5 (245A.02, subdivision 2c) makes a technical conforming change to correctly cross-reference child care center training requirements.

Article 1, Section 6 (245A.02, subdivision 18) modifies the definition of what conduct qualifies as "supervision" for licensed child care centers to include when a preschooler uses an individual, private restroom within the classroom. A staff person supervises the child if the staff person has knowledge of the child's activity and location, can hear the child, and checks on the child at least every five minutes.

Article 1, Section 7 (245A.04, subdivision 9) requires counties to use a single uniform application form developed by the commissioner of human services for family child care provider variance requests, beginning January 1, 2021.

Article 1, Section 8 (245A.149) revises the circumstances under which a relative or household member may supervise a family day care license holder's child, by adding a requirement that the license holder consents to the supervision, and clarifying that the individual providing supervision may be related to the child but not the license holder, or is a household member who the provider has reported to the county agency.

Article 1, Section 9 (245A.16, subdivision 1) requires county agencies that issue variances for family child care providers to publish on the county website and update accordingly the policies and criteria for issuing variances, and to annually distribute the policies and criteria to licensed family child care providers in the county.

Article 1, Section 10 (245A.40, subdivision 7) makes a technical conforming change to more clearly identify the child care center training requirements that apply to substitutes and unsupervised volunteers.

Article 1, Section 11 (245A.50) modifies family child care training requirements.

Subdivision 1 requires that second adult caregivers and substitutes must complete training on the program's emergency preparedness program and allergy prevention and response, prior to caring for a child.

Subdivision 1a defines a "second adult caregiver" as an adult providing care at a licensed program along with the license holder for more than 500 hours annually, defines a "helper" as a minor between 13 and 17 years old who assists in caring for children, defines a "substitute" as an adult who assumes responsibility for a license holder for fewer than 500 hours annually, and clarifies that an adult who cares for children along with the license holder for fewer than 500 hours annually is subject to the same training requirements as a substitute.

Subdivisions 2-9 make technical changes to rearrange and rephrase the training requirements regarding child development and learning and behavior guidance, first aid, CPR, SIDS and abusive head trauma, child passenger restraint systems, ongoing training, and supervising for safety, to incorporate the terms “second adult caregiver,” “helper,” or “substitute” as needed, and to clarify precisely that training must be repeated in the year that it expires prior to the anniversary of the effective date of the license holder’s license.

Subdivision 6 also extends applicability of child passenger restraint systems training to programs serving children under eight years of age. Current law requires the training for programs serving children under nine years old.

Subdivision 7 also clarifies the meaning of child development and learning training.

Subdivision 9 also lists the topics that supervising for safety courses must include, and establishes that providers must ensure and document that substitutes complete the four-hour “Basics of Licensed Family Child Care for Substitutes” course prior to caring for children, and repeat the course every three years.

Subdivision 10 adds a requirement for the commissioner to post information on DHS’s website indicating which Knowledge and Competency Framework category will satisfy substantive training requirements under the statute. A single training may not fulfill two different training requirements. Courses that are specific to child care centers or legal nonlicensed providers do not fulfill family child care training requirements.

Article 1, Section 12 (245C.10, subdivision 15) authorizes the commissioner of human services to collect a fee of \$110 for background studies of guardians and conservators.

Article 1, Section 13 (245C.32, subdivision 2) makes a technical conforming change by removing the background study fee text replaced by Section 12 of this article.

Article 1, Section 14 (256.041, subdivision 10) extends the sunset for the Cultural and Ethnic Communities Leadership Council to June 30, 2022.

Article 1, Section 15 (256E.35) funds the Family Assets for Independence Initiative with state dollars, to accommodate the end of federal funding for the program. Should the federal funding return, the state share will revert to 50 percent as it was when federal funds were allocated for the program. The bill also adds purchasing a vehicle as an eligible use of program funds.

Article 1, Section 16 (257.0725) requires the commissioner of human services to include school enrollments within seven days of placement in the annual report on child maltreatment and children in out-of-home placement.

Article 1, Section 17 (260C.219) adds subdivisions and headers throughout section 260C.219 to clarify the subject of each subdivision and better distinguish when one topic ends and another begins. It then adds two new subdivisions:

Subdivision 6 establishes the procedures, requirements, and exceptions for social services agencies to coordinate an initial phone call between parents or guardians of children placed in foster care and foster parents or providers, within 72 hours of the child’s placement, to

establish a connection for ongoing information sharing, and to provide an opportunity for information about the child to be shared in order to better transition into foster care and promote higher quality of care.

If social services agencies determine that such a call is not in the child's best interests, or cannot identify or locate the child's parent or guardian, the call may be delayed until up to 48 hours after the call becomes in the child's best interests or the parent is located. The call is not required if placing the phone call poses a danger to the child or foster parent's mental or physical health.

Finally, social services agencies must document all efforts to coordinate the call, all determinations about whether the call is in the child's best interests, and all details relating to the date and time of the call when it occurs.

Subdivision 7 establishes the requirement that responsible social services agencies must 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. Agencies must also 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.

Article 1, Section 18 (524.5-118) modifies background study requirements for guardians and conservators.

Subdivision 1 requires a background study of a guardian or conservator once every five years, instead of every two years, including a national criminal history record check.

Subdivision 2 establishes that a court's request to the commissioner for a background study must be accompanied by an acknowledgement that the study subject received a privacy notice. The commissioner must provide the results of the background study to the court within 20 working days (as opposed to 15 working days under current law). The commissioner must also provide information related to the study subject's history with a professional licensing agency if the study subject indicates a current or prior affiliation.

