

Notwithstanding Minnesota Statutes, section 84.943, subdivision 3, \$65,000 is appropriated from the Minnesota critical habitat private sector matching account to the commissioner of public safety for costs of handling and manufacturing 10,000 special critical habitat license plates. Notwithstanding Minnesota Statutes, section 168.1296, subdivision 5, \$65,000 of the fees collected from applicants for the license plates must be deposited in the state treasury and credited to the Minnesota critical habitat private sector matching account. Fees collected in excess of \$65,000 must be deposited in the highway user tax distribution fund. This appropriation is available until expended.

Sec. 51. [REPEALER.]

Minnesota Statutes 1996, sections 97A.111; and 97C.801, subdivision 1, are repealed.

Sec. 52. [EFFECTIVE DATE.]

Sections 6, 28, and 46 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to natural resources; modifying fish habitat, harvest, and propagation provisions; authorizing the commissioner to establish special hunts for youth; permitting youth residents to hunt deer without a license tag; authorizing the commissioner to sell merchandise; modifying watercraft provisions; modifying trapping provisions; modifying stamp provisions; modifying the procedure for vacating or modifying a state game refuge; defining terms; modifying hunting provisions; modifying license provisions; modifying recreational motor vehicle provisions; modifying special license plate provisions; modifying provisions relating to personal flotation devices; establishing firearms safety pilot program; requiring reports; providing civil penalties; appropriating money; amending Minnesota Statutes 1996, sections 17.4982, by adding subdivisions; 17.4983, by adding a subdivision; 17.4998; 84.0855; 84.82, subdivision 2; 84.87, subdivision 2; 84.872, by adding a subdivision; 84.873; 86B.201, by adding a subdivision; 97A.015, subdivisions 49, 53, and by adding a subdivision; 97A.045, subdivision 7; 97A.075, subdivision 3; 97A.085, subdivision 8; 97A.101, by adding a subdivision; 97A.411, subdivisions 1 and 3; 97A.421, subdivision 1; 97A.465, subdivision 4; 97A.475, subdivisions 2 and 3; 97A.485, subdivisions 6, 9, and by adding a subdivision; 97B.055, subdivision 2; 97B.075; 97B.211, subdivision 1; 97B.301, subdivision 6; 97B.655, subdivision 1; 97C.035, subdivision 1; 97C.211, subdivision 1, and by adding a subdivision; 97C.321, subdivision 1; 97C.505, by adding a subdivision; 97C.801, subdivision 2; 168.1291; 168.1296, subdivision 1; and 609.487, by adding a subdivision; Laws 1993, chapter 273, as amended; Laws 1996, chapter 410, section 56; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 1996, sections 97A.111; and 97C.801, subdivision 1."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Dennis R. Frederickson, Bob Lessard, LeRoy A. Stumpf, Pat Pariseau, Jane Krentz

House Conferees: (Signed) Bob Milbert, Tom Osthoff, Doug Peterson, Mark Holsten, Thomas Bakk

Mr. Frederickson moved that the foregoing recommendations and Conference Committee Report on S.F. No. 254 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 254 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Krentz	Neuville	Sams
Beckman	Higgins	Laidig	Novak	Scheevel
Belanger	Hottinger	Langseth	Oliver	Scheid
Berg	Janezich	Larson	Olson	Solon
Berglin	Johnson, D.E.	Lesewski	Ourada	Spear
Betzold	Johnson, D.H.	Lessard	Pappas	Stevens
Cohen	Johnson, D.J.	Limmer	Pariseau	Stumpf
Day	Johnson, J.B.	Lourey	Piper	Ten Eyck
Dille	Kelley, S.P.	Marty	Pogemiller	Terwilliger
Fischbach	Kelly, R.C.	Metzen	Price	Vickerman
Flynn	Kiscaden	Moe, R.D.	Robertson	Wiener
Foley	Kleis	Morse	Robling	Wiger
Frederickson	Knutson	Murphy	Runbeck	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 3:30 p.m. The motion prevailed.

The hour of 3:30 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

Mr. Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1834: A bill for an act relating to agriculture; suspending the dairy trade practices laws during the month of June; amending Minnesota Statutes 1996, section 32.72, subdivision 2; repealing Minnesota Statutes 1996, section 32.73.

There has been appointed as such committee on the part of the House:

Trimble, Wenzel and Gunther.

Senate File No. 1834 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1997

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 164, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 164: A bill for an act relating to agriculture; conforming certain food rules with federal regulations; eliminating a requirement concerning llamas; regulating raising of bison; amending Minnesota Statutes 1996, sections 31.101; 31.102, subdivision 1; 31.103, subdivision 1; and 31.104; proposing coding for new law in Minnesota Statutes, chapter 17; repealing Minnesota Statutes 1996, section 17.456, subdivision 4.

Senate File No. 164 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1997

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 184, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 184: A bill for an act relating to the environment; modifying requirements relating to toxics in products; amending Minnesota Statutes 1996, section 115A.9651.

Senate File No. 184 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1997

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 501, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 501: A bill for an act relating to commerce; providing powers and duties to the commissioner; regulating securities; modifying the real estate licensing exemption for closing agents; regulating real property appraisers; regulating residential building contractors and remodelers; modifying licensing requirements for collection agencies; regulating notaries public; making technical changes; amending Minnesota Statutes 1996, sections 45.011, subdivision 1; 45.028, subdivision 1; 80A.04, subdivisions 3, 4, and by adding a subdivision; 80A.05, subdivisions 4, 5, and by adding a subdivision; 80A.06, subdivisions 1, 2, and 3; 80A.08; 80A.12, by adding a subdivision; 80A.14, subdivisions 3, 4, and by adding subdivisions; 80A.15, subdivisions 1 and 2; 80A.16; 80A.28, subdivisions 1 and 2; 80C.01, subdivision 4; 82.19, by adding a subdivision; 82.20, subdivision 15; 82.22, subdivision 13; 82.24, subdivision 5; 82B.13, subdivisions 1, 4, and 5; 82B.14; 82B.19, subdivision 1; 326.83, subdivisions 11 and 19; 326.84, subdivision 3; 326.85, by adding a subdivision; 326.921; 332.33, subdivision 1, and by adding a subdivision; 332.34; 359.061; and 359.071; proposing coding for new law in Minnesota Statutes, chapters 45; 60K; and 80A; repealing Minnesota Statutes 1996, section 60K.07, subdivision 1.

Senate File No. 501 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1997

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 739, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 739: A bill for an act relating to telecommunications; providing policies to carry out the state's role in telecommunications regulation; providing for a state policy encouraging high speed telecommunication services and greater capacity for services; providing for a single statewide local access and transport area (LATA); amending Minnesota Statutes 1996, sections

8.33, subdivision 2; 237.12, by adding a subdivision; 237.121; 237.16, subdivision 9; 237.761, subdivisions 4 and 8; 237.762, subdivisions 1, 3, and by adding a subdivision; 237.764, subdivision 1; 237.765; 237.766; and 237.769; proposing coding for new law in Minnesota Statutes, chapter 237.

Senate File No. 739 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1997

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1255, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1255: A bill for an act relating to campaign finance; clarifying limits on contributions to candidates for local elected office; amending Minnesota Statutes 1996, section 211A.12.

Senate File No. 1255 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1997

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 556, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 556 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 19, 1997

CONFERENCE COMMITTEE REPORT ON H.F. NO. 556

A bill for an act relating to health; permitting health data institute access to certain data; defining terms for vital statistics; modifying lead inspection provisions; modifying provisions for unique identifiers for health care providers, group purchasers, and patients; modifying birth data provisions; limiting access to certified copies of birth and death certificates; requiring standardized format for birth and death certificates; providing for recording and reporting of abortion data; amending Minnesota Statutes 1996, sections 62J.451, subdivision 6c; 62J.54; 144.212, by adding subdivisions; 144.215, by adding subdivisions; 144.225, by adding subdivisions; 144.9504, subdivision 2; and 145.411, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 145.

May 18, 1997

The Honorable Phil Carruthers
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 556, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendment and that H.F. No. 556, as amended by the Senate Rule 49 amendment, be further amended as follows (The text of the amended House file is identical to S.F. No. 98):

Page 11, line 33, delete "the following" and insert "an"

Page 11, line 34, delete "individuals" and insert "individual"

Page 12, lines 1, 3, 16, and 20, delete "birth certificate or death"

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Lee Greenfield, Kris Hasskamp, Kevin Goodno

Senate Conferees: (Signed) Don Betzold, Sheila M. Kiscaden, David J. Ten Eyck

Mr. Betzold moved that the foregoing recommendations and Conference Committee Report on H.F. No. 556 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 556 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 49 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Kleis	Morse	Sams
Beckman	Frederickson	Knutson	Murphy	Samuelson
Belanger	Hanson	Krentz	Neuville	Scheevel
Berg	Higgins	Laidig	Ourada	Spear
Berglin	Hottinger	Langseth	Pariseau	Stevens
Betzold	Johnson, D.E.	Larson	Piper	Stumpf
Cohen	Johnson, D.J.	Lesewski	Price	Ten Eyck
Day	Junge	Limmer	Robertson	Wiener
Dille	Kelley, S.P.	Lourey	Robling	Wiger
Fischbach	Kiscaden	Marty	Runbeck	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1460, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1460 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 19, 1997

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1460

A bill for an act relating to government data practices; making certain welfare and housing data available to law enforcement agencies; requiring certain criminal conviction data to be available through the Internet; eliminating the requirement that government agencies pay a fee for commissioner's opinions; modifying school immunization and health record provisions; modifying patient consent to release of records for research; authorizing destruction of records of deceased patients; allowing certain voters to prevent public dissemination of their residence addresses; requiring notice of investigations to health board licensees; providing for retention of

juvenile history records; providing for misdemeanor offense reports and access to certain adult criminal history data; providing for disclosure or inspection of certain tax data or return information; limiting disclosure of certain tax data under subpoena; providing criminal penalties; amending Minnesota Statutes 1996, sections 13.41, by adding a subdivision; 13.46, subdivision 2; 13.54, by adding a subdivision; 13.65, subdivision 2; 13.87, subdivision 2; 13.99, subdivision 53b, and by adding subdivisions; 123.70, subdivisions 5, 7, and 10; 144.29; 144.335, subdivision 3a, and by adding a subdivision; 201.091, subdivision 4; 214.10, subdivision 1; 260.161, subdivision 1a; 270.66, subdivision 3; 270B.01, subdivision 8; 270B.03, subdivisions 1, 3, and 4; 270B.08, subdivision 1; 270B.085, subdivision 1; 270B.09; 270B.12, subdivision 7; 270B.14, subdivision 1, and by adding subdivisions; 270B.16; 287.34; 299C.095; 299C.10, subdivision 1; and 299C.13; proposing coding for new law in Minnesota Statutes, chapters 214; and 270B; repealing Minnesota Statutes 1996, sections 13.072, subdivision 3; 13.71, subdivisions 18, 19, 20, and 21; and 13.99, subdivision 21d.

May 16, 1997

The Honorable Phil Carruthers
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 1460, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 1460 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1996, section 13.32, subdivision 1, is amended to read:
Subdivision 1. [DEFINITIONS.] As used in this section:

(a) "Educational data" means data on individuals maintained by a public educational agency or institution or by a person acting for the agency or institution which relates to a student.

Records of instructional personnel which are in the sole possession of the maker thereof and are not accessible or revealed to any other individual except a substitute teacher, and are destroyed at the end of the school year, shall not be deemed to be government data.

Records of a law enforcement unit of a public educational agency or institution which are maintained apart from education data and are maintained solely for law enforcement purposes, and are not disclosed to individuals other than law enforcement officials of the jurisdiction are not educational data; provided, that education records maintained by the educational agency or institution are not disclosed to the personnel of the law enforcement unit. The University of Minnesota police department is a law enforcement agency for purposes of section 13.82 and other sections of Minnesota Statutes dealing with law enforcement records. Records of organizations providing security services to a public educational agency or institution must be administered consistent with section 13.861.

Records relating to a student who is employed by a public educational agency or institution which are made and maintained in the normal course of business, relate exclusively to the individual in that individual's capacity as an employee, and are not available for use for any other purpose are classified pursuant to section 13.43.

(b) "Juvenile justice system" includes criminal justice agencies and the judiciary when involved in juvenile justice activities.

(c) "Student" means an individual currently or formerly enrolled or registered, applicants for enrollment or registration at a public educational agency or institution, or individuals who receive shared time educational services from a public agency or institution.

(e) (d) "Substitute teacher" means an individual who performs on a temporary basis the duties of the individual who made the record, but does not include an individual who permanently succeeds to the position of the maker of the record.

Sec. 2. Minnesota Statutes 1996, section 13.32, subdivision 3, is amended to read:

Subd. 3. [PRIVATE DATA; WHEN DISCLOSURE IS PERMITTED.] Except as provided in subdivision 5, educational data is private data on individuals and shall not be disclosed except as follows:

(a) Pursuant to section 13.05;

(b) Pursuant to a valid court order;

(c) Pursuant to a statute specifically authorizing access to the private data;

(d) To disclose information in health and safety emergencies pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code of Federal Regulations, title 34, section 99.36 which are in effect on July 1, 1993;

(e) Pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3) and Code of Federal Regulations, title 34, sections 99.31, 99.32, 99.33, 99.34, and 99.35 which are in effect on July 1, 1993;

(f) To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted;

(g) When disclosure is required for institutions that participate in a program under title IV of the Higher Education Act, United States Code, title 20, chapter 1092, in effect on July 1, 1993;

(h) To the appropriate school district officials to the extent necessary under subdivision 6, annually to indicate the extent and content of remedial instruction, including the results of assessment testing and academic performance at a post-secondary institution during the previous academic year by a student who graduated from a Minnesota school district within two years before receiving the remedial instruction; or

(i) To appropriate authorities as provided in United States Code, title 20, section 1232g(b)(1)(E)(ii), if the data concern the juvenile justice system and the ability of the system to effectively serve, prior to adjudication, the student whose records are released; provided that the authorities to whom the data are released submit a written request for the data that certifies that the data will not be disclosed to any other person except as authorized by law without the written consent of the parent of the student and the request and a record of the release are maintained in the student's file; or

(j) To volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students.

Sec. 3. Minnesota Statutes 1996, section 13.32, is amended by adding a subdivision to read:

Subd. 8. [ACCESS BY JUVENILE JUSTICE SYSTEM.] Upon request, the following education data shall be disclosed under subdivision 3, clause (i), to the juvenile justice system: a student's full name, home address, telephone number, date of birth; a student's school schedule, attendance record, and photographs, if any; and parents' names, home addresses, and telephone numbers.

Sec. 4. Minnesota Statutes 1996, section 13.41, subdivision 2, is amended to read:

Subd. 2. [PRIVATE DATA; DESIGNATED ADDRESSES AND TELEPHONE NUMBERS.]
(a) The following data collected, created or maintained by any licensing agency are classified as

private, pursuant to section 13.02, subdivision 12: data, other than their names and designated addresses, submitted by applicants for licenses; the identity of complainants who have made reports concerning licensees or applicants which appear in inactive complaint data unless the complainant consents to the disclosure; the nature or content of unsubstantiated complaints when the information is not maintained in anticipation of legal action; the identity of patients whose medical records are received by any health licensing agency for purposes of review or in anticipation of a contested matter; inactive investigative data relating to violations of statutes or rules; and the record of any disciplinary proceeding except as limited by subdivision 4.

(b) An applicant for a license shall designate on the application a residence or business address and telephone number at which the applicant can be contacted in connection with the license application. A licensee who is subject to a health-related licensing board, as defined in section 214.01, subdivision 2, shall designate a residence or business address and telephone number at which the licensee can be contacted in connection with the license.

Sec. 5. Minnesota Statutes 1996, section 13.46, subdivision 2, is amended to read:

Subd. 2. [GENERAL.] (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

- (1) pursuant to section 13.05;
- (2) pursuant to court order;
- (3) pursuant to a statute specifically authorizing access to the private data;
- (4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;
- (5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;
- (6) to administer federal funds or programs;
- (7) between personnel of the welfare system working in the same program;
- (8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names, social security numbers, income, addresses, and other data as required, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, early refund of refundable tax credits, and the income tax. "Refundable tax credits" means the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund under section 290A.04, and, if the required federal waiver or waivers are granted, the federal earned income tax credit under section 32 of the Internal Revenue Code;
- (9) to the Minnesota department of economic security for the purpose of monitoring the eligibility of the data subject for reemployment insurance, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;
- (10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;
- (11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education services office to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant social security numbers and names collected by the telephone assistance program may be disclosed to the department of revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a recipient of aid to families with dependent children may be disclosed to law enforcement officers who provide the name and social security number of the recipient and ~~satisfactorily demonstrate~~ notify the agency that:

(i) the recipient is:

(A) is a fugitive felon, including the grounds for this determination; fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony under the laws of the jurisdiction from which the individual is fleeing; or

(B) is violating a condition of probation or parole imposed under state or federal law.

(ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and

(iii) the request is made in writing and in the proper exercise of those duties;

(16) the current address of a recipient of general assistance, ~~work readiness~~, or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient, and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food stamp applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the food stamp act, in accordance with Code of Federal Regulations, title 7, section 272.1(c);

(18) the address, social security number, and, if available, photograph of any member of a household receiving food stamps shall be made available, on request, to a local, state, or federal law enforcement officer if the officer furnishes the agency with the name of the member and notifies the agency that:

(i) the member:

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

(B) is violating a condition of probation or parole imposed under state or federal law; or

(C) has information that is necessary for the officer to conduct an official duty related to conduct described in subclause (A) or (B);

(ii) locating or apprehending the member is within the officer's official duties; and

(iii) the request is made in writing and in the proper exercise of the officer's official duty;

(19) data on a child support obligor who is in arrears may be disclosed for purposes of publishing the data pursuant to section 518.575;

~~(19)~~ (20) data on child support payments made by a child support obligor may be disclosed to the obligee;

~~(20)~~ ~~(21)~~ data in the work reporting system may be disclosed under section 256.998, subdivision 7;

~~(24)~~ ~~(22)~~ to the department of children, families, and learning for the purpose of matching department of children, families, and learning student data with public assistance data to determine students eligible for free and reduced price meals, meal supplements, and free milk pursuant to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to produce accurate numbers of students receiving aid to families with dependent children as required by section 124.175; and to allocate federal and state funds that are distributed based on income of the student's family; or

~~(22)~~ ~~(23)~~ the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed in accordance with the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), ~~or~~ (17), or (18), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

Sec. 6. Minnesota Statutes 1996, section 13.54, is amended by adding a subdivision to read:

Subd. 6. [LAW ENFORCEMENT ACCESS TO CERTAIN DATA.] A public housing agency that enters a contract for assistance under United States Code, title 42, sections 1437 to 1440, shall furnish a local, state, or federal law enforcement officer, upon the officer's request, with the current address, social security number, and photograph, if available, of a recipient of assistance under United States Code, title 42, sections 1437 to 1440, if the officer:

(1) provides the name of the recipient to the housing agency; and

(2) notifies the agency that:

(i) the recipient:

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the jurisdiction from which the individual is fleeing, for a crime which is a felony under the laws of that jurisdiction;

(B) is violating a condition of probation or parole imposed under state or federal law; or

(C) has information necessary for the officer to conduct the officer's official duties;

(ii) the location or apprehension of the individual is within the officer's official duties; and

(iii) the request is made in writing and in the proper exercise of the officer's official duties.

Sec. 7. [13.541] [EMERGENCY SERVICES FOR HOMELESS PERSONS; PRIVATE DATA.]

(a) "Grant recipient" includes a local government unit or nonprofit organization that receives grants from a state agency to provide emergency services for homeless persons.

(b) Data on individuals maintained by a grant recipient from which the identity of any

individual receiving emergency services may be determined are private data on individuals and the grant recipient shall maintain the data in accordance with this chapter.

Sec. 8. Minnesota Statutes 1996, section 13.65, subdivision 2, is amended to read:

Subd. 2. [CONFIDENTIAL DATA; PROTECTED NONPUBLIC DATA.] The following data created, collected and maintained by the office of the attorney general are classified as confidential, pursuant to section 13.02, subdivision 3, or as protected nonpublic, pursuant to section 13.02, subdivision 13:

(1) data acquired through communications made in official confidence to members of the attorney general's staff where the public interest would suffer by disclosure of the data; and

(2) legislative and budget proposals, including preliminary drafts. After the budget is presented to the legislature, supporting data are public data. Supporting data do not include preliminary drafts. Legislative and budget proposals may be disclosed to the public if disclosure would aid in the consideration and preparation of the proposals.

Sec. 9. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 6e. [AGRICULTURAL COMMODITIES PROMOTION COUNCIL.] Financial information on producers of agricultural commodities that is provided to the agricultural commodities promotion council is governed by section 17.62.

Sec. 10. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 13a. [LICENSED CURRENCY EXCHANGES.] Financial information in annual reports submitted to the commissioner of commerce by currency exchanges is classified in section 53A.081, subdivision 4.

Sec. 11. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 14b. [MATERIAL TRANSACTION REPORTS.] Reports required to be filed by insurers regarding certain material transactions are classified under section 60A.135, subdivision 4.

Sec. 12. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 14c. [RISK-BASED CAPITAL DATA.] Risk-based capital reports and related reports, data, and orders maintained by the commissioner of commerce are classified under section 60A.67.

Sec. 13. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 15a. [VIATICAL SETTLEMENTS DATA.] Viatical settlements data provided to the commissioner of commerce are classified under section 60A.968, subdivision 2.

Sec. 14. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 19k. [PREFERRED PROVIDER AGREEMENTS.] The terms and conditions of certain preferred provider agreements are classified in section 62E.13, subdivision 11.

Sec. 15. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 19l. [MINNESOTA RISK ADJUSTMENT ASSOCIATION.] Data privacy issues concerning the Minnesota risk adjustment association are governed by section 62Q.03, subdivision 9.

Sec. 16. Minnesota Statutes 1996, section 13.99, subdivision 53b, is amended to read:

Subd. 53b. [VETERINARY RECORDS.] Veterinary records on clients when a veterinarian is under investigation are classified under section 156.082. Records on the veterinarian are classified under section 156.125.

Sec. 17. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 59b. [IDENTITY OF EMPLOYEES MAKING COMPLAINTS.] The disclosure of the identity of employees making certain complaints is governed by section 181.932, subdivision 2.

Sec. 18. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 63a. [REGISTERED VOTER LISTS.] Access to registered voter lists is governed by section 201.091.

Sec. 19. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 95a. [MEDICAL EXAMINER INVESTIGATIONS.] Certain data on deceased persons collected or created by the Hennepin county medical examiner are classified under section 383B.225.

Sec. 20. Minnesota Statutes 1996, section 53A.081, is amended by adding a subdivision to read:

Subd. 4. [CLASSIFICATION OF DATA.] Financial information on individuals and businesses that is submitted to the commissioner in the annual report under subdivision 1 are private data on individuals or nonpublic data.

Sec. 21. Minnesota Statutes 1996, section 123.70, subdivision 5, is amended to read:

Subd. 5. If a person transfers from one elementary or secondary school to another, the person shall be allowed school board of a public school district or the administrator of a nonpublic school may allow the person up to a maximum of 30 days to submit one or more of the statements as specified in subdivision 1 or 3, during which time the person may enroll in and attend the school. If a person enrolls in a child care facility in which at least 75 percent of children in the facility participate on a one-time only or occasional basis to a maximum of 45 hours per child, per month, or is placed in a facility by a crisis nursery, the person shall be exempt from all requirements of this section for up to five consecutive days, starting from the first day of attendance.

Sec. 22. Minnesota Statutes 1996, section 123.70, subdivision 7, is amended to read:

Subd. 7. Each school or child care facility shall maintain on file immunization records for all persons in attendance that contain the information required by subdivisions 1, 2, and 3. The school shall maintain the records for at least five years after the person attains the age of majority. The department of health and the board of health, as defined in section 145A.02, subdivision 2, in whose jurisdiction the school or child care facility is located, shall have access to the files maintained pursuant to this subdivision. When a person transfers to another elementary or secondary school or child care facility, the administrator or other person having general control and supervision of the school or child care facility shall assist the person's parent or guardian in the transfer of the immunization file to the person's new school or child care facility within 30 days of the transfer. Upon the request of a public or private post-secondary educational institution, as defined in section 135A.14, the administrator or other person having general control or supervision of a school shall assist in the transfer of a student's immunization file to the post-secondary institution.

Sec. 23. Minnesota Statutes 1996, section 123.70, subdivision 10, is amended to read:

Subd. 10. A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

(a) For persons enrolled in grades 7 and 12 during the 1996-1997 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(b) Except as specified in paragraph (e), for persons enrolled in grades 7, 8, and 12 during the

1997-1998 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

(c) Except as specified in paragraph (e), for persons enrolled in grades 7, 8, 9, and through 12 during the 1998-1999 school term and for each year thereafter, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.

~~(d) for persons enrolled in grades 7, 8, 9, 10, and 12 during the 1999-2000 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.~~

~~(e) for persons enrolled in grades 7 through 12 during the 2000-2001 school term and for each year thereafter, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.~~

(f) (d) For persons enrolled in grades 7 through 12 during the 1996-1997 school year and for each year thereafter, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.

(e) A person who has received at least three doses of tetanus and diphtheria toxoids, with the most recent dose given after age six and before age 11, is not required to have additional immunization against diphtheria and tetanus until ten years have elapsed from the person's most recent dose of tetanus and diphtheria toxoid.

Sec. 24. Minnesota Statutes 1996, section 144.29, is amended to read:

144.29 [HEALTH RECORDS; CHILDREN OF SCHOOL AGE.]

It shall be the duty of every school nurse, school physician, school attendance officer, superintendent of schools, principal, teacher, and of the persons charged with the duty of compiling and keeping the school census records, to cause a ~~permanent public~~ health record to be kept for each child of school age. Such record shall be kept in such form that it may be transferred with the child to any school which the child shall attend within the state ~~and transferred to the commissioner when the child ceases to attend school.~~ It shall contain a record of such health matters ~~as shall be prescribed by the commissioner, and of all mental and physical defects and handicaps which might permanently cripple or handicap the child~~ student health data as defined in section 13.32, subdivision 2, paragraph (a), and shall be classified as private data as defined in section 13.32, subdivision 3. Nothing in sections 144.29 to 144.32 shall be construed to require any child whose parent or guardian objects in writing thereto to undergo a physical or medical examination or treatment. A copy shall be forwarded to the proper department of any state to which the child shall remove. Each district shall assign a teacher, school nurse, or other professional person to review, at the beginning of each school year, the health record of all pupils under the assignee's direction. Growth, results of vision and hearing screening, and findings obtained from health assessments must be entered periodically on the pupil's health record.

Sec. 25. Minnesota Statutes 1996, section 144.335, subdivision 3a, is amended to read:

Subd. 3a. [PATIENT CONSENT TO RELEASE OF RECORDS; LIABILITY.] (a) A provider, or a person who receives health records from a provider, may not release a patient's health records to a person without a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release, unless the release is specifically authorized by law. Except as provided in paragraph (c) or (d), a consent is valid for one year or for a lesser period specified in the consent or for a different period provided by law.

(b) This subdivision does not prohibit the release of health records:

(1) for a medical emergency when the provider is unable to obtain the patient's consent due to the patient's condition or the nature of the medical emergency; or

(2) to other providers within related health care entities when necessary for the current treatment of the patient.

(c) Notwithstanding paragraph (a), if a patient explicitly gives informed consent to the release of health records for the purposes and pursuant to the restrictions in clauses (1) and (2), the consent does not expire after one year for:

(1) the release of health records to a provider who is being advised or consulted with in connection with the current treatment of the patient;

(2) the release of health records to an accident and health insurer, health service plan corporation, health maintenance organization, or third-party administrator for purposes of payment of claims, fraud investigation, or quality of care review and studies, provided that:

(i) the use or release of the records complies with sections 72A.49 to 72A.505;

(ii) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited; and

(iii) the recipient establishes adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient.

(d) Notwithstanding paragraph (a), health records may be released to a an external researcher solely for purposes of medical or scientific research only as follows:

(1) health records generated before January 1, 1997, may be released if the patient has not objected or does not elect to object after that date;

(2) for health records generated on or after January 1, 1997, the provider must:

(i) disclose in writing to patients currently being treated by the provider that health records, regardless of when generated, may be released and that the patient may object, in which case the records will not be released; and

(ii) use reasonable efforts to obtain the patient's written general authorization that describes the release of records in item (i), which does not expire but may be revoked or limited in writing at any time by the patient or the patient's authorized representative; and

(3) authorization may be established if an authorization is mailed at least two times to the patient's last known address with a postage prepaid return envelope and a conspicuous notice that the patient's medical records may be released if the patient does not object, and at least 60 days have expired since the second notice was sent; and the provider must advise the patient of the rights specified in clause (4); and

(4) the provider must, at the request of the patient, provide information on how the patient may contact an external researcher to whom the health record was released and the date it was released.