Subdivision 2a adds the Professional Educator Licensing and Standards Board to the list of professional licensing agencies from which the commissioner must collect information about the study subject, if the study subject indicates a current or prior affiliation with that licensing agency. The licensing agency must provide the commissioner with a quarterly list of new sanctions issued by the agency, and the commissioner must review licensing agency databases at least once every four months to determine if an individual who studied within the last five years has any new disciplinary action or did not disclose a prior or current affiliation. The commissioner must forward any new information to the court.

Subdivision 3 requires the court to provide a privacy notice to the study subject. Requires the commissioner to use the NETStudy 2.0 system to conduct a background study.

Article 1, Section 19 (Laws 2016, chapter 189, article 15, section 29) extends the expiration of the First Three Years of Life demonstration project by four years, to January 1, 2026. The

corresponding due date for the commissioner's report on the demonstration project is extended until January 1, 2027.

Article 1, Sections 20 and 21 modify the Birth to Age Eight pilot project.

Section 20 (Laws 2017, First Special Session chapter 6, article 7, section 33, subdivision 2) eliminates weighted scoring as a metric for participant progress and makes other technical changes.

Section 21 (Laws 2017, First Special Session chapter 6, article 7, section 33, subdivision 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.

Article 1, Section 22 (Direction to Commissioner; Initial Foster Care Phone Call Training) directs the commissioner of human services to issue written guidance to social services agencies, foster parents, and facilities to implement the initial phone call procedures established in Section 17. The commissioner must do so by August 1, 2020, so that agencies are prepared to coordinate calls when the statute becomes effective on November 1, 2020.

Article 1, Section 23 (Direction to Commissioner; Uniform Family Child Care Variance Application Form) directs the commissioner of human services to issue a uniform application form for family child care provider variance requests, developed after consultation with licensors and providers. The commissioner shall issue the form by October 1, 2020, and provide any necessary training or guidance to counties.

Article 1, Section 24 (Direction to Commissioner; Evaluation of Continuous Licenses) directs the commissioner of human services to consult with family day care providers to determine whether family day care licenses should automatically renew by January 1, 2021. If the commissioner determines that automatic license renewal should be pursued, the commissioner must propose legislation for the 2021 legislative session that implements continuous licenses.

ARTICLE 2

Community Supports Administration

Article 2, Section 1 (245.735, subdivision 3) removes from Chapter 245 language prohibiting a county share when medical assistance pays a clinic the Certified Community Behavioral Health Clinic prospective payment. The prohibition on this county share is included in the Medical Assistance chapter; see Article 2, section 12 below.

Article 2, Section 2 (245A.11, subdivision 2a, paragraphs (f) and (g)) permits the commissioner of human services until December 31, 2020, to issue licenses for a fifth bed in corporate foster care settings or community residential settings licensed prior to March 1, 2016.

Article 2, Section 3 (245D.02, subdivision 32a) defines “sexual violence” for the purposes of sexual violence prevention training requirements under Chapter 245D, Home and Community-Based Services Standards

Article 2, Section 4 (245D.071, subdivision 3) modifies the existing timelines for HCBS providers to conduct a 45-day planning meeting to allow the meeting to take place either before the 45th day of service is provided or within 60 days of service initiation, whichever is shorter. Under current law, the planning meeting must occur within 45 days of service initiation.

This section also includes a DHS policy proposal that expands the list of items services must discuss with service recipients at the 45-day planning meeting.

Article 2, Section 5 (245D.081, subdivision 2) 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.

Article 2, Section 6-8 (245D.09, subdivisions 4, 4a, 5) require 245D license holders, within 60 days of hiring direct support staff, to ensure that the staff have completed training on strategies to minimize the risk of sexual violence toward people with disabilities and make conforming changes.

Article 2, Sections 9 [254A.21] codifies an existing grant program for fetal alcohol disorder prevention activities.

Article 2, Section 10 (256.975, subdivision 12) modifies the self-directed caregivers grant program by (1) removing a requirement that the Board on Aging give priority to caregivers of older adults who were referred to the Board by the Senior LinkAge Line because a nursing home, hospital, or home care provider has identified the older adult as an appropriate candidate for discharge from care, and (2) requiring annual progress reports on the grant program to the legislature beginning in January 2022.

Article 2, Section 11 (256B.056, subdivision 5c) makes a technical change to the medical assistance financial eligibility excess income standard for people who are blind, who have a disability, or who are 65 years of age or older.

Article 2, Section 12 (section 256B.0625, subdivision 5m, paragraph (b)) prohibits a county share when Medical Assistance pays a clinic the Certified Community Behavioral Health Clinic (CCBHC) prospective payment.

Deleting **Old Paragraph (c)** removes the commissioner’s authority to limit the number of CCBHCs for the prospective payment system.

New Paragraph (c), clause (8) requires the commissioner to seek federal approval for a CCBHC rate methodology that allows for rate modifications based on changes in scope for an individual CCBHC.

Paragraph (d) requires managed care plans and county-based purchasing plans to reimburse CCBHC providers at the Medical Assistance prospective payment rate, and specifies duties of

the commissioner, managed care plans, and county-based purchasing plans if for any contract year federal approval for the directed payments required under this paragraph is not received.

Article 2, Section 13 (256B.0625, subdivision 56a) 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, and maintains county share of costs.

Article 2, Sections 14-20 (256B.0653, subdivisions, 4, 5, and 7; 256B.0654, subdivisions 1, 2a, 3, and 4) permits advanced practice registered nurses and physician assistants to order home care therapies and home care nursing under Medical Assistance, which is something only physicians may do under current law.

Article 2, section 21 (256B.0711, subdivision 1) is a technical change related to the codification of the Consumer-Directed Community Supports option under the HCBS waivers.

Article 2, Sections 22-23 amend statutory provisions relating to psychiatric residential treatment facilities (PRTFs).