In making a release for research purposes the provider shall make a reasonable effort to determine that:

(i) the use or disclosure does not violate any limitations under which the record was collected;

(ii) the use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which the use or disclosure is to be made;

(iii) the recipient has established and maintains adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient; and

(iv) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited.

(e) A person who negligently or intentionally releases a health record in violation of this subdivision, or who forges a signature on a consent form, or who obtains under false pretenses the

consent form or health records of another person, or who, without the person's consent, alters a consent form, is liable to the patient for compensatory damages caused by an unauthorized release, plus costs and reasonable attorney's fees.

(f) Upon the written request of a spouse, parent, child, or sibling of a patient being evaluated for or diagnosed with mental illness, a provider shall inquire of a patient whether the patient wishes to authorize a specific individual to receive information regarding the patient's current and proposed course of treatment. If the patient so authorizes, the provider shall communicate to the designated individual the patient's current and proposed course of treatment. Paragraph (a) applies to consents given under this paragraph.

(g) In cases where a provider releases health records without patient consent as authorized by law, the release must be documented in the patient's health record.

Sec. 26. Minnesota Statutes 1996, section 214.10, subdivision 1, is amended to read:

Subdivision 1. [RECEIPT OF COMPLAINT; NOTICE.] The executive director or executive secretary of a board, a board member or any other person who performs services for the board who receives a complaint or other communication, whether oral or written, which complaint or communication alleges or implies a violation of a statute or rule which the board is empowered to enforce, shall promptly forward the substance of the communication on a form prepared by the attorney general to the designee of the attorney general responsible for providing legal services to the board. Before proceeding further with the communication, the designee of the attorney general may require the complaining party to state the complaint in writing on a form prepared by the attorney general. Complaints which relate to matters within the jurisdiction of another governmental agency shall be forwarded to that agency by the executive director or executive secretary. An officer of that agency shall advise the executive director or executive secretary of the disposition of that complaint. A complaint received by another agency which relates to a statute or rule which a licensing board is empowered to enforce shall be forwarded to the executive director or executive secretary of the board to be processed in accordance with this section. No complaint alleging a matter within the jurisdiction of the board shall be dismissed by a board unless at least two board members have reviewed the matter. If a board makes a determination to investigate a complaint, it shall notify a licensee who is the subject of an investigation that an investigation has been initiated at a time when such notice will not compromise the investigation.

Sec. 27. Minnesota Statutes 1996, section 260.161, subdivision 1a, is amended to read:

Subd. 1a. [RECORD OF FINDINGS.] (a) The juvenile court shall forward to the bureau of criminal apprehension the following data in juvenile petitions involving felony- or gross misdemeanor-level offenses:

(1) the name and birthdate of the juvenile, including any of the juvenile's known aliases or street names;

(2) the act for which the juvenile was petitioned and date of the offense; and

(3) the date and county where the petition was filed.

(b) Upon completion of the court proceedings, the court shall forward the court's finding and case disposition to the bureau. ~~Notwithstanding section 138.17, if the petition was dismissed or the juvenile was not found to have committed a gross misdemeanor or felony-level offense, the bureau and a person who received the data from the bureau shall destroy all data relating to the petition collected under paragraph (a). The bureau shall notify a person who received the data that the data must be destroyed.~~

~~(c) The bureau shall retain data on a juvenile found to have committed a felony or gross misdemeanor-level offense until the offender reaches the age of 28. If the offender commits a felony violation as an adult, the bureau shall retain the data for as long as the data would have been retained if the offender had been an adult at the time of the juvenile offense. The court shall specify whether:~~

- (1) the juvenile was referred to a diversion program;
- (2) the petition was dismissed, continued for dismissal, or continued without adjudication; or
- (3) the juvenile was adjudicated delinquent.

~~(d)~~ (c) The juvenile court shall forward to the bureau, the sentencing guidelines commission, and the department of corrections the following data on individuals convicted as extended jurisdiction juveniles:

- (1) the name and birthdate of the offender, including any of the juvenile's known aliases or street names;
- (2) the crime committed by the offender and the date of the crime;
- (3) the date and county of the conviction; and
- (4) the case disposition.

The court shall notify the bureau, the sentencing guidelines commission, and the department of corrections whenever it executes an extended jurisdiction juvenile's adult sentence under section 260.126, subdivision 5.

~~(e)~~ (d) The bureau, sentencing guidelines commission, and the department of corrections shall retain the extended jurisdiction juvenile data for as long as the data would have been retained if the offender had been an adult at the time of the offense. Data retained on individuals under this subdivision are private data under section 13.02, except that extended jurisdiction juvenile data becomes public data under section 13.87, subdivision 2, when the juvenile court notifies the bureau that the individual's adult sentence has been executed under section 260.126, subdivision 5.

Sec. 28. Minnesota Statutes 1996, section 260.161, is amended by adding a subdivision to read:

Subd. 3a. [COUNTY ATTORNEY REFERRAL OF CHILD IN NEED OF PROTECTION OR SERVICES.] In a county in which the county attorney refers children who are in need of protection or services to community programs, the county attorney may provide a community program with data on a child who is a participant or being considered for participation in the program.

Sec. 29. [TAXPAYER'S PERSONAL INFORMATION; DISCLOSURE.]

(a) An owner of property in Washington or Ramsey county that is subject to property taxation must be informed in a clear and conspicuous manner in writing on a form sent to property taxpayers that the property owner's name, address, and other information may be used, rented, or sold for business purposes, including surveys, marketing, and solicitation.

(b) If the property owner so requests on the form provided, then any such list generated by the county and sold for business purposes must exclude the owner's name and address if the business purpose is conducting surveys, marketing, or solicitation.

(c) This section expires August 1, 1999.

Sec. 30. [LOCAL APPROVAL REQUIRED.]

Section 29 is effective in Washington or Ramsey county the day after the chief clerical officer of the affected county complies with Minnesota Statutes, section 645.021, subdivision 3.

Sec. 31. [SCHOOL-BASED PROBATION PILOT PROJECT DATA.]

This section applies until December 31, 1999, to government data in a school-based probation pilot project established by the commissioner of corrections in Dakota or Anoka county. Data created, collected, used, or maintained by school-based probation officers and school officials

participating in a pilot project are private data on individuals as defined in Minnesota Statutes, section 13.02, subdivision 12, and may be disseminated among personnel working with a school-based probation project and as follows:

- (1) pursuant to Minnesota Statutes, section 13.05;
- (2) pursuant to a valid court order;
- (3) pursuant to a statute specifically authorizing access to the private data;
- (4) as allowed in Code of Federal Regulations, title 34, part 99; or
- (5) within the participating school district or educational entity as necessary to protect persons or property or to address the educational and other needs of students.

Sec. 32. Minnesota Statutes 1996, section 270.66, subdivision 3, is amended to read:

Subd. 3. [AGENCIES SHALL MAINTAIN RECORDS.] Notwithstanding any provision to the contrary, every person, organization, or corporation doing business (hereafter called vendor) with the state of Minnesota or any of its departments, agencies, or educational institutions including the University of Minnesota (all hereafter called agency) shall provide that agency with either their social security number, federal taxpayer identification number, or Minnesota tax identification number. The commissioner may verify to the agency the identifying information provided by a vendor. The agency shall maintain records of this information, and shall make these records available, on request, to the commissioner for the sole purpose of identifying people who have not filed state tax returns or who have not paid uncontested state tax liabilities (hereafter called delinquent taxpayer). When an agency is notified by the commissioner that a vendor is a delinquent taxpayer, payments shall not be made by the agency to the vendor until the commissioner notifies the agency that the vendor no longer is a delinquent taxpayer. Furthermore, if the vendor has an uncontested delinquent tax liability, the setoff provided in subdivision 1 may be implemented. The commissioner shall determine that a vendor no longer is a delinquent taxpayer when the vendor has filed all delinquent state tax returns, paid all uncontested state tax liabilities or entered into an agreement with the commissioner which provides for the payment of these liabilities.

Sec. 33. Minnesota Statutes 1996, section 270B.01, subdivision 8, is amended to read:

Subd. 8. [MINNESOTA TAX LAWS.] For purposes of this chapter only, "Minnesota tax laws" means the taxes, refunds, and fees administered by or paid to the commissioner under chapters 115B (except taxes imposed under sections 115B.21 to 115B.24), 289A (except taxes imposed under sections 298.01, 298.015, and 298.24), 290, 290A, 291, and 297A and sections 295.50 to 295.59, or any similar Indian tribal tax administered by the commissioner pursuant to any tax agreement between the state and the Indian tribal government, and includes any laws for the assessment, collection, and enforcement of those taxes, refunds, and fees.

Sec. 34. Minnesota Statutes 1996, section 270B.03, subdivision 1, is amended to read:

Subdivision 1. [WHO MAY INSPECT.] Returns and return information must, on written request, be made open to inspection by or disclosure to the data subject. For purposes of this chapter, the following are the data subject:

- (1) in the case of an individual return, that individual;
- (2) in the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;
- (3) in the case of a partnership return, any person who was a member of the partnership during any part of the period covered by the return;
- (4) in the case of the return of a corporation or its subsidiary:
 - (i) any person designated by resolution of the board of directors or other similar governing body;

(ii) any officer or employee of the corporation upon written request signed by any officer and attested to by the secretary or another officer;

(iii) any bona fide shareholder of record owning one percent or more of the outstanding stock of the corporation;

(iv) if the corporation is a corporation that has made an election under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1988, any person who was a shareholder during any part of the period covered by the return during which an election was in effect; or

(v) if the corporation has been dissolved, any person authorized by state law to act for the corporation or any person who would have been authorized if the corporation had not been dissolved;

(5) in the case of an estate return:

(i) the personal representative or trustee of the estate; and

(ii) ~~any heir at law, next of kin, or beneficiary of the estate, but only if the commissioner finds that the heir at law, next of kin, or beneficiary has a material interest that will be affected by information contained in the return~~ as shown on the federal estate tax return;

(6) in the case of a trust return:

(i) the trustee or trustees, jointly or separately; and

(ii) ~~any beneficiary of the trust, but only if the commissioner finds that the beneficiary has a material interest that will be affected by information contained in the return~~ as shown in the trust instrument;

(7) if liability has been assessed to a transferee under section 289A.31, subdivision 3, the transferee is the data subject with regard to the returns and return information relating to the assessed liability;

(8) in the case of an Indian tribal government or an Indian tribal government-owned entity,

(i) the chair of the tribal government, or

(ii) any person authorized by the tribal government; and

(9) in the case of a successor as defined in section 270.102, subdivision 1, paragraph (b), the successor is the data subject and information may be disclosed as provided by section 270.102, subdivision 4.

Sec. 35. Minnesota Statutes 1996, section 270B.03, subdivision 3, is amended to read:

Subd. 3. [DECEASED INDIVIDUALS.] Notwithstanding section 13.10, a return filed by or on behalf of a decedent is open to inspection by or disclosure to:

(1) the personal representative of the decedent's estate or trustee appointed under section 573.02, subdivision 3, or a similar law of another state; and

(2) ~~any heir at law, next of kin, or beneficiary under the will of the decedent, or a donee of property, but only if the commissioner finds that the heir at law, next of kin, beneficiary, or donee has a material interest that will be affected by information contained in the return~~ a claimant under section 290A.18, subdivision 1.

Sec. 36. Minnesota Statutes 1996, section 270B.03, subdivision 4, is amended to read:

Subd. 4. [TITLE 11 OF THE UNITED STATES CODE AND RECEIVERSHIP PROCEEDINGS.] (a) ~~If the commissioner finds that the trustee or receiver, in that person's fiduciary capacity, has a material interest that will be affected by information contained in the return,~~ A return is open to inspection by or disclosure to the trustee or receiver if:

(1) there is a trustee in a title 11 (United States Bankruptcy Code) case in which the debtor is the person with respect to whom the return is filed; or

(2) substantially all of the property of the person with respect to whom the return is filed is in the hands of a receiver.

(b) In an involuntary bankruptcy case of an individual, no disclosure may be made under paragraph (a) until the order for relief has been entered by the court having jurisdiction of the case, unless the court finds that disclosure is appropriate for purposes of determining whether an order for relief should be entered.

Sec. 37. Minnesota Statutes 1996, section 270B.08, subdivision 1, is amended to read:

Subdivision 1. [PERMIT INFORMATION.] The commissioner may disclose to any person making an inquiry regarding the issuance of a sales tax permit to a specific retailer whether a permit has been issued to the retailer, the name and address of the permit holder, the business name and location, the sales and use tax account number, ~~and~~ the date of issuance of the permit, and whether the permit has been canceled under section 297A.065.

Sec. 38. [270B.081] [SALES TAX EXEMPTION CERTIFICATES.]

The commissioner may disclose to any person making inquiry regarding the issuance of direct pay permits or certificates of exemption issued by the commissioner to a taxpayer whether the permit or certificate has been issued to the taxpayer, the business name and location, the permit or certificate number, the date of issuance of the permit or certificate, and whether the certificate is currently valid.

Sec. 39. Minnesota Statutes 1996, section 270B.085, subdivision 1, is amended to read:

Subdivision 1. [SEIZURE INFORMATION.] Following the execution of a writ of entry under section 16D.08, subdivision 2, or 270.70, the commissioner may disclose information identifying the individual or business subject to the writ, the basis for the writ, and the results of the execution, including lists of property seized.

Sec. 40. Minnesota Statutes 1996, section 270B.09, is amended to read:

270B.09 [CONTRACTS WITH THE STATE OR POLITICAL SUBDIVISION; SETOFF.]

The commissioner may disclose to the department of finance or any state agency or political or governmental subdivision of the state making payment to a vendor as described in section 270.66 or a contractor or subcontractor as described in section 290.97 whether the vendor, contractor, or subcontractor has an uncontested delinquent tax liability owed to the commissioner and the amount of any liability. The commissioner may also disclose taxpayer identity information to the department of finance, to the department of human services, to an agency requesting verification pursuant to section 270.66, subdivision 3, and to the University of Minnesota, solely for vendor setoff purposes.