Section 22 (256B.0941, subdivision 1) removes provisions requiring involvement of the state’s medical review agent in PRTF services and referrals, and requires the commissioner of human services to oversee PRTF referrals and care quality, including maintenance of a statewide list of youth meeting medical criteria for PRTF care.

Section 23 (256B.0941, subdivision 3) requires the commissioner 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.

Article 2, Sections 24-28 modify statutes relating to children’s mental health crisis intervention and intensive nonresidential rehabilitative services.

Section 24 (256B.0944, subdivision 1, paragraph (d)) amends the definition of “mental health mobile crisis intervention services” to require only that such services be provided outside of an inpatient hospital setting.

Section 25 (256B.0947, subdivision 2) adds a definition for “family peer specialist.”

Section 26 (256B.0947, subdivision 4) removes the requirement for the commissioner to develop administrative and clinical contract standards regarding intensive rehabilitative mental health services.

Section 27 (256B.0947, subdivision 5) updates the list of core team members to include a case management service provider and a family peer specialist.

Section 28 (256B.0947, subdivision 6) modifies the service standards for intensive nonresidential rehabilitative mental health services by requiring services to be age-appropriate and specific to each client’s needs, requiring an individual treatment plan to be based on a diagnostic assessment and baselines and to identify goals and objectives of

treatment, and requiring review and approval by the clinical supervisor. Minor patients' parents or guardians must be consulted in developing treatment plans.

Article 2, Section 29 (256B.49, subdivision 16) is a technical change related to the codification of the Consumer-Directed Community Supports option under the HCBS waivers.

Article 2, Section 30 [256B.4911] codifies the consumer-directed community supports (CDCS) language currently found in Minnesota Laws. Nonpartisan staff from the Revisor's Office, House Research, and Senate Counsel prepared the language pursuant to Laws 2019, First Special Session chapter 9, article 5, section 93, paragraph (b). Given the complexity of the codification of this language, nonpartisan staff elected to use a procedure called "repeal and reenact." This approach explains the lengthy Repealer in section 33. The bill is not intended to change any existing policy related to consumer-directed community supports. The bill is intended only to make future amendments related to CDCS easier to accomplish and easier for legislators and the public to track. When preparing the language, nonpartisan staff consulted with the Department of Human Services.

Article 2, Section 31 (256S.01, subdivision 6) is a technical change related to the codification of the Consumer-Directed Community Supports option under the HCBS waivers.

Article 2, Section 32 (256S.19, subdivision 4) is a technical change related to the codification of the Consumer-Directed Community Supports option under the HCBS waivers.

Article 2, Section 33 (Laws 2019, First Special Session chapter 9, article 14, section 2, subdivision 23) modifies an existing appropriation to reflect the codification of the corresponding existing grant program for fetal alcohol disorder prevention activities.

Article 2, Section 34 (Treatment of previously obtained federal approvals) is technical language related to the codification of the Consumer-Directed Community Supports option under the HCBS waivers.

Article 2, Section 35 (Repealer) repeals session law related to the Consumer-Directed Community Supports option under the HCBS waivers that is codified in statute as section 256B.4911.

Article 2, Section 36 (Effective Date; Previously Enacted) amends the effective dates in previously enacted legislation related to advanced practice registered nurses' authority to order home care services to coincide with the immediate effective dates in this act.

ARTICLE 3

Employment First, Independent Living First, and Self-Direction First

Article 3, Section 1 [256B.4905, subdivision 1] codifies the existing state employment policy for people with disabilities promulgated by the Olmstead Subcabinet.

Subdivision 2 applies the employment first policy to the administration of the disability waivers.

Subdivision 3 establishes an independent living first policy for people with disabilities.

Subdivision 4 applies the independent living first policy to the administration of the disability waivers.

Subdivision 5 establishes a self-direction first policy for people with disabilities.

Subdivision 6 applies the self-direction first policy to the administration of the disability waivers.

Article 3, Section 2 (Laws 2019, First Special Session chapter 9, article 5, section 86) amends a direction to the commissioner enacted following the 2019 session that required the commissioner to submit to the legislature a proposal to consolidate the four disability waivers into two waivers. The amended language modifies the legislative intent for the consolidated waivers, emphasizing the legislature’s emphasis on individualized supports, self-direction, fully informed person-centered planning, and independence.

ARTICLE 4

Assessment, Case Management, and Service Planning Modifications

Article 4, Section 1 (245D.071, subdivision 5, paragraphs (a) to (d)) requires 245D licensed residential services and supports providers to include in annual service plan reviews a discussion of transitioning out of a setting controlled by a provider and into a more independent setting. The service provider must also document the discussion by summarizing the discussion and next steps in a person’s coordinated service and support plan addendum. **Paragraphs (a) and (b)** also clarify that service recipients are entitled to invite people of their own choosing to participate in planning their services.

Paragraphs (e) and (f) require 245D licensed day service providers to include in annual service plan reviews a discussion of transitioning to an employment service. The service provider must also document the discussion by summarizing the discussion and next steps in a person’s coordinated service and support plan addendum.

Article 4, Section 2 (256B.0911, subdivision 1) makes technical and clarifying changes.

Article 4, Section 3 (256B.0911, subdivision 1a, paragraph (a)) makes technical and clarifying changes and expands the definition of “long-term care consultation services” (aka, MnCHOICES assessments) to include providing information sufficient to ensure a person makes a fully informed choice regarding independent living and self-directing services.

Paragraph (b) and (e) makes technical and clarifying changes.

Paragraph (f) 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.

Paragraph (g) expands the existing definition of “informed choice” to include making choices about the settings in which the person receives services and the person’s living arrangement. The modified definition also clarifies that an informed choice requires that the person receive accurate and complete information in a way the person can understand.

Paragraph (h) provides a new definition of “available options” to clarify that available options include all service and setting options defined under the waiver plan for which a waiver applicant is eligible.

Paragraph (i) provides a new definition of “independent living” to mean a living arrangement that is not an institution, a family adult foster care home, a community residential setting (aka, a group home), customized living setting, or a supervised living facility, or otherwise controlled by a service provider.

Article 4, Section 4 (256B.0911, subdivision 3a, paragraph (a)) reinstates language inadvertently repealed following the 2019 session that required the commissioner to notify lead agencies 90-days prior to full implementation of certain long-term care consultation service requirements.

Paragraph (c) clarifies that community support plans must be person-centered.

Paragraph (d) clarifies the existing requirement that assessments be conducted by a certified assessor.

Paragraph (g) requires certified assessors to include in the community support plan information about all available options for employment services, living arrangements and self-directed service options.

Paragraph (g) requires that in addition to requiring a written community support plan to include a person’s options and choices with respect to case management, the plan must also include all the available options and the person’s choices related to employment services, living arrangements, and self-direction of services.

Paragraph (i) clarifies a person’s right to make the final decision about community living arrangements, employment services, and self-direction of services.

Paragraph (j) makes technical and clarifying changes and requires a MnCHOICES assessor to provide a person with documentation that the assessor described to the person all available employment services, independent living options, and self-direction options.

Paragraph (k) makes technical and clarifying changes.

Paragraph (n) makes technical and clarifying changes to an existing requirement that at each reassessment, a MnCHOICES assessor 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.

Paragraph (o) requires a MnCHOICES assessor at each reassessment to determine if a person currently receiving day services has made a fully informed choice regarding employment services.

Paragraph (p) requires a MnCHOICES assessor at each reassessment to determine if a person currently receiving services that do not permit self-direction has made a fully informed choice regarding the services and settings that permit self-direction.

Article 4, Section 5 (256B.0911, subdivision 3f) makes technical changes.

Article 4, Section 6 (256B.092, subdivision 1a, paragraphs (b) to (e)) expands the required elements of developmental disabilities case management services to include informing the waiver participants of all available service options and assisting the participant to identify potential service providers, including employment service providers, residential service providers other than those providing service in a setting controlled by a service provider, and financial management service providers who assist with self-directing services. These paragraphs also include technical and clarifying changes.

Paragraph (f) specifies that the existing training for case managers include training on person-centered planning as that term is amended in this bill.

Article 4, Section 7 (256B.092, subdivision 1b) 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.

Article 4, Sections 8 (256B.49, subdivisions 13) make the same changes to case management under the brain injury (BI), community access for disability inclusion (CADI), and community alternative care (CAC) waivers that section 6 made to case management under the developmental disabilities waiver.

Article 4, Sections 9 (256B.49, subdivisions 14) deletes duplicative language from the disability waiver statutes that already exists in the assessment statutes.

Article 4, section 10 (256B.49, subdivision 23) modifies the definition of “community-living setting” to clarify the circumstances under which a service provider can cosign a lease with a service recipient without the setting being a provider-controlled setting.

ARTICLE 5

Department of Human Services Policy Proposals

Article 5, Section 1 [245.4871, subdivision 32a] adds a cross-reference to incorporate the definition of “responsible social services agency” from the juvenile protection statutes into the children’s mental health act.

Article 5, Section 2 (245.4885, subdivision 1) makes conforming changes to incorporate admission criteria and processes for foster care placements in qualified residential treatment facilities.

Article 5, Section 3 (245.4889, subdivision 1) authorizes the commissioner to make grants for respite care services for children with emotional disturbances, not only for children with severe emotional disturbances, and specifies that a child is not required to be receiving case management services to be eligible to receive respite care services.

Article 5, Section 4 (245A.03, subdivision 7) removes two items from the list of exceptions to the foster care initial license moratorium: (1) licenses for transitioning individuals from PCA assistance to home and community-based services; and (2) licenses for transitioning individuals from residential care waiver services to foster care services.

Article 5, section 5 (245C.02, subdivision 5) makes a technical conforming change to accommodate the results of background studies for individuals seeking to work in a children’s residential facility or foster residence setting.

Article 5, section 6 [245C.02, subdivision 11a] incorporates the definition for “foster family setting” from administrative rules into the definitions that apply to background studies statutes.

Article 5, section 7 [245C.02, subdivision 11b] incorporates the definition for “foster residence setting” from administrative rules into the definitions that apply to background studies statutes, and includes settings licensed by the commissioner of corrections or the commissioner of human services.

Article 5, section 8 [245C.02, subdivision 21] adds a definition to the background studies chapter for “Title IV-E eligible” children’s residential facilities or foster residence settings.

Article 5, section 9 (245C.03, subdivision 1) adds foster residence settings to the background study requirements for children’s residential facilities.

Article 5, section 10 [245C.03, subdivision 10] requires the commissioner of human services to conduct background studies for any individual required to be studied under the housing support statutes.

Article 5, section 11 (245C.04, subdivision 1) makes a technical conforming change to incorporate the phrase “foster family setting.”

Article 5, section 12 [245C.04, subdivision 11] establishes background study requirements for children’s residential facility and foster residence license applicants and license holders.

Article 5, section 13 (245C.05, subdivision 4) removes private agencies from the list of entities receiving electronic transmission of background study results.

Article 5, section 14 (245C.08, subdivision 1) makes a technical conforming change to incorporate the phrases “foster family setting” and “foster residence settings.”

Article 5, section 15 [245C.10, subdivision 15] adds a \$20 fee for background studies initiated by housing support service providers.

Article 5, section 16 (245C.13, subdivision 2) prohibits an individual from working in a children’s residential facility or foster residence setting until completion of a background study, including when additional time is needed to complete a study of an individual affiliated with a Title IV-E eligible facility or setting.