Sec. 41. Minnesota Statutes 1996, section 270B.12, subdivision 7, is amended to read:

Subd. 7. [LOTTERY DIVISION.] (a) The commissioner of revenue may disclose to the lottery the amount of delinquent state taxes, or debt as defined in section 270A.03, subdivision 5, of a winner of a lottery prize of \$1,000 \$600 or more, to the extent necessary to administer section 349A.08, subdivision 8.

(b) The commissioner of revenue may disclose to the lottery division that a retailer owes \$500 or more in delinquent taxes as defined in section 270.72, to the extent necessary to administer section 349A.06, subdivision 2.

Sec. 42. Minnesota Statutes 1996, section 270B.14, subdivision 1, is amended to read:

Subdivision 1. [DISCLOSURE TO COMMISSIONER OF HUMAN SERVICES.] (a) On the request of the commissioner of human services, the commissioner shall disclose return

information regarding taxes imposed by chapter 290, and claims for refunds under chapter 290A, to the extent provided in paragraph (b) and for the purposes set forth in paragraph (c).

(b) Data that may be disclosed are limited to data relating to the identity, whereabouts, employment, income, and property of a person owing or alleged to be owing an obligation of child support.

(c) The commissioner of human services may request data only for the purposes of carrying out the child support enforcement program and to assist in the location of parents who have, or appear to have, deserted their children. Data received may be used only as set forth in section 256.978.

(d) The commissioner shall provide the records and information necessary to administer the supplemental housing allowance to the commissioner of human services.

(e) At the request of the commissioner of human services, the commissioner of revenue shall electronically match the social security numbers and names of participants in the telephone assistance plan operated under sections 237.69 to 237.711, with those of property tax refund filers, and determine whether each participant's household income is within the eligibility standards for the telephone assistance plan.

(f) The commissioner may provide records and information collected under sections 295.50 to 295.59 to the commissioner of human services for purposes of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, Public Law Number 102-234. Upon the written agreement by the United States Department of Health and Human Services to maintain the confidentiality of the data, the commissioner may provide records and information collected under sections 295.50 to 295.59 to the Health Care Financing Administration section of the United States Department of Health and Human Services for purposes of meeting federal reporting requirements.

(g) The commissioner may provide records and information to the commissioner of human services as necessary to administer the early refund of refundable tax credits.

(h) The commissioner may disclose information to the commissioner of human services necessary to verify income for eligibility and premium payment under the MinnesotaCare program, pursuant to section 256.9355, subdivision 2.

Sec. 43. Minnesota Statutes 1996, section 270B.14, is amended by adding a subdivision to read:

Subd. 15. [DISCLOSURE TO COMMISSIONER OF THE POLLUTION CONTROL AGENCY.] For purposes of administering and enforcing the dry cleaning and environmental response and reimbursement law of sections 115B.47 to 115B.51, the commissioner may disclose to the commissioner of the pollution control agency the names and addresses of the facilities, owners, and operators collected by the commissioner under section 115B.49, subdivision 4.

Sec. 44. Minnesota Statutes 1996, section 270B.14, is amended by adding a subdivision to read:

Subd. 16. [DISCLOSURE TO LAW ENFORCEMENT AUTHORITIES.] Under circumstances involving threat of death or physical injury to any individual, the commissioner may disclose return information to the extent necessary to apprise appropriate federal, state, or local law enforcement authorities of such circumstances. Data disclosed under this subdivision are classified under section 13.82 once they are received by the law enforcement authority.

Sec. 45. Minnesota Statutes 1996, section 270B.16, is amended to read:

270B.16 [DISCOVERY OF REVENUE DATA.]

Notwithstanding any law to the contrary, data collected by the department of revenue are not subject to discovery or subpoena in a legal action, other than an action or proceeding in connection with tax administration, unless disclosure of the data is authorized under this chapter.

Sec. 46. Minnesota Statutes 1996, section 287.34, is amended to read:

287.34 [VIOLATIONS.]

Any person who in any manner knowingly intentionally attempts to evade the a tax imposed by sections 287.21 to 287.33 this chapter, or who knowingly intentionally aids or abets in the evasion or attempted evasion of the such tax or who knowingly violates the provisions of sections 287.21 to 287.33 shall be guilty of a gross misdemeanor.

Sec. 47. Minnesota Statutes 1996, section 299C.095, is amended to read:

299C.095 [SYSTEM FOR IDENTIFICATION OF JUVENILE OFFENDERS.]

Subdivision 1. [ACCESS.] (a) The bureau shall administer and maintain the computerized juvenile history record system based on section 260.161 and other statutes requiring the reporting of data on juveniles. The data in the system are private data as defined in section 13.02, subdivision 12, but are accessible to criminal justice agencies as defined in section 13.02, subdivision 3a, to all trial courts and appellate courts, to a person who has access to the juvenile court records as provided in section 260.161 or under court rule and to criminal justice agencies in other states in the conduct of their official duties.

(b) Except for access authorized under paragraph (a), the bureau shall only disseminate a juvenile adjudication history record in connection with a background check required by statute or rule and performed on a licensee, license applicant, or employment applicant or performed under section 624.713. A consent for release of information from an individual who is the subject of a juvenile adjudication history is not effective and the bureau shall not release a juvenile adjudication history record and shall not release information in a manner that reveals the existence of the record.

Subd. 2. [RETENTION.] (a) Notwithstanding section 138.17, the bureau shall retain juvenile history records for the time periods provided in this subdivision. Notwithstanding contrary provisions of paragraphs (b) to (e), all data in a juvenile history record must be retained for the longest time period applicable to any item in the individual juvenile history record. If, before data are destroyed under this subdivision, the subject of the data is convicted of a felony as an adult, the individual's juvenile history record must be retained for the same time period as an adult criminal history record.

(b) Juvenile history data on a child who was arrested must be destroyed six months after the arrest if the child has not been referred to a diversion program and no petition has been filed against the child by that time.

(c) Juvenile history data on a child against whom a delinquency petition was filed and subsequently dismissed must be destroyed upon receiving notice from the court that the petition was dismissed.

(d) Juvenile history data on a child who was referred to a diversion program or against whom a delinquency petition has been filed and continued for dismissal must be destroyed when the child reaches age 21.

(e) Juvenile history data on a child against whom a delinquency petition was filed and continued without adjudication, or a child who was found to have committed a felony or gross misdemeanor-level offense, must be destroyed when the child reaches age 28. If the offender commits a felony violation as an adult, the bureau shall retain the data for as long as the data would have been retained if the offender had been an adult at the time of the juvenile offense.

(f) The bureau shall retain extended jurisdiction juvenile data on an individual received under section 260.161, subdivision 1a, paragraph (c), for as long as the data would have been retained if the offender had been an adult at the time of the offense.

(g) Data retained on individuals under this subdivision are private data under section 13.02, except that extended jurisdiction juvenile data becomes public data under section 13.87, subdivision 2, when the juvenile court notifies the bureau that the individual's adult sentence has been executed under section 260.126, subdivision 5.

(h) A person who receives data on a juvenile under paragraphs (b) to (e) from the bureau shall destroy the data according to the schedule in this subdivision. The bureau shall include a notice of the destruction schedule with all data it disseminates on juveniles.

Sec. 48. Minnesota Statutes 1996, section 299C.10, subdivision 1, is amended to read:

Subdivision 1. [LAW ENFORCEMENT DUTY.] (a) It is hereby made the duty of the sheriffs of the respective counties, of the police officers in cities of the first, second, and third classes, under the direction of the chiefs of police in such cities, and of community corrections agencies operating secure juvenile detention facilities to take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, and ~~such~~ other identification data ~~as may be requested or required by the superintendent of the bureau;~~ of all the following:

- (1) persons arrested for a felony, or gross misdemeanor, of all;
- (2) juveniles committing arrested for or alleged to have committed felonies as distinguished from those committed by adult offenders, of all;
- (3) persons reasonably believed by the arresting officer to be fugitives from justice, of all;
- (4) persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes; and
- (5) juveniles referred by a law enforcement agency to a diversion program for a felony or gross misdemeanor offense.

Within 24 hours thereafter ~~to forward such~~ the fingerprint records and other identification data specified under this paragraph must be forwarded to the bureau of criminal apprehension on such forms and in such manner as may be prescribed by the superintendent of the bureau of criminal apprehension.

(b) Effective August 1, 1997, the identification reporting requirements shall also apply to persons ~~committing arrested for or alleged to have committed targeted~~ misdemeanor offenses, ~~including violent and enhanceable crimes,~~ and juveniles ~~committing arrested for or alleged to have committed~~ gross misdemeanors. In addition, the reporting requirements shall include any known aliases or street names of the offenders.

For purposes of this section, a targeted misdemeanor is a misdemeanor violation of section 169.121 (driving while intoxicated), 518B.01 (order for protection violation), 609.224 (fifth degree assault), 609.2242 (domestic assault), 609.746 (interference with privacy), 609.748 (harassment or restraining order violation), or 617.23 (indecent exposure).

Sec. 49. Minnesota Statutes 1996, section 299C.13, is amended to read:

299C.13 [INFORMATION FURNISHED TO PEACE OFFICERS.]

Upon receipt of information data as to any arrested person, the bureau shall immediately ascertain whether the person arrested has a criminal record or is a fugitive from justice, and shall at once inform the arresting officer of the facts ascertained, including references to any adult court disposition data that is not in the criminal history system. Upon application by any sheriff, chief of police, or other peace officer in the state, or by an officer of the United States or by an officer of another state, territory, or government duly authorized to receive the same and effecting reciprocal interchange of similar information with the division, it shall be the duty of the bureau to furnish all information in its possession pertaining to the identification of any person. If the bureau has a sealed record on the arrested person, it shall notify the requesting peace officer of that fact and of the right to seek a court order to open the record for purposes of law enforcement. A criminal justice agency shall be notified, upon request, of the existence and contents of a sealed record containing conviction information about an applicant for employment. For purposes of this section

a "criminal justice agency" means courts or a government agency that performs the administration of criminal justice under statutory authority.

Sec. 50. Minnesota Statutes 1996, section 626.556, subdivision 11, is amended to read:

Subd. 11. [RECORDS.] (a) Except as provided in paragraph (b) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. Section 13.82, subdivisions 5, 5a, and 5b, apply to law enforcement data other than the reports. The local social services agency shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure.

(b) Upon request of the legislative auditor, data on individuals maintained under this section must be released to the legislative auditor in order for the auditor to fulfill the auditor's duties under section 3.971. The auditor shall maintain the data in accordance with chapter 13.

Sec. 51. [PUBLIC DEFENDER ACCESS TO CRIMINAL HISTORY DATA.]

The criminal and juvenile justice information policy group shall facilitate remote electronic access to public criminal history data by public defenders.

Sec. 52. [ACCESS TO PUBLIC CONVICTION DATA.]

The bureau of criminal apprehension, in conjunction with the criminal and juvenile justice information policy group, shall report to the chairs of the committees on judiciary in the house of representatives and the senate and the chair of the committee on crime prevention in the senate by January 15, 1998, a plan for making public conviction data available at locations beyond the central office of the bureau of criminal apprehension.

Sec. 53. [REPEALER.]

Minnesota Statutes 1996, sections 13.072, subdivision 3; 13.71, subdivisions 18, 19, 20, and 21; and 13.99, subdivision 21d, are repealed.

Sec. 54. [EFFECTIVE DATE.]

Sections 32 to 45 are effective the day following final enactment. Section 46 is effective for deeds executed and delivered, and mortgages submitted for recording, on or after July 1, 1997."

Delete the title and insert:

"A bill for an act relating to government data practices; classifying data; making certain welfare and housing data available to law enforcement agencies; classifying data on individuals who receive homeless services; eliminating the requirement that government agencies pay a fee for commissioner's opinions; modifying school immunization and health record provisions; modifying patient consent to release of records for research; authorizing destruction of records of deceased patients; requiring notice of investigations to health board licensees; providing for retention of juvenile history records; providing for juvenile justice system access to certain education data; providing for misdemeanor offense reports and access to certain adult criminal history data; providing for disclosure or inspection of certain tax data or return information; limiting disclosure of certain tax data under subpoena; indexing statutes that restrict data access and are located outside chapter 13; providing criminal penalties; amending Minnesota Statutes 1996, sections 13.32, subdivisions 1, 3, and by adding a subdivision; 13.41, subdivision 2; 13.46, subdivision 2; 13.54, by adding a subdivision; 13.65, subdivision 2; 13.99, subdivision 53b, and by adding subdivisions; 53A.081, by adding a subdivision; 123.70, subdivisions 5, 7, and 10; 144.29; 144.335, subdivision 3a; 214.10, subdivision 1; 260.161, subdivision 1a, and by adding a subdivision; 270.66, subdivision 3; 270B.01, subdivision 8; 270B.03, subdivisions 1, 3, and 4; 270B.08, subdivision 1; 270B.085, subdivision 1; 270B.09; 270B.12, subdivision 7; 270B.14, subdivision 1, and by adding subdivisions; 270B.16; 287.34; 299C.095; 299C.10, subdivision 1; 299C.13; and 626.556, subdivision 11; proposing coding for new law in Minnesota Statutes, chapters 13; and 270B; repealing Minnesota Statutes 1996, sections 13.072, subdivision 3; 13.71, subdivisions 18, 19, 20, and 21; and 13.99, subdivision 21d."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Mary Jo McGuire, Wesley J. "Wes" Skoglund, Len Biernat

Senate Conferees: (Signed) Don Betzold, Deanna L. Wiener, David J. Ten Eyck

Mr. Betzold moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1460 be now adopted, and that the bill be repassed as amended by the Conference Committee.

CALL OF THE SENATE

Mr. Betzold imposed a call of the Senate for the balance of the proceedings on H.F. No. 1460. The Sergeant at Arms was instructed to bring in the absent members.

Mr. Knutson moved that the recommendations and Conference Committee Report on H.F. 1460 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 25 and nays 33, as follows:

Those who voted in the affirmative were:

Belanger	Frederickson	Larson	Neuville	Runbeck
Berg	Johnson, D.E.	Lesewski	Oliver	Samuelson
Day	Kleis	Lessard	Pariseau	Scheevel
Dille	Knutson	Limmer	Robertson	Stevens
Fischbach	Laidig	Murphy	Robling	Terwilliger

Those who voted in the negative were:

Anderson	Hanson	Kelley, S.P.	Novak	Stumpf
Beckman	Higgins	Kelly, R.C.	Pappas	Ten Eyck
Berglin	Hottinger	Kiscaden	Piper	Vickerman
Betzold	Janezich	Krentz	Price	Wiener
Cohen	Johnson, D.H.	Langseth	Sams	Wiger
Flynn	Johnson, J.B.	Lourey	Scheid	
Foley	Junge	Marty	Spear	

The motion did not prevail.

The question recurred on the adoption of the Betzold motion.

The roll was called, and there were yeas 35 and nays 28, as follows:

Those who voted in the affirmative were:

Anderson	Higgins	Kelley, S.P.	Morse	Scheid
Beckman	Hottinger	Kelly, R.C.	Novak	Spear
Berglin	Janezich	Krentz	Pappas	Stumpf
Betzold	Johnson, D.H.	Langseth	Piper	Ten Eyck
Cohen	Johnson, D.J.	Lourey	Pogemiller	Vickerman
Flynn	Johnson, J.B.	Marty	Price	Wiener
Foley	Junge	Moe, R.D.	Sams	Wiger

Those who voted in the negative were:

Belanger	Johnson, D.E.	Lesewski	Olson	Samuelson
Berg	Kiscaden	Lessard	Ourada	Scheevel
Day	Kleis	Limmer	Pariseau	Stevens
Dille	Knutson	Murphy	Robertson	Terwilliger
Fischbach	Laidig	Neuville	Robling	
Frederickson	Larson	Oliver	Runbeck	

The motion prevailed. So the recommendations and Conference Committee report were adopted.

H.F. No. 1460 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 37 and nays 28, as follows:

Those who voted in the affirmative were:

Anderson	Hottinger	Krentz	Pappas	Stumpf
Beckman	Janezich	Langseth	Piper	Ten Eyck
Berglin	Johnson, D.H.	Lourey	Pogemiller	Vickerman
Betzold	Johnson, D.J.	Marty	Price	Wiener
Cohen	Johnson, J.B.	Metzen	Sams	Wiger
Flynn	Junge	Moe, R.D.	Scheid	
Foley	Kelley, S.P.	Morse	Solon	
Higgins	Kelly, R.C.	Novak	Spear	

Those who voted in the negative were:

Belanger	Hanson	Larson	Oliver	Samuelson
Berg	Johnson, D.E.	Lesewski	Olson	Scheevel
Day	Kiscaden	Lessard	Ourada	Stevens
Dille	Kleis	Limmer	Pariseau	Terwilliger
Fischbach	Knutson	Murphy	Robertson	
Frederickson	Laidig	Neuville	Runbeck	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 241, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 241 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 19, 1997

CONFERENCE COMMITTEE REPORT ON H.F. NO. 241

A bill for an act relating to motor carriers; allowing personnel of departments of transportation and public safety to conduct joint or combined audits of motor carrier records; requiring commissioner of public safety to provide commissioner of transportation information on traffic accidents involving commercial motor vehicles; providing for enforcement authority of personnel of departments of transportation and public safety relating to motor carriers; conforming state statutes to federal motor carrier safety regulations; providing for the reauthorization of the uniform hazardous materials registration and permit program for an additional year; authorizing commissioner of transportation to accept electronic signatures for electronically transmitted motor carrier documents; amending Minnesota Statutes 1996, sections 168.187, subdivision 20; 169.09, subdivision 13; 169.85; 169.871, subdivisions 1 and 1a; 221.0314, subdivisions 2, 6, 7, 9, 10, and 11; 221.0355, subdivisions 5 and 15; 221.221, subdivisions 2 and 4; 296.17, subdivision 18; 296.171, subdivision 4; and 299D.06; Laws 1994, chapter 589, section 8, as amended; proposing coding for new law in Minnesota Statutes, chapter 221.

May 17, 1997

The Honorable Phil Carruthers
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 241, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 241 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1996, section 168.187, subdivision 20, is amended to read:

Subd. 20. [JOINT OR RECIPROCAL AUDITS.] The commissioner of public safety may make arrangements with the commissioner of transportation and with agencies of other states administering motor vehicle registration laws for joint or reciprocal audits of any owner.

Sec. 2. Minnesota Statutes 1996, section 169.09, subdivision 13, is amended to read:

Subd. 13. [REPORTS CONFIDENTIAL; EVIDENCE, FEE, PENALTY, APPROPRIATION.]
(a) All written reports and supplemental reports required under this section shall be for the use of the commissioner of public safety and other appropriate state, federal, county, and municipal governmental agencies for accident analysis purposes, except:

(1) the commissioner of public safety or any law enforcement agency shall, upon written request of any person involved in an accident or upon written request of the representative of the person's estate, surviving spouse, or one or more surviving next of kin, or a trustee appointed pursuant to section 573.02, disclose to the requester, the requester's legal counsel, or a representative of the requester's insurer the report required under subdivision 8;

(2) the commissioner of public safety shall, upon written request, provide the driver filing a report under subdivision 7 with a copy of the report filed by the driver;

(3) the commissioner of public safety may verify with insurance companies vehicle insurance information to enforce sections 65B.48, 169.792, 169.793, 169.796, and 169.797;

(4) the commissioner of public safety ~~may give to~~ shall provide the commissioner of transportation ~~the name and address of a carrier subject to section 221.031 for use in enforcing the information obtained for each traffic accident report requirements under chapter 221 involving a commercial motor vehicle, for purposes of administering commercial vehicle safety regulations;~~ and

(5) the commissioner of public safety may give to the United States Department of Transportation commercial vehicle accident information in connection with federal grant programs relating to safety.

(b) Accident reports and data contained in the reports shall not be discoverable under any provision of law or rule of court. No report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the commissioner of public safety shall furnish upon the demand of any person who has, or claims to have, made a report, or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the commissioner solely to prove compliance or failure to comply with the requirements that the report be made to the commissioner.

(c) Nothing in this subdivision prevents any person who has made a report pursuant to this section from providing information to any persons involved in an accident or their representatives or from testifying in any trial, civil or criminal, arising out of an accident, as to facts within the person's knowledge. It is intended by this subdivision to render privileged the reports required, but it is not intended to prohibit proof of the facts to which the reports relate.

(d) Disclosing any information contained in any accident report, except as provided in this subdivision, section 13.82, subdivision 3 or 4, or other statutes, is a misdemeanor.

(e) The commissioner of public safety may charge authorized persons a \$5 fee for a copy of an accident report.

(f) The commissioner and law enforcement agencies may charge commercial users who request access to response or incident data relating to accidents a fee not to exceed 50 cents per report. "Commercial user" is a user who in one location requests access to data in more than five accident reports per month, unless the user establishes that access is not for a commercial purpose. Money collected by the commissioner under this paragraph is appropriated to the commissioner.

Sec. 3. Minnesota Statutes 1996, section 169.85, is amended to read:

169.85 [WEIGHING; PENALTY.]

The driver of a vehicle which has been lawfully stopped may be required by a ~~peace~~ an officer to submit the vehicle and load to a weighing by means of portable or stationary scales, and the ~~peace~~ officer may require that the vehicle be driven to the nearest available scales if the distance to the scales is no further than five miles, or if the distance from the point where the vehicle is stopped to the vehicle's destination is not increased by more than ten miles as a result of proceeding to the nearest available scales. Official traffic control devices as authorized by section 169.06 may be used to direct the driver to the nearest scale. When a truck weight enforcement operation is conducted by means of portable or stationary scales and signs giving notice of the operation are posted within the highway right-of-way and adjacent to the roadway within two miles of the operation, the driver of a truck or combination of vehicles registered for or weighing in excess of 12,000 pounds shall proceed to the scale site and submit the vehicle to weighing and inspection.

Upon weighing a vehicle and load, as provided in this section, an officer may require the driver to stop the vehicle in a suitable place and remain standing until a portion of the load is removed that is sufficient to reduce the gross weight of the vehicle to the limit permitted under section 169.825. A suitable place is a location where loading or tampering with the load is not prohibited by federal, state, or local law, rule or ordinance. A driver may be required to unload a vehicle only if the weighing officer determines that (a) on routes subject to the provisions of section 169.825, the weight on an axle exceeds the lawful gross weight prescribed by section 169.825, by 2,000

pounds or more, or the weight on a group of two or more consecutive axles in cases where the distance between the centers of the first and last axles of the group under consideration is ten feet or less exceeds the lawful gross weight prescribed by section 169.825, by 4,000 pounds or more; or (b) on routes designated by the commissioner in section 169.832, subdivision 11, the overall weight of the vehicle or the weight on an axle or group of consecutive axles exceeds the maximum lawful gross weights prescribed by section 169.825; or (c) the weight is unlawful on an axle or group of consecutive axles on a road restricted in accordance with section 169.87. Material unloaded must be cared for by the owner or driver of the vehicle at the risk of the owner or driver.

A driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing as required in this section, or who fails or refuses, when directed by an officer upon a weighing of the vehicle, to stop the vehicle and otherwise comply with the provisions of this section, is guilty of a misdemeanor.

When used in this section, the word "officer" means a peace officer or an employee of the department of public safety described in section 299D.06.

Sec. 4. Minnesota Statutes 1996, section 169.871, subdivision 1, is amended to read:

Subdivision 1. [CIVIL LIABILITY.] The owner or lessee of a vehicle that is operated with a gross weight in excess of a weight limit imposed under sections 169.825 and 169.832 to 169.851 and 169.87 or a shipper who ships or tenders goods for shipment in a single truck or combination vehicle that exceeds a weight limit imposed under sections 169.825 and 169.832 to 169.851 and 169.87 is liable for a civil penalty as follows:

(a) If the total gross excess weight is not more than 1,000 pounds, one cent per pound for each pound in excess of the legal limit;

(b) If the total gross excess weight is more than 1,000 pounds but not more than 3,000 pounds, \$10 plus five cents per pound for each pound in excess of 1,000 pounds;

(c) If the total gross excess weight is more than 3,000 pounds but not more than 5,000 pounds, \$110 plus ten cents per pound for each pound in excess of 3,000 pounds;

(d) If the total gross excess weight is more than 5,000 pounds but not more than 7,000 pounds, \$310 plus 15 cents per pound for each pound in excess of 5,000 pounds;

(e) If the total gross excess weight is more than 7,000 pounds, \$610 plus 20 cents per pound for each pound in excess of 7,000 pounds.

Any penalty imposed upon a defendant under this subdivision shall not exceed the penalty prescribed by this subdivision. Any fine paid by the defendant in a criminal overweight action that arose from the same overweight violation shall be applied toward payment of the civil penalty under this subdivision. A peace officer or department of public safety employee described in section 299D.06 who cites a driver for a violation of the weight limitations established by sections 169.81 to 169.851 and 169.87 shall give written notice to the driver that the driver or another may also be liable for the civil penalties provided herein in the same or separate proceedings.

Sec. 5. Minnesota Statutes 1996, section 169.871, subdivision 1a, is amended to read:

Subd. 1a. [SPECIAL PERMIT VIOLATIONS.] The owner or lessee of a vehicle that is operated with a gross weight in excess of a weight limit imposed by permit under sections 169.86 and 169.862 and a shipper who ships or tenders goods for shipment in a single truck or combination vehicle that exceeds a weight limit permitted under sections 169.86 or 169.862 is liable for a civil penalty at a rate of five cents per pound for each pound in excess of the weight permitted under section 169.86 or 169.862, or \$100, whichever is greater.

Any penalty imposed upon a defendant under this subdivision shall not exceed the penalty prescribed by this subdivision. Any fine paid by the defendant in a criminal overweight action that arose from the same overweight violation may not be applied toward payment of the civil penalty under this subdivision. A peace officer or department of public safety employee described in

section 299D.06 who cites a driver for a violation of the weight limitations established by permit pursuant to section 169.86 or 169.862 shall give written notice to the driver that the driver or another may also be liable for the civil penalty provided in this subdivision in the same or separate proceedings.

Sec. 6. Minnesota Statutes 1996, section 171.041, as amended by Laws 1997, chapter 48, section 1, is amended to read:

171.041 [RESTRICTED LICENSES FOR FARM WORK.]

Notwithstanding any provisions of section 171.04 relating to the age of an applicant to the contrary, the commissioner may issue a restricted farm work license to operate a motor vehicle to a person who has attained the age of 15 years but who is under the age of 16 years and who, except for age, is qualified to hold a driver's license. The applicant is not required to comply with the six-month instruction permit possession provisions of sections 171.04, subdivision 1, clause (2), and 171.05, subdivision 2a. The restricted license shall be issued solely for the purpose of authorizing the person to whom the restricted license is issued to assist the person's parents or guardians with farm work. A person holding this restricted license may operate a motor vehicle only during daylight hours and only within a radius of 20 miles of the parent's or guardian's farmhouse; however, in no case may a person holding the restricted license operate a motor vehicle in a city of the first class. An applicant for a restricted license shall apply to the commissioner for the license on forms prescribed by the commissioner. The application shall be accompanied by:

(1) a copy of a property tax statement showing that the ~~applicant's residence~~ applicant owns land that is classified as agricultural land or a copy of a rental statement or agreement showing that the applicant rents land classified as agricultural land; and

(2) by a written verified statement by the applicant's parent or guardian setting forth the necessity for the license.

Sec. 6. Minnesota Statutes 1996, section 221.0314, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY.] (a) ~~Intrastate motor carriers, private carriers, and persons providing intrastate transportation described in section 221.025, must comply with the rules federal regulations incorporated in this section. Private carriers and persons providing intrastate transportation described in section 221.025, must comply with the federal regulations incorporated in this section to the extent required by section 221.031. Every carrier and its officers, agents, representatives, and employees responsible for managing, maintaining, equipping, operating, or driving motor vehicles, or hiring, supervising, training, assigning, or dispatching drivers, must be instructed in and comply with the rules incorporated in this section and shall require that its agents, representatives, drivers, and employees comply.~~

(b) In the rules incorporated in subdivisions 2 to 11:

(1) the term "motor carrier" means a carrier required to comply with this section ~~by section 221.031;~~

(2) a reference to a federal agency or office means the Minnesota department of transportation; and

(3) a reference to a federal administrative officer means the commissioner of the Minnesota department of transportation.

Sec. 7. Minnesota Statutes 1996, section 221.0314, subdivision 2, is amended to read:

Subd. 2. [QUALIFICATIONS OF DRIVERS.] Code of Federal Regulations, title 49, part 391 and appendixes C, D, and E, are incorporated by reference except for sections 391.1; 391.2; 391.11, paragraph (b)(1); 391.47; 391.49, paragraphs (b) to (1); 391.51, paragraphs (f) and (g); 391.62; 391.64; 391.67; 391.68; 391.69; 391.71; and ~~those sections incorporated in section 221.0313, subdivision 4~~ 391.73. In addition, the cross references to Code of Federal Regulations,

title 49, section 391.62, 391.67, or 391.71 or to part 391, subpart G, found in Code of Federal Regulations, title 49, sections 391.11, paragraphs (a) and (b); 391.21, paragraph (a); 391.23, paragraph (a); 391.25; 391.27, paragraph (a); 391.31, paragraph (a); 391.35, paragraph (a); 391.41, paragraph (a); and 391.45, sections or paragraphs not incorporated in this subdivision are not incorporated by reference.