Article 5, section 17 (245C.14, subdivision 3) provides that individuals affiliated with a children’s residential facility or foster residence setting whose background study result prohibits them from direct contact must also be prohibited from working in the facility or setting or having access to a person receiving services at the facility or setting. For a Title IV-E eligible facility or setting, a disqualified individual may not work in the facility or setting until the commissioner issues a notice that the individual is not disqualified, the disqualification has been set aside, or a variance has been granted for the individual.

Article 5, section 18 (245C.16, subdivision 1) adds children’s residential facilities or foster residence settings to the list of work environments from which an individual must be immediately removed upon disqualification. The section also makes a technical conforming change to accommodate the phrase “foster family setting.”

Article 5, section 19 (245C.16, subdivision 2) makes a conforming change to include access to persons served by a program as a factor to consider when determining a studied individual’s risk of harm. The section also prohibits the commissioner from making certain findings regarding a studied individual’s risk of harm for Title IV-E eligible children’s residential facilities and foster residence settings.

Article 5, section 20 (245C.17, subdivision 1) makes a conforming change.

Article 5, section 21 [245C.17, subdivision 7] requires notices that order a children’s residential facility or foster resident setting license holder to immediately remove a disqualified individual from their position at the facility or setting to also order the license holder to remove the individual from working in the program, facility, or setting, including working under supervision.

Article 5, section 22 (245C.18) makes a conforming change to add the removal requirements for disqualified individuals at a children’s residential facility and foster residence setting to the statute establishing the license holder’s obligation to remove a disqualified individual from direct contact and from working at the program, facility, or setting.

Article 5, Section 23 (245D.04, subdivision 3) 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.

Article 5, section 24 (245D.06, subdivision 2) adds a requirement that license holders ensure lack of access to sharpened or metal knives for individuals residing in a state-operated community-based program whose discharge plan restricts access to dangerous instruments, unless unsupervised access has been approved for that individual.

Article 5, Section 25 (245D.10, subdivision 3a) provides for the circumstances under which an individual who no longer demonstrates complex behavioral needs may be discharged from a state-operated community-based services program.

Article 5, Sections 26-30 update and modify provisions regarding withdrawal management programs.

Sections 26-27 and 29-30 (245F.02, subdivisions 7, 14; 245F.12, subdivisions 2-3) make technical changes to replace the terms “qualified medical professional” and “medical director” with “licensed practitioner,” and to provide updated cross-references to comprehensive assessment requirements.

Section 28 (245F.06, subdivision 2) requires license holders to provide a summary of a client’s comprehensive assessment in addition to conducting the comprehensive assessment prior to discharge but no later than 72 hours after admission to a program.

Article 5, Sections 31-34 update and clarify provisions regarding substance use disorder programs.

Section 31 (245G.02, subdivision 2) exempts individuals receiving an initial set of substance use disorder treatment services from statutory requirements regarding comprehensive assessments, individual treatment plans, treatment services, and client evaluations that apply to individuals receiving full substance use disorder treatment services.

Section 32 [245G.09, subdivision 1, paragraph (c)] requires substance use disorder treatment programs to identify individuals receiving an initial set of substance use disorder treatment services.

Section 33 (254A.03, subdivision 3) clarifies that certain rules and the statute regarding comprehensive assessments do not apply to individuals receiving an initial set of substance use disorder treatment services, and that the initial set of services is authorized based on a positive screen result.

Section 34 (254B.05, subdivision 1) adds a cross-reference to the definition of a licensed professional for purposes of substance use disorder treatment.

Article 5, section 35 (256.0112, subdivision 10) makes a technical conforming change.

Article 5, section 36 (256.82, subdivision 2) adds American Indian child welfare initiative tribes as an entity eligible to be reimbursed for foster care maintenance payments. Paragraph (b) of the section requires the state to approve of a licensed child care institution to have its foster care maintenance costs reimbursed by federal funding.

Article 5, section 37 (256.87, subdivision 8) prohibits a public authority from releasing private data on the location of a party to a child support action, or the joint child, if the public authority has knowledge that one party is currently subject to a protective order against the other party or the joint child, and the protected party or child's guardian has not authorized the data disclosure, or if the public authority has reason to believe that releasing the information may result in physical or emotional harm to the party or the joint child.

Article 5, Section 38 (256B.0625, subdivision 51) removes the provision that limits MA coverage for intensive mental health outpatient treatment to adults only.

Article 5, Section 39 (256B.064, subdivision 2) authorizes the commissioner to impose a fine for license holders who repeatedly violate of chapter 254B or 245G.

Article 5, Section 40 (256B.0652, subdivision 10, paragraph (b), clause (1)) clarifies that the commissioner may not authorize home care services, including PCA services, as MA services when those 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.

Clause (3) increases the maximum licensed adult and child foster care capacity of a foster care home in which the commissioner may authorize home care services from four to six, and permits the commissioner to authorize the provision of home care services in a child foster care home with a licensed capacity greater than six if the commissioner issued a child foster care licensing variance to accommodate the placement of siblings in the same foster care home.

Article 5, Sections 41-48 update and clarify provisions regarding early intensive developmental and behavioral intervention services.

Section 41 (256B.0949, subdivision 2) modifies the definitions of “autism spectrum disorder or a related condition” and “early intensive developmental and behavioral intervention benefit” for the purposes of early intensive developmental and behavioral intervention services.

Section 42 (256B.0949, subdivision 5) clarifies a provider’s responsibilities when conducting a comprehensive multidisciplinary evaluation provided to determine the medical necessity of early intensive developmental and behavioral intervention services by requiring the provider to confirm person has an eligible diagnosis and that the diagnostic assessment used to make the diagnosis met statutory requirements.