Sec. 8. Minnesota Statutes 1996, section 221.0314, subdivision 6, is amended to read:

Subd. 6. [DRIVING OF MOTOR VEHICLES.] Code of Federal Regulations, title 49, part 392, is incorporated by reference, ~~except that sections 392.1, 392.2, and 392.30, paragraph (a), of that part, are not incorporated.~~

Sec. 9. Minnesota Statutes 1996, section 221.0314, subdivision 7, is amended to read:

Subd. 7. [PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION.] Code of Federal Regulations, title 49, part 393, is incorporated by reference, ~~except that sections 393.1, 393.3, and 393.5 of that part are not incorporated for paragraph (d) of section 393.43.~~ In addition, despite the first paragraph of Code of Federal Regulations, title 49, section 393.95, a lightweight vehicle must carry a fire extinguisher meeting the requirements in Code of Federal Regulations, title 49, section 393.95.

Sec. 10. Minnesota Statutes 1996, section 221.0314, subdivision 9, is amended to read:

Subd. 9. [HOURS OF SERVICE OF DRIVERS.] Code of Federal Regulations, title 49, part 395, is incorporated by reference, ~~except that sections 395.3, paragraphs (d) to (f); 395.8, paragraphs (k)(2) and (l)(2); paragraphs (a), (c), (d), (f), (i), (j), (l), (m), (n), and (o) of section 395.1 and section 395.13; of that part are not incorporated. In addition, the cross reference references to paragraph (e) in Code of Federal Regulations, title 49, section 395.3, paragraph (a), is sections or paragraphs not incorporated in this subdivision are not incorporated by reference. The requirements of Code of Federal Regulations, title 49, sections 395.3, paragraphs (a) and (b); and 395.8, paragraphs (a) to (k), part 395, do not apply to drivers of lightweight vehicles.~~

Sec. 11. Minnesota Statutes 1996, section 221.0314, subdivision 10, is amended to read:

Subd. 10. [INSPECTION, REPAIR, AND MAINTENANCE.] Code of Federal Regulations, title 49, part 396, is incorporated by reference, ~~except that sections 396.1, 396.9, and 396.11, paragraph (d); 396.17 to 396.19; 396.21; and 396.23 of that part are not incorporated.~~

Sec. 12. Minnesota Statutes 1996, section 221.0314, subdivision 11, is amended to read:

Subd. 11. [TRANSPORTING HAZARDOUS MATERIALS; DRIVING AND PARKING.] A person who transports hazardous materials shall comply with this section and rules adopted under section 221.031 when that person is transporting a hazardous material, hazardous waste, or hazardous substance in a vehicle that must be marked or placarded in accordance with Code of Federal Regulations, title 49, section 172.504, incorporated by reference in section 221.033. Code of Federal Regulations, title 49, part 397, is incorporated by reference, ~~except that sections 397.1 to 397.3 of that part are not incorporated.~~ A petroleum transport driver shall not park on a public street adjacent to a bridge, tunnel, dwelling, building, or place where persons work, congregate, or assemble, except when necessary to unload.

Sec. 13. Minnesota Statutes 1996, section 221.0355, subdivision 5, is amended to read:

Subd. 5. [HAZARDOUS WASTE TRANSPORTERS.] (a) A carrier with its principal place of business in Minnesota or who designates Minnesota as its base state shall file a disclosure statement with and obtain a permit from the commissioner that specifically authorizes the transportation of hazardous waste before transporting a hazardous waste in Minnesota. A carrier that designates another participating state as its base state shall file a disclosure statement with and obtain a permit from that state that specifically authorizes the transportation of hazardous waste before transporting a hazardous waste in Minnesota. A registration is valid for one year from the date a notice of registration form is issued and a permit is valid for three years from the date issued or until a carrier fails to renew its registration, whichever occurs first.

(b) A disclosure statement must include the information contained in part III of the uniform application. A person who has direct management responsibility for a carrier's hazardous waste transportation operations shall submit a full set of the person's fingerprints, with the carrier's disclosure statement, for identification purposes and to enable the commissioner to determine whether the person has a criminal record. The commissioner shall send the person's fingerprints to the Federal Bureau of Investigation and shall request the bureau to conduct a check of the person's criminal record. The commissioner shall not issue a notice of registration or permit to a hazardous waste transporter who has not made a full and accurate disclosure of the required information or paid the fees required by this subdivision. Making a materially false or misleading statement in a disclosure statement is prohibited.

(c) The commissioner shall assess a carrier the actual costs incurred by the commissioner for conducting the uniform program's required investigation of the information contained in a disclosure statement.

(d) A permit under this subdivision becomes a license under section 221.035, subdivision 1, on August 1, ~~1997~~ 1998, and is subject to the provisions of section 221.035 until it expires.

Sec. 14. Minnesota Statutes 1996, section 221.0355, subdivision 15, is amended to read:

Subd. 15. [HAZARDOUS WASTE LICENSES.] (a) From October 1, 1994, until August 1, ~~1997~~ 1998, the commissioner shall not register hazardous material transporters under section 221.0335 or license hazardous waste transporters under section 221.035. A person who is licensed under section 221.035 need not obtain a permit under subdivision 4 or 5 for the transportation of hazardous waste in Minnesota, until the person's license has expired. A carrier wishing to transport hazardous waste in another participating state shall obtain a permit under the uniform program authorizing the transportation.

(b) The commissioner may refund fees paid under section 221.035, minus a proportional amount calculated on a monthly basis for each month that a hazardous waste transporter license was valid, to a person who was issued a hazardous waste transporter license after May 5, 1994, who applied for a permit authorizing the transportation of hazardous waste under subdivisions 4 and 5 before October 1, 1994, and who was subsequently issued that permit under the uniform program.

Sec. 15. [221.173] [ELECTRONIC SIGNATURES.]

(a) The commissioner may accept in lieu of a required document completed on paper, an electronically transmitted document authenticated by an electronic signature.

(b) The commissioner shall consult with the commissioner of administration, who shall provide advice and assistance in establishing criteria and standards for authentication of electronic signatures and establishing to a reasonable certainty the validity, security, and linkage of a specific, unaltered, electronically transmitted document, its unforged signature, and its authorized signer.

(c) The commissioner may determine the technology or system to be used, which may include a private key/public key system, an encrypted or cryptology-based system, a pen-based, on-screen signature system that captures and verifies an autograph and links it to a specific document, or other system or technology or combination of systems.

(d) To the extent consistent with this section, laws and rules pertaining to paper-based documents also pertain to electronically transmitted documents.

Sec. 16. Minnesota Statutes 1996, section 221.221, subdivision 2, is amended to read:

Subd. 2. [~~POLICE OFFICER ENFORCEMENT POWERS.~~] Transportation representatives program specialists and hazardous material program specialists of the department, for the purpose of enforcing the provisions of this chapter, sections 169.781 to 169.783 relating to commercial vehicle inspections, and section 296.17, subdivisions 10 and 17, relating to motor carrier licenses and trip permits, and the applicable rules, orders, or directives of the commissioner, the

commissioner of revenue, and the board issued under this chapter and chapter 296, but for no other purpose, have the powers conferred by law upon police officers. The powers include the authority to conduct inspections at designated highway weigh stations or under other appropriate circumstances.

Sec. 17. Minnesota Statutes 1996, section 221.221, subdivision 4, is amended to read:

Subd. 4. [INSPECTION OF DOCUMENTS.] Records, log books, certificates, licenses, shipping documents, or other papers or documents required to ~~be maintained in the carrier's files or in vehicles subject to~~ determine compliance with this chapter and rules adopted under this chapter, must be presented for inspection, upon request, to a peace officer or police officer or other person empowered to enforce the provisions of this chapter.

Sec. 18. [221.86] [PARTIAL IMMUNITY FOR MOTOR CARRIER EMPLOYERS.]

A motor carrier employer that discloses information in good faith about a present or former employee in response to a request pursuant to Code of Federal Regulations, title 49, section 382.413, is immune from civil liability, except in cases of knowing disclosure of false information or negligence, for the disclosure and the consequences proximately caused by the disclosure, provided that:

(1) the employer has and observes a written testing policy and procedure which complies with federal and state laws;

(2) the employer uses a certified laboratory and lawful test procedures;

(3) the employer sends the information to the prospective employer who has requested the information, on a request and authorization form signed by the employee; and

(4) the employer sends only information on the employee for whom the information was requested, that:

(i) shows whether or not, during the preceding two years, the employee tested 0.04 or greater alcohol concentration, tested positive on a verified test for the presence of controlled substances, or refused to be tested for alcohol or controlled substances;

(ii) states the dates of any tests listed in item (i); and

(iii) includes any and all information on confirmatory tests requested by the employee.

Sec. 19. Minnesota Statutes 1996, section 296.17, subdivision 18, is amended to read:

Subd. 18. [COOPERATIVE AUDITS.] The commissioner may make arrangements with the commissioner of transportation and may enter into agreements with the appropriate authorities of other states having statutes similar to this act for the cooperative audit of motor carriers' reports and returns. In performing any such audit, or part thereof, the officers and employees of the department of transportation and the other state or states shall be deemed authorized agents of this state for such purpose, and such audits, or parts thereof, shall have the same effect as similar audits, or parts thereof, when made by the commissioner.

Sec. 20. Minnesota Statutes 1996, section 296.171, subdivision 4, is amended to read:

Subd. 4. [EXCHANGES OF INFORMATION.] The commissioner of public safety may make arrangements or agreements with the commissioner of transportation and other states to exchange information for audit and enforcement activities in connection with fuel tax licensing. The filing of fuel tax returns under this section is subject to the rights, terms, and conditions granted or contained in the applicable agreement or arrangement made by the commissioner under the authority of this section.

Sec. 21. Minnesota Statutes 1996, section 299D.06, is amended to read:

299D.06 [INSPECTIONS; WEIGHING.]

(a) Department personnel must be classified employees assigned to the division of state patrol if they are employed to enforce the:

(1) laws relating to motor vehicle equipment; school bus equipment; drivers license, drivers' licenses; motor vehicle registration; motor vehicle size and weight; motor carrier insurance, registration, and safety; and motor vehicle petroleum tax, to enforce public utilities commission rules relating to motor carriers, to enforce taxes;

(2) pollution control agency rules relating to motor vehicle noise abatement; and to enforce

(3) laws relating to directing the movement of vehicles shall be classified employees of the commissioner of public safety assigned to the division of state patrol.

(b) Employees engaged in these duties, while actually on the job during their working hours only, shall have power to:

(1) issue citations in lieu of arrest and continued detention; and to

(2) prepare notices to appear in court for violation of these laws and rules, in the manner provided in section 169.91, subdivision 3.

They shall not be armed and, except as provided in this section, shall have none of the other powers and privileges reserved to peace officers including the power to enforce traffic laws and regulations.

Sec. 22. Laws 1994, chapter 589, section 8, as amended by Laws 1996, chapter 455, article 3, section 33, is amended to read:

Sec. 8. [REPEALER.]

Minnesota Statutes 1992, section 221.033, subdivision 4, is repealed. Section 5 is repealed effective August 1, 1997 1998.

Sec. 23. [HAZARDOUS WASTE TRANSPORTER LICENSING.]

Unless, before Congress adjourns in 1997, Congress specifically reauthorizes the uniform hazardous materials permit program created in the Hazardous Materials Transportation Uniform Safety Act of 1990, United States Code, title 49 appendix, sections 18-19, subsection (c), the commissioner shall stop registering and permitting hazardous material and hazardous waste transporters on the date Congress adjourns in 1997, and shall revert to licensing hazardous waste transporters under Minnesota Statutes, section 221.0335. A permit under Minnesota Statutes, section 221.0355, becomes a hazardous waste transporter license under Minnesota Statutes, section 221.0335."

Delete the title and insert:

"A bill for an act relating to motor carriers; allowing personnel of departments of transportation and public safety to conduct joint or combined audits of motor carrier records; requiring commissioner of public safety to provide commissioner of transportation information on traffic accidents involving commercial motor vehicles; providing for enforcement authority of personnel of departments of transportation and public safety relating to motor carriers; modifying requirements to obtain restricted driver's license for farm work; conforming state statutes to federal motor carrier safety regulations; providing for the reauthorization of the uniform hazardous materials registration and permit program for an additional year; authorizing commissioner of transportation to accept electronic signatures for electronically transmitted motor carrier documents; providing immunity from civil liability for certain disclosures by motor carrier employers; providing for hazardous waste transporter licensing under state law; amending Minnesota Statutes 1996, sections 168.187, subdivision 20; 169.09, subdivision 13; 169.85; 169.871, subdivisions 1 and 1a; 171.041, as amended; 221.0314, subdivisions 1, 2, 6, 7, 9, 10, and 11; 221.0355, subdivisions 5 and 15; 221.221, subdivisions 2 and 4; 296.17, subdivision 18; 296.171, subdivision 4; and 299D.06; Laws 1994, chapter 589, section 8, as amended; proposing coding for new law in Minnesota Statutes, chapter 221."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Joe Mullery, Jean Wagenius, Jim Rhodes

Senate Conferees: (Signed) Dallas C. Sams, Janet B. Johnson, Dick Day

Mr. Sams moved that the foregoing recommendations and Conference Committee Report on H.F. No. 241 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 241 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Laidig	Novak	Scheevel
Beckman	Higgins	Langseth	Oliver	Scheid
Belanger	Hottinger	Larson	Olson	Solon
Berg	Janezich	Lesewski	Ourada	Spear
Berglin	Johnson, D.E.	Lessard	Pappas	Stevens
Betzold	Johnson, D.H.	Limmer	Pariseau	Stumpf
Cohen	Johnson, D.J.	Lourey	Piper	Ten Eyck
Day	Johnson, J.B.	Marty	Pogemiller	Terwilliger
Dille	Junge	Metzen	Price	Vickerman
Fischbach	Kelley, S.P.	Moe, R.D.	Robertson	Wiener
Flynn	Kleis	Morse	Runbeck	Wiger
Foley	Knutson	Murphy	Sams	
Frederickson	Krentz	Neuville	Samuelson	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 830 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 830

A bill for an act relating to child support enforcement; modifying provisions governing the establishment and enforcement of child support and maintenance; authorizing disclosure of certain data to the attorney general; providing for certain financial data matches; changing provisions for driver's license suspension, motor vehicle liens, payment agreements, and child support judgments; modifying provisions governing publication of names of delinquent obligors; providing for case reviewers; providing for a child support lien; regulating work release and probation violation for criminal nonsupport for certain offenders; requiring a study; specifying penalties; amending Minnesota Statutes 1996, sections 8.35; 13.46, subdivision 2; 13.99, by adding a subdivision; 168A.05, subdivision 8; 171.19; 256.87, subdivisions 1, 1a, 3, 5, and by adding a subdivision; 256.978, subdivisions 1 and 2; 256.979, subdivisions 5, 6, 7, 8, and by adding a subdivision; 256.9791, subdivision 1; 256.9792, subdivisions 1 and 2; 256.998, subdivisions 1, 6, 7, and 9; 257.62, subdivisions 1 and 2; 257.66, subdivision 3, and by adding a subdivision; 257.70; 257.75, subdivisions 1a, 2, 3, 4, 5, and 7; 299C.46, subdivision 3; 508.63; 508A.63; 518.005, by adding a subdivision; 518.10; 518.148, subdivision 2; 518.171, subdivisions 1 and 4; 518.54, subdivision 6, and by adding a subdivision; 518.551, subdivisions 5, 5b, 7, 12, 13, 14, and by adding a subdivision; 518.5511, subdivisions 1, 2, 3, 4, and by adding a subdivision; 518.5512, subdivisions 2, 3, and by adding subdivisions; 518.553; 518.575; 518.616, by adding a subdivision; 518.64, subdivision 2; 518.641, subdivision 2; 518.68, subdivision 2; 548.091, subdivisions 1a, 2a, 3a, and by adding subdivisions; 550.37, subdivision 24; and 609.375, by

adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 13B; 256; and 518; proposing coding for new law as Minnesota Statutes, chapter 552; repealing Minnesota Statutes 1996, sections 256.74; 256.979, subdivision 9; 518.5511, subdivisions 5, 6, 7, 8, and 9; 518.611; 518.613; 518.645; 518C.502; 518C.9011; and 609.375, subdivisions 3, 4, and 6.

May 19, 1997

The Honorable Allan H. Spear
President of the Senate

The Honorable Phil Carruthers
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 830, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 830 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1
CHILD SUPPORT

Section 1. Minnesota Statutes 1996, section 168A.05, subdivision 8, is amended to read:

Subd. 8. [LIENS FILED FOR ENFORCEMENT OF CHILD SUPPORT.] This subdivision applies if the court or a public authority responsible for child support enforcement orders or directs the commissioner to enter a lien, as provided in section 518.551, subdivision 14. If a certificate of title is applied for by the owner, the department shall enter a lien on the title in the name of the state of Minnesota or in the name of the obligee in accordance with the notice if the value of the motor vehicle determined in accordance with either the definitions of section 297B.01, subdivision 8, or the retail value described in the N.A.D.A. Official Used Car Guide, Midwest Edition, for the current year exceeds the exemption allowed in section 550.37. The lien on the title is subordinate to any bona fide purchase money security interest as defined in section 336.9-107 regardless of when the purchase money security interest is perfected. With respect to all other security interests, the lien is perfected as of the date entered on the title. ~~The lien is subject to an exemption in the amount currently in effect under section 518.551, subdivision 14.~~

Sec. 2. Minnesota Statutes 1996, section 171.19, is amended to read:

171.19 [PETITION FOR LICENSE REINSTATEMENT.]

Any person whose driver's license has been refused, revoked, suspended, or canceled by the commissioner, except where the license is revoked under section 169.123 or section 171.186, may file a petition for a hearing in the matter in the district court in the county wherein such person shall reside and, in the case of a nonresident, in the district court in any county, and such court is hereby vested with jurisdiction, and it shall be its duty, to set the matter for hearing upon 15 days' written notice to the commissioner, and thereupon to take testimony and examine into the facts of the case to determine whether the petitioner is entitled to a license or is subject to revocation, suspension, cancellation, or refusal of license, and shall render judgment accordingly. The petition shall be heard by the court without a jury and may be heard in or out of term. The commissioner may appear in person, or by agents or representatives, and may present evidence upon the hearing by affidavit personally, by agents, or by representatives. The petitioner may present evidence by affidavit, except that the petitioner must be present in person at such hearing for the purpose of cross-examination. In the event the department shall be sustained in these proceedings, the petitioner shall have no further right to make further petition to any court for the purpose of obtaining a driver's license until after the expiration of one year after the date of such hearing.

Sec. 3. Minnesota Statutes 1996, section 256.87, is amended by adding a subdivision to read:

Subd. 9. [ARREARS FOR PARENT WHO REUNITES WITH FAMILY.] (a) A parent liable

for assistance under this section may seek a suspension of collection efforts under Title IV-D of the Social Security Act or a payment agreement based on ability to pay if the parent has reunited with that parent's family and lives in the same household as the child on whose behalf the assistance was furnished.

(b) The Title IV-D agency shall consider the individual financial circumstances of each obligor in evaluating the obligor's ability to pay a proposed payment agreement and shall propose a reasonable payment agreement tailored to those individual financial circumstances.

(c) The Title IV-D agency may suspend collection of arrears owed to the state under this section for as long as the obligor continues to live in the same household as the child on whose behalf the assistance was furnished if the total gross household income of the obligor is less than 185 percent of the federal poverty level.

(d) An obligor must annually reapply for suspension of collection of arrearages under paragraph (c).

(e) The obligor must notify the Title IV-D agency if the obligor no longer resides in the same household as the child.

Sec. 4. Minnesota Statutes 1996, section 256.979, subdivision 5, is amended to read:

Subd. 5. [PATERNITY ESTABLISHMENT AND CHILD SUPPORT ORDER ESTABLISHMENT AND MODIFICATION BONUS INCENTIVES.] (a) A bonus incentive program is created to increase the number of paternity establishments and establishment and modifications of child support orders done by county child support enforcement agencies.

(b) A bonus must be awarded to a county child support agency for each child case for which the agency completes a paternity or child support order establishment or modification through judicial, or administrative, or expedited processes and for each instance in which the agency reviews a case for a modification of the child support order.

(c) The rate of bonus incentive is \$100 for each paternity or child support order establishment and \$50 for each review for modification of a child support order modification set in a specific dollar amount.

(d) No bonus shall be paid for a modification that is a result of a termination of child care costs according to section 518.551, subdivision 5, paragraph (b), or due solely to a reduction of child care expenses.

Sec. 5. Minnesota Statutes 1996, section 256.979, subdivision 6, is amended to read:

Subd. 6. [CLAIMS FOR BONUS INCENTIVE.] (a) The commissioner of human services and the county agency shall develop procedures for the claims process and criteria using automated systems where possible.

(b) Only one county agency may receive a bonus per paternity establishment or child support order establishment or modification for each case. The county agency making the initial preparations for the case resulting in the establishment of paternity or modification of an order is the county agency entitled to claim the bonus incentive, even if the case is transferred to another county agency prior to the time the order is established or modified. The county agency completing the action or procedure needed to establish paternity or a child support order or modify an order is the county agency entitled to claim the bonus incentive.

(c) Disputed claims must be submitted to the commissioner of human services and the commissioner's decision is final.

(d) For purposes of this section, "case" means a family unit for whom the county agency is providing child support enforcement services.

Sec. 6. Minnesota Statutes 1996, section 256.979, subdivision 7, is amended to read:

Subd. 7. [DISTRIBUTION.] (a) Bonus incentives must be issued to the county agency quarterly, within 45 days after the last day of each quarter for which a bonus incentive is being claimed, and must be paid in the order in which claims are received.

(b) Bonus incentive funds under this section must be reinvested in the county child support enforcement program and a county may not reduce funding of the child support enforcement program by the amount of the bonus earned.

(c) The county agency shall repay any bonus erroneously issued.

(d) A county agency shall maintain a record of bonus incentives claimed and received for each quarter.

(e) Payment of bonus incentives is limited by the amount of the appropriation for this purpose. If the appropriation is insufficient to cover all claims, the commissioner of human services may prorate payments among the county agencies.

Sec. 7. Minnesota Statutes 1996, section 256.979, subdivision 8, is amended to read:

Subd. 8. [MEDICAL PROVIDER REIMBURSEMENT.] (a) A fee to the providers of medical services is created for the purpose of increasing the numbers of signed and notarized recognition of parentage forms completed in the medical setting.

(b) A fee of \$25 shall be paid to each medical provider for each properly completed recognition of parentage form sent to the department of vital statistics.

(c) The office of vital statistics shall notify the department of human services quarterly of the numbers of completed forms received and the amounts paid.

(d) The department of human services shall remit quarterly to each medical provider a payment for the number of signed recognition of parentage forms completed by that medical provider and sent to the office of vital statistics.

(e) The commissioners of the department of human services and the department of health shall develop procedures for the implementation of this provision.

(f) Payments will be made to the medical provider within the limit of available appropriations.

(g) Federal matching funds received as reimbursement for the costs of the medical provider reimbursement must be retained by the commissioner of human services for educational programs dedicated to the benefits of paternity establishment.

Sec. 8. Minnesota Statutes 1996, section 256.979, is amended by adding a subdivision to read:

Subd. 10. [TRANSFERABILITY BETWEEN BONUS INCENTIVE ACCOUNTS AND GRANTS TO COUNTY AGENCIES.] The commissioner of human services may transfer money appropriated for child support enforcement county performance incentives under this section and section 256.9791 among county performance incentive accounts. Incentive funds to counties transferred under this section must be reinvested in the child support enforcement program and may not be used to supplant money now spent by counties for child support enforcement.

Sec. 9. Minnesota Statutes 1996, section 256.9791, subdivision 1, is amended to read:

Subdivision 1. [BONUS INCENTIVE.] (a) A bonus incentive program is created to increase the identification and enforcement by county agencies of dependent health insurance coverage for persons who are receiving medical assistance under section 256B.055 and for whom the county agency is providing child support enforcement services.

(b) The bonus shall be awarded to a county child support agency for each person for whom coverage is identified and enforced by the child support enforcement program when the obligor is under a court order to provide dependent health insurance coverage.

(c) Bonus incentive funds under this section must be reinvested in the county child support enforcement program and a county may not reduce funding of the child support enforcement program by the amount of the bonus earned.

Sec. 10. Minnesota Statutes 1996, section 256.998, subdivision 9, is amended to read:

Subd. 9. [INDEPENDENT CONTRACTORS.] The state and all political subdivisions of the state, when acting in the capacity of an employer, shall report the hiring of any person as an independent contractor to the centralized work reporting system in the same manner as the hiring of an employee is reported.

~~The attorney general and the commissioner of human services shall work with representatives of the employment community and industries that utilize independent contractors in the regular course of business to develop a plan to include the reporting of independent contractors by all employers to the centralized work reporting system by July 1, 1996. The attorney general and the commissioner of human services shall present the resulting plan in the form of proposed legislation to the legislature by February 1, 1996. Other payors may report independent contractors to whom they make payments that require the filing of a 1099-MISC report. Payors reporting independent contractors shall report by use of the same means and provide the same information required under subdivisions 4 and 5. The commissioner of human services shall establish procedures for payors reporting under this section.~~

Sec. 11. Minnesota Statutes 1996, section 257.75, subdivision 1a, is amended to read:

Subd. 1a. [JOINDER IN RECOGNITION BY HUSBAND.] A man who is a presumed father under section 257.55, subdivision 1, paragraph (a), may join in a recognition of parentage that recognizes that another man is the child's biological father. The man who is the presumed father under section 257.55, subdivision 1, paragraph (a), must sign an acknowledgment under oath before a notary public that he is renouncing the presumption under section 257.55, subdivision 1, paragraph (a), and recognizing that the father who is executing the recognition under subdivision 1 is the biological father of the child. A joinder in a recognition under this subdivision must be executed within one year after the child's birth and ~~at the same time as the recognition under subdivision 1 or within ten days following execution of the recognition.~~ the joinder must be included in the recognition form or incorporated by reference within the recognition and attached to the form when it is filed with the state registrar of vital statistics. The joinder must be on a form prepared by the commissioner of human services. Failure to properly execute a joinder in a recognition does not affect the validity of the recognition under subdivision 1. A joinder without a corresponding recognition of parentage has no legal effect.

Sec. 12. [518.111] [SUFFICIENCY OF NOTICE.]

Automated child support notices sent by the public authority which do not require service are sufficient notice when issued and mailed by first class mail to the person's last known address.

Sec. 13. Minnesota Statutes 1996, section 518.551, subdivision 5b, is amended to read:

Subd. 5b. [DETERMINATION OF INCOME.] (a) The parties shall timely serve and file documentation of earnings and income. When there is a prehearing conference, the court must receive the documentation of income at least ten days prior to the prehearing conference. Documentation of earnings and income also includes, but is not limited to, pay stubs for the most recent three months, employer statements, or statement of receipts and expenses if self-employed. Documentation of earnings and income also includes copies of each parent's most recent federal tax returns, including W-2 forms, 1099 forms, reemployment insurance statements, workers' compensation statements, and all other documents evidencing income as received that provide verification of income over a longer period.

(b) In addition to the requirements of paragraph (a), at any time after an action seeking child support has been commenced or when a child support order is in effect, a party or the public authority may require the other party to give them a copy of the party's most recent federal tax returns that were filed with the Internal Revenue Service. The party shall provide a copy of the tax

returns within 30 days of receipt of the request unless the request is not made in good faith. A request under this paragraph may not be made more than once every two years, in the absence of good cause.

(c) If a parent under the jurisdiction of the court does not appear at a court hearing after proper notice of the time and place of the hearing, the court shall set income for that parent based on credible evidence before the court or in accordance with paragraph (d). Credible evidence may include documentation of current or recent income, testimony of the other parent concerning recent earnings and income levels, and the parent's wage reports filed with the Minnesota department of economic security under section 268.121.