Section 43 (256B.0949, subdivision 6) modifies the requirements of an individual treatment plan for early intensive developmental and behavioral intervention services by eliminating the requirement that the plan specify any specialized equipment or materials required to meet the goals and objectives of the plan.

Sections 44 (256B.0949, subdivision 9) makes a technical change.

Sections 45 (256B.0949, subdivision 13) clarifies the treatment goals of EIDBI services; specifies that qualified EIDBI providers must document their qualifications; defines “intervention” as a covered service; and eliminates the existing three telemedicine services per calendar week limit for MA coverage.

Section 46 (256B.0949, subdivision 14) adds to the list of rights of a person receiving early intensive developmental and behavioral intervention services freedom from the prohibited use of chemical restraints, mechanical restraints, manual restraints, time out, seclusion, or any other aversive or deprivation procedure.

Section 47 (256B.0949, subdivision 15) modifies the EIDBI provider qualification for level III treatment providers to allow an employee of an agency who is at least eighteen years old and has completed both the level III training requirement and all required EIDBI training within six months of employment to qualify.

Section 48 (256B.0949, subdivision 16) permits an agency with an office in a bordering state to EIDBI services in Minnesota.

Article 5, Section 49 (256D.02, subdivision 17) updates a cross-reference to the updated definition of “qualified professional” for purposes of the general assistance program.

Article 5, Sections 50 and 52-57 modify provisions regarding housing support.

Sections 50, 52, and 54-56 (256I.03, subdivision 3; 256I.04, subdivision 2b; 256I.05, subdivisions 1n, 8; and 256I.06, subdivision 2) replace references to “group residential housing” with “housing support” or similar terms.

Section 53 (256I.05, subdivision 1c) replaces the requirement for prior approval of absences from a housing support program with advanced reporting of the absences.

Section 57 [256I.06, subdivision 10] authorizes the department to correct and recover housing support overpayments, unless the overpayment is the result of agency error. The department may recover overpayments that are the result of agency error if the overpayments are large enough for a reasonable person to know the payment is the result of an error.

Article 5, Sections 51 (256I.03, subdivision 14), 58 (256J.08, subdivision 73a), and 64 [256P.01, subdivision 6a] define “qualified professional” for purposes of the general assistance and housing support statutes.

Article 5, Section 59 [256K.451] permits a minor who lives separately from their parent or guardian to consent to receive homeless youth services and services for sexually exploited youth.

Article 5, Section 60 (256N.02, subdivision 14a) removes foster residence settings from the definition of “licensed child foster parent” for purposes of the Northstar Care for Children program.

Article 5, Sections 61-63 (256N.21, subdivisions 2 and 5; 256N.24, subdivision 4) make technical conforming changes.

Article 5, Section 65 (257.70) prohibits a public authority from releasing private data from a hearing or record on the location of a party to a child support action, or the joint child, if the public authority has knowledge that one party is currently subject to a protective order against the other party or the joint child, and the protected party or child’s guardian has not authorized the data disclosure, or if the public authority has reason to believe that releasing the information may result in physical or emotional harm to the party or the joint child.

Article 5, Section 66 [260.7611] permits a tribe and a county to agree to transfer responsibility from the county to the tribe for screening and responding to a child maltreatment report regarding an Indian child residing in the county where the child’s reservation is located. Agreements must specify whether the tribe or county shall be responsible for ongoing case management.

Article 5, Sections 67-73 add definitions for terms used throughout the juvenile protection statutes, to accommodate modifications regarding out-of-home placement of children in qualified residential treatment facilities.

Section 67 [260C.007, subdivision 16a] adds a definition for “family and permanency team.”

Section 68 [260C.007, subdivision 16b] adds a definition for “family foster home.”

Section 69 [260C.007, subdivision 21a] adds a definition for “legal authority to place the child.”

Section 70 [260C.007, subdivision 25a] adds a definition for “permanency plan.”

Section 71 [260C.007, subdivision 26c] adds a definition for “qualified individual.”

Section 72 [260C.007, subdivision 26d] adds a definition for “qualified residential treatment program.”

Section 73 [260C.007, subdivision 27b] adds a definition for “residential treatment facility.”

Article 5, Section 74 (260C.157, subdivision 3) amends the provisions relating to the use of a juvenile treatment screening team when determining whether a child needs to be placed in foster care for purposes of receiving treatment.

Paragraph (a) clarifies that a juvenile treatment screening team must conduct screenings for a child to receive treatment at a licensed residential treatment facility for an emotional disturbance, a developmental disability, or a related condition, but not for placement due to an emotional crisis or other mental health emergency. A screening team is not required for a child to be placed in a residential facility specializing in prenatal, postpartum, or parenting support, a facility specializing in care for sex trafficking victims, settings for youth over the age of 18 or living independently, or a licensed residential family-based facility for substance abuse.

Paragraph (b) amends the list of required screening team members by removing juvenile justice professionals, and adds a list of permissive team members that includes the child’s relatives, foster care provider, professionals who are a resource to the family. Prior to assembling the team, the responsible agency must consult with the child if over 14 years old, the child’s parents, the child’s tribe if applicable, to ensure that the team is family-centered and will act in the child’s best interest. The paragraph also makes technical clarifying changes.

Paragraph (c) requires county agencies to make a rigorous and concerted effort to include a designated representative of a child’s tribe on the screening team, in such cases. The paragraph also dictates that the federal Indian Child Welfare Act and the Minnesota Indian Family Preservation Act apply to this section.

Paragraph (d) requires a county to conduct a screening if a court proposes to place a child in residential treatment. The court must also notify a child’s tribe in cases that involve tribal children.

Paragraph (e) establishes that a screening team must immediately begin the assessment and placement processes, as well as a relative search to assemble the child’s family and permanency team, when the team recommends placement in a qualified residential treatment setting. Prior to notifying relatives to assemble the child’s family and permanency team, the responsible agency must consult with the child if over 14 years old, the child’s parents, the child’s tribe if applicable, to ensure that the agency provides notice to individuals who will act in the child’s best interest as part of the team. In addition, the child and their parents may identify a culturally competent individual to complete the child’s assessment, to whom the agency must make referral efforts to conduct the assessment. However, the assessment may not be delayed in order to have the assessment completed by a specific individual.

Paragraph (f) requires a screening team to document the services and supports that have been or will be provided to a child that the team determines does not need treatment in a qualified residential treatment program.

Paragraph (g) preserves the existing requirement for a tribe to submit necessary documentation to the county juvenile treatment screening team when the tribe proposes placing a child for treatment, and preserves the requirement for the screening team to invite the child’s tribe to designate a representative to the team.

Paragraph (h) requires the responsible agency to conduct and document the screening in a format approved by the commissioner of human services.

Article 5, Section 75 (260C.202) makes a conforming change to cross-reference the evidentiary requirements for social services agencies to place a child in a qualified residential treatment program.

Article 5, Section 76 (260C.204) makes a conforming change to cross-reference the evidentiary requirements for social services agencies to place a child in a qualified residential treatment program.

Article 5, Section 77 (260C.212, subdivision 1) makes a conforming change to add a cross-reference to the requirements for out-of-home placement plans for children placed in a qualified residential treatment program under section 260C.708.

Article 5, Section 78 [260C.212, subdivision 1a] adds provisions that establish the circumstances and timelines for county agencies to update a child’s out-of-home placement plan.

Article 5, Section 79 (260C.212, subdivision 2) makes conforming changes.

Article 5, Section 80 (260C.212, subdivision 4a) permits a county agency to designate another individual to be responsible for completing monthly caseworker visits, so long as the individual is professionally trained to assess the child’s safety, permanency, well-being and case progress. The designated other individual may not be the child’s guardian ad litem, the foster care provider, residential facility staff, or a “qualified individual” as defined in section 260C.007, subdivision 26c.

Article 5, Section 81 (260C.227) adds a requirement that foster care placements in a qualified residential treatment program must follow the requirements of sections 260C.70 to 260C.714.

Article 5, Section 82 (260C.4412) adds foster residence settings and tribally licensed children’s residential facilities to the list of entities that receive foster care maintenance payments. It also requires the commissioner to specify administrative procedures for certain other foster placement settings to receive Title IV-E maintenance payments.

Article 5, Section 83 [260C.503, subdivision 4] makes a conforming change to cross-reference the evidentiary requirements for social services agencies to place a child in a qualified residential treatment program.

Article 5, Section 84 [260C.70] provides that sections 260C.70 to 260C.714 may be cited as “Placements in Qualified Residential Treatment Programs.”

Article 5, Section 85 [260C.702] requires a county agency, in order to place a child in a qualified residential treatment program, to ensure completion of an assessment of the child by a qualified individual, establish a family and permanency team, complete an out-of-home placement plan,

obtain court approval of the placement, conduct ongoing reviews and permanency hearings regarding the placement, and permit court review of any extended treatment placement..

Article 5, Section 86 [260C.704] establishes the requirements for a qualified individual's assessment of a child for placement in a qualified residential treatment program.

Paragraph (a) requires that the assessment must take place before or within 30 days of the child's placement, and follow a format approved by the commissioner of human services. The assessment must evaluate the child's needs and strengths, determine which family or foster care setting can meet the child's needs in the least restrictive environment, develop a list of short- and long-term goals for the child, and work with the child's family and permanency team in a culturally competent manner.

Paragraph (b) permits the child and their parents may identify a culturally competent individual to complete the child's assessment, to whom the agency must make referral efforts to conduct the assessment. However, the assessment may not be delayed in order to have the assessment completed by a specific individual.

Paragraph (c) establishes to whom the qualified individual must provide the completed assessment results, and to whom and under which circumstances the individual has permission to share the results.

Paragraph (d) requires that, where applicable, the assessment must follow the order of placement preferences in the Indian Child Welfare Act.

Paragraph (e) requires certain determinations to be made in writing in a child's assessment. First, the assessment must state the reasons why the child's needs cannot be met by family or in a family foster home. A shortage of homes is not an acceptable reason. Second, the assessment must state the reasons why a placement in a qualified residential treatment program will be the most effective and appropriate level of care for the child in the least restrictive environment. Third, if the placement recommendation is not the setting that the parent, family and permanency team, child, or tribe prefer, the assessment must state the reasons for the recommended placement. The reasons for the recommended placement must also be listed in the child's out-of-home placement plan.

Paragraph (f) requires the county agency to move the child out of a qualified residential treatment program to a less restrictive setting within 30 days of a qualified individual's determination that a less restrictive setting than a qualified residential treatment program may meet the child's needs.

Article 5, Section 87 [260C.706] requires a family and permanency team to be assembled within ten days of a recommendation to place a child in a qualified residential treatment program, and dictates the team's membership, meeting requirements, and goals, depending on each case's circumstances.

Article 5, Section 88 [260C.708] dictates the content and documentation requirements for out-of-home placement plans for children placed in a qualified residential treatment program, and requires the plan to be filed with the court within 60 days.

Article 5, Section 89 [260C.71] establishes that, within 60 days of a child’s placement in a qualified residential treatment program, a court must consider the placement assessment, determine the appropriate placement setting, and approve or disapprove of the child’s placement. The court’s approval or disapproval must be documented in the out-of-home placement plan.

Article 5, Section 90 [260C.712] requires that the county agency must submit evidence of its evaluation and support for a child’s placement in a qualified residential treatment program, as well as the expected length of the placement and the county’s efforts to prepare the child to leave the program, at any court review or permanency hearing regarding the child’s placement.

Article 5, Section 91 [260C.714] requires counties to obtain and submit signed approval by the county social services director and the most recent evidence provided for court review supporting the child’s placement for placements in qualified residential treatment placements extending longer than 12 consecutive months or 18 nonconsecutive months, or longer than 6 consecutive or nonconsecutive months for children under 13, for review and approval by the department of human services. The commissioner shall develop procedures and requirements for such submissions.

Article 5, Section 92 (518.005, subdivision 5) prohibits a public authority from releasing private data on the location of a party to a child support action, or the joint child, if the public authority has knowledge that one party is currently subject to a protective order against the other party or the joint child, and the protected party or child’s guardian has not authorized the data disclosure, or if the public authority has reason to believe that releasing the information may result in physical or emotional harm to the party or the joint child.

Article 5, Section 93 (518A.53, subdivision 11) eliminates a provision providing that the federal Consumer Credit Protection Act does not apply to lump-sum payments.

Article 5, Section 94 (518A.68) removes a provision regarding service of a motion to suspend a recreational license and a provision dictating a court’s findings to occur at a hearing. The section also establishes the circumstances under which a motion to reinstate a license may be granted. And the section adjusts the timeline for a court to notify the commissioner of natural resources of an order to reinstate a recreational license.

Article 5, Section 95 (518A.685) removes a paragraph that requires a public authority to report certain child support arrears payment statuses to the consumer reporting agency.

Article 5, Section 96 (Instruction to the Commissioner) requires the commissioner of human services to consult with stakeholders and report to the legislature regarding payment for the cost of treatment and care for residential treatment services, including community-based group care, for children in voluntary foster care for treatment.

Article 5, Section 97 (Revisor Instruction) instructs the Revisor of Statutes to substitute “Disability Linkage Line” for “Disability Hub” in the relevant statutes.

Article 5, Section 98 (Repealer) repeals the existing definition of qualified medical professional, which was replaced by provisions in this article.

ARTICLE 6

Civil Commitment

Article 6, Sections 1-124 update provisions governing civil commitment by modernizing terminology, making technical and conforming changes, clarifying existing provisions; replaces court-ordered early intervention with county-based engagement servicers; expands the definition of a health officer to include all mental health professionals; makes a distinction between an examiner and a court examiner.

ARTICLE 7

Maltreatment of Minors Act Reorganization

Article 7, Sections 1-39 reorganize into a new chapter (260E) the Maltreatment of Minors Act currently found in Minnesota Statutes, section 626.556. Nonpartisan staff from the Revisor's Office, House Research, and the Office of Senate Counsel prepared the language in consultation with the Department of Human Services.

The intent of this article is to include the statutes relating to child maltreatment with the other chapters relating to child welfare issues (chapters 260, 260A, 260B, 260C, and 260D), and to reorganize the child maltreatment statutes to match the sequence in which child maltreatment issues arise and proceed. To carry out this intent, Article 7 proposes coding in chapter 260E. The article does not include substantive changes to the Maltreatment of Minors Act.

ARTICLE 8

Maltreatment of Minors Act Conforming Changes

Article 8, Sections 1-144 make conforming changes to statutory cross-references to the sections reorganized and re-numbered under Article 8.

ARTICLE 9

Commissioner of Human Services Temporary Emergency Authority

Article 9, Section 1 grants the commissioner of human services certain temporary emergency authority to waive or modify statutes and rules relating to matters within the department's jurisdiction, during the declaration of peacetime emergency for the COVID-19 outbreak.

Subdivision 1 authorizes the commissioner to exercise temporary emergency authority in response to a potential or actual outbreak of COVID-19, for the duration of a declared peacetime emergency. The authority extends for 60 days following the end of the declared emergency, in order for the commissioner to wind up actions taken using the emergency authority.

Subdivisions 2-4 identify the chapters of statute and related rules that the commissioner may waive or modify in order to prepare for, prevent, or respond to a COVID-19 outbreak, to preserve access to programs and services from the Department of Human Services, and to comply with federal law or obtain federal funding.

Subdivision 5 permits the commissioner to exercise the temporary emergency authority beginning on the date that the governor declares a peacetime emergency. The commissioner is not permitted to waive statutes or rules that relate to matters outside the department's jurisdiction, and is not permitted to issue a waiver or modification that endangers health and safety. All waivers or modifications must be published on the Department's website, along with a plain language description. For waivers or modifications affecting programs for individuals with disabilities, the Department must communicate the waiver or modification, and its plain language description, to affected providers, as well as individuals whose statutory rights are affected. Finally, the requirements that apply to the commissioner under chapter 14 do not apply during the declared peacetime emergency.

Subdivision 6 requires that the commissioner provide written notice of any waiver or modification, within 48 hours of issuing the waiver or modification, to (1) the ombudsman for long-term care, (2) the ombudsman for mental health and developmental disabilities, and (3) the legislative committees overseeing the Department. If two or more of the committee chairs object to a waiver or modification within seven days, the commissioner must cease activities to implement the waiver or modification. An objecting chair may withdraw the objection.

Subdivision 7 requires the commissioner to submit an ongoing report to the legislature every 60 days, describing the waivers and modifications made using the temporary emergency authority.

Subdivision 8 requires the commissioner to submit a final report to the legislature by January 15, 2021, describing the statutes and rules waived or modified using the temporary emergency authority. The report must also include information about the Department and local agency costs of implementing the waivers and modifications.

Subdivision 9 provides that the uncodified session law expires upon submission of the final report required under subdivision 7.