(d) If the court finds that a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of imputed income. A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that the unemployment or underemployment: (1) is temporary and will ultimately lead to an increase in income; or (2) represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child. Imputed income means the estimated earning ability of a parent based on the parent's prior earnings history, education, and job skills, and on availability of jobs within the community for an individual with the parent's qualifications. If the court is unable to determine or estimate the earning ability of a parent, the court may calculate child support based on full-time employment of 40 hours per week at 150 percent of the federal minimum wage or the Minnesota minimum wage, whichever is higher. If the court is unable to determine or estimate the earning ability of a parent, any medical support or child care contribution must be calculated based upon the obligor's proportionate share of the child care expenses using 40 hours per week at 150 percent of the federal minimum wage or the Minnesota minimum wage, whichever is higher. If a parent is a recipient of public assistance under sections 256.72 to 256.87 or chapter 256D section 256.741, or is physically or mentally incapacitated, it shall be presumed that the parent is not voluntarily unemployed or underemployed.

(e) Income from self employment is equal to gross receipts minus ordinary and necessary expenses. Ordinary and necessary expenses do not include amounts allowed by the Internal Revenue Service for accelerated depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining income for purposes of child support. The person seeking to deduct an expense, including depreciation, has the burden of proving, if challenged, that the expense is ordinary and necessary. Net income under this section may be different from taxable income.

Sec. 14. Minnesota Statutes 1996, section 518.551, is amended by adding a subdivision to read:

Subd. 5e. [ADJUSTMENT TO SUPPORT ORDER.] A support order issued under this section may provide that during any period of time of 30 consecutive days or longer that the child is residing with the noncustodial parent, the amount of support otherwise due under the order may be reduced.

Sec. 15. Minnesota Statutes 1996, section 518.551, subdivision 7, is amended to read:

Subd. 7. [SERVICE FEE.] When the public agency responsible for child support enforcement provides child support collection services either to a public assistance recipient or to a party who does not receive public assistance, the public agency may upon written notice to the obligor charge a monthly collection fee equivalent to the full monthly cost to the county of providing collection services, in addition to the amount of the child support which was ordered by the court. The fee shall be deposited in the county general fund. The service fee assessed is limited to ten percent of the monthly court ordered child support and shall not be assessed to obligors who are current in payment of the monthly court ordered child support.

An application fee of \$25 shall be paid by the person who applies for child support and maintenance collection services, except persons who are receiving public assistance as defined in section 256.741, persons who transfer from public assistance to nonpublic assistance status, and minor parents and parents enrolled in a public secondary school, area learning center, or alternative learning program approved by the commissioner of children, families, and learning.

Fees assessed by state and federal tax agencies for collection of overdue support owed to or on behalf of a person not receiving public assistance must be imposed on the person for whom these services are provided. The public authority upon written notice to the obligee shall assess a fee of \$25 to the person not receiving public assistance for each successful federal tax interception. The fee must be withheld prior to the release of the funds received from each interception and deposited in the general fund.

However, the limitations of this subdivision on the assessment of fees shall not apply to the extent inconsistent with the requirements of federal law for receiving funds for the programs under Title IV-A and Title IV-D of the Social Security Act, United States Code, title 42, sections 601 to 613 and United States Code, title 42, sections 651 to 662.

Sec. 16. Minnesota Statutes 1996, section 518.551, is amended by adding a subdivision to read:

Subd. 13a. [DATA ON SUSPENSIONS FOR SUPPORT ARREARS.] Notwithstanding section 13.03, subdivision 4, paragraph (c), data on an occupational license suspension under subdivision 12 or a driver's license suspension under subdivision 13 that are transferred by the department of human services to respectively the department of public safety or any state, county, or municipal occupational licensing agency must have the same classification at the department of public safety or other receiving agency under section 13.02 as other license suspension data held by the receiving agency. The transfer of the data does not affect the classification of the data in the hands of the department of human services.

Sec. 17. Minnesota Statutes 1996, section 518.551, subdivision 14, is amended to read:

~~Subd. 14. [MOTOR VEHICLE LIEN.] (a) Upon motion of an obligee, if a court finds that the obligor is the registered owner of a motor vehicle and the obligor is a debtor for a judgment debt resulting from nonpayment of court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the court shall order the commissioner of public safety to enter a lien in the name of the obligee or in the name of the state of Minnesota, as appropriate, in accordance with section 168A.05, subdivision 8, unless the court finds that the obligor is in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority or that the obligor's interest in the motor vehicle is valued at less than \$4,500. The court's order must be stayed for 90 days in order to allow the obligor to either execute a written payment agreement regarding both current support and arrearages, which agreement shall be approved by either the court or the public authority responsible for child support enforcement, or to allow the obligor to demonstrate that the ownership interest in the motor vehicle is valued at less than \$4,500. If the obligor has not executed or is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority or has not demonstrated that the ownership interest in the motor vehicle is valued at less than \$4,500 within the 90-day period, the court's order becomes effective and the commissioner of public safety shall record the lien on any motor vehicle certificate of title subsequently issued in the name of the obligor. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.~~

(b) If a public authority responsible for child support enforcement determines that the obligor is ~~the registered owner of a motor vehicle and the obligor~~ is a debtor for judgment debt resulting from nonpayment of court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the public authority shall direct the commissioner of public safety to enter a lien in the name of the obligee or in the name of the state of Minnesota, as appropriate, under section 168A.05, subdivision 8, on any motor vehicle certificate of title subsequently issued in the name of the obligor unless the public authority determines that the obligor is in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority ~~or that the obligor's ownership interest in the motor vehicle is valued at less than \$4,500~~. The remedy under this subdivision is in addition to any other enforcement remedy available to the public agency.

(c) At least 90 days prior to notifying the commissioner of public safety pursuant to paragraph (b), the public authority must mail a written notice to the obligor at the obligor's last known address, that it intends to record a lien on ~~the obligor's~~ any motor vehicle certificate of title subsequently issued in the name of the obligor and that the obligor must request a hearing within 30 days in order to contest the action. If the obligor makes a written request for a hearing within 30 days of the date of the notice, either a court hearing or a contested administrative proceeding must be held under section 518.5511, subdivision 4. Notwithstanding any law to the contrary, the obligor must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the obligor. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice and the obligor does not execute or is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, ~~or the public authority or demonstrate to the public authority that the obligor's ownership interest in the motor vehicle is valued at less than \$4,500~~ within 90 days of the date of the notice, the public authority shall direct the commissioner of public safety to record the lien under paragraph (b).

(d) At a hearing requested by the obligor under paragraph (c), and on finding that the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the district court or the administrative law judge shall order the commissioner of public safety to record the lien unless the court or administrative law judge determines that:

(1) the obligor has executed and is in compliance with a written payment agreement regarding both current support and arrearages determined to be acceptable by the court, an administrative law judge, or the public authority; ~~or~~

(2) ~~the obligor has demonstrated that the ownership interest in the motor vehicle is valued at less than \$4,500.~~

(e) ~~An obligor who has had a lien recorded against a motor vehicle certificate of title may provide proof to the court or the public authority responsible for child support enforcement that the obligor is in compliance with all written payment agreements regarding both current support and arrearages or that the value of the motor vehicle is less than the exemption provided under section 550.37. Within 15 days of the receipt of that proof, the court or public authority shall either execute a release of security interest under section 168A.20, subdivision 4, and mail or deliver the release to the owner or other authorized person or shall direct the commissioner of public safety not to enter a lien on any motor vehicle certificate of title subsequently issued in the name of the obligor in instances where a lien has not yet been entered. The dollar amounts in this section shall change periodically in the manner provided in section 550.37, subdivision 4a.~~

(f) Any lien recorded against a motor vehicle certificate of title under this section and section 168A.05, subdivision 8, attaches only to the nonexempt value of the motor vehicle as determined in accordance with section 550.37. The value of a motor vehicle must be determined in accordance with the retail value described in the N.A.D.A. Official Used Car Guide, Midwest Edition, for the current year, or in accordance with the purchase price as defined in section 297B.01, subdivision 8.

Sec. 18. Minnesota Statutes 1996, section 518.5511, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] (a) An administrative process is established to obtain, modify, and enforce child and medical support orders and parentage orders and ~~modify~~ enforce maintenance if combined with a child support proceeding. All laws governing these actions apply insofar as they are not inconsistent with the provisions of this section and section 518.5512. Wherever other laws or rules are inconsistent with this section and section 518.5512, the provisions in this section and section 518.5512 shall apply.

(b) All proceedings for obtaining, modifying, or enforcing child and medical support orders and ~~modifying~~ enforcing maintenance orders if combined with a child support proceeding, are required to be conducted in the administrative process when the public authority is a party or provides

services to a party or parties to the proceedings. Cases in which there is no assignment of support or in which the public authority is not providing services may not be conducted in the administrative process. At county option, the administrative process may include contempt motions or actions to establish parentage. Nothing contained herein shall prevent a party, upon timely notice to the public authority, from commencing an action or bringing a motion for the establishment, modification, or enforcement of child support or modification enforcement of maintenance orders if combined with a child support proceeding in district court, if additional issues involving domestic abuse, establishment or modification of custody or visitation, property issues, or other issues outside the jurisdiction of the administrative process, are part of the motion or action, or from proceeding with a motion or action brought by another party containing one or more of these issues if it is pending in district court.

(c) A party may make a written request to the public authority to initiate an uncontested administrative proceeding. If the public authority denies the request, the public authority shall issue a summary notice of denial which denies the request for relief within 30 days of receiving the written request, states the reasons for the denial, and notifies the party of the right to commence an action for relief proceed directly to a contested administrative proceeding according to subdivision 3a, paragraph (a). If the party commences an action or serves and files a motion proceeds directly to a contested hearing and files the requisite documents, as provided by the commissioner, with the court administrator within 30 days after the public authority's denial and the party's action results in a modification of a child support order, the modification may be retroactive to the date the written request was received by the public authority. If the public authority accepts the request and proceeds with the uncontested administrative process, any order or modification may be retroactive to the date the written request was received by the public authority.

(d) After August 1, 1994, all counties shall participate in the administrative process established in this section in accordance with a statewide implementation plan to be set forth by the commissioner of human services. No county shall be required to participate in the administrative process until after the county has been trained. The implementation plan shall include provisions for training the counties by region no later than July 1, 1995. The public authority may initiate actions in the administrative process.

(e) For the purpose of the administrative process, all powers, duties, and responsibilities conferred on judges of district court to obtain and enforce child and medical support and parentage and maintenance obligations, subject to the limitations of this section are conferred on administrative law judges, including the power to determine controlling interstate orders, and to issue subpoenas, orders to show cause, and bench warrants for failure to appear.

The administrative law judge has the authority to enter parentage orders in which the custody and visitation provisions are uncontested.

(f) Nonattorney employees of the public authority responsible for child support may prepare, sign, serve, and file complaints, motions, notices, summary notices, proposed orders, default orders, consent orders, orders for blood or genetic tests, and other documents related to the administrative process for obtaining, modifying, or enforcing child and medical support orders, orders establishing paternity, and related documents, and orders to enforce maintenance if combined with a child support order. The nonattorney employee may issue administrative subpoenas, conduct prehearing conferences, and participate in proceedings before an administrative law judge. This activity shall not be considered to be the unauthorized practice of law. Nonattorney employees may not represent the interests of any party other than the public authority, and may not give legal advice. The nonattorney employees may act subject to the limitations of section 518.5512.

(g) Any party may make a written request to the office of administrative hearings for a subpoena compelling the attendance of a witness or the production of books, papers, records, or other documents relevant to the administrative process. Subpoenas are enforceable through the district court. The public authority may also request a subpoena from the office of administrative hearings for the production of a witness or documents. The nonattorney employee of the public

authority may issue subpoenas subject to the limitations in section 518.5512, subdivision 6, paragraph (a), clause (2).

(h) At all stages of the administrative process, the county attorney, or other attorney under contract, shall act as the legal adviser for the public authority.

(i) The commissioner of human services shall:

(1) provide training to child support officers and other persons involved in the administrative process;

(2) timely prepare simple and easy to understand forms, in consultation with the office of administrative hearings, for all notices and orders prescribed in this section, including a support order worksheet form, with the exception of orders issued by the district court or the office of administrative hearings under subdivision 4; and

(3) distribute money to cover the costs of the administrative process, including the salaries of administrative law judges. If available appropriations are insufficient to cover the costs, the commissioner shall prorate the amount among the counties.

(j) The commissioner of human services, in consultation with the office of administrative hearings, is responsible for the supervision of the administrative process.

(k) The public authority, the office of administrative hearings, court administrators, and other entities involved in the administrative process shall use the forms prepared by the commissioner.

(l) The office of administrative hearings may reject orders that have not been prepared using the commissioner's forms or on forms that have not been approved by the commissioner.

(m) The office of administrative hearings is responsible for training and monitoring the performance of administrative law judges, maintaining records of proceedings, providing transcripts upon request, and maintaining the integrity of the district court file.

Sec. 19. Minnesota Statutes 1996, section 518.5511, subdivision 2, is amended to read:

Subd. 2. [UNCONTESTED ADMINISTRATIVE PROCEEDING.] ~~(a) A party may petition the chief administrative law judge, the chief district court judge, or the chief family court referee to proceed immediately to a contested hearing upon good cause shown.~~

~~(b) The public authority shall give the parties written notice requesting the submission of information necessary for the public authority to prepare a proposed order. The written notice shall be sent by first class mail to the parties' last known addresses. The written notice shall describe the information requested, state the purpose of the request, state the date by which the information must be postmarked or received (which shall be at least 30 days from the date of the mailing of the written notice), state that if the information is not postmarked or received by that date, the public authority will prepare a proposed order on the basis of the information available, and identify the type of information which will be considered.~~

~~(c) Following the submission of information or following the date when the information was due the initiation of the administrative process under subdivision 1, paragraph (c) or (d), the public authority shall, on the basis of all information available, complete and sign a proposed order and notice. The public authority shall attach a support order worksheet. In preparing the proposed order, the public authority will establish child support in the highest amount permitted under section 518.551, subdivision 5. The proposed order shall include written findings in accordance with section 518.551, subdivision 5, clauses (i) and (j). If the public authority has incomplete or insufficient information upon which to prepare a proposed order, the public authority shall use the default standard established in section 518.551, subdivision 5b, paragraph (d), to prepare the proposed order. The notice shall state that the proposed order will be entered as a final and binding default order unless one of the parties requests a conference under subdivision 3 contacts the public authority regarding the proposed order within 24 30 days following the date of service of the proposed order. The method for requesting the conference shall be stated in the notice. The~~

notice and proposed order shall be served under the rules of civil procedure on the noninitiating party and by first class mail on the initiating party. After receipt of the notice and proposed order, the court administrator shall file the documents.

For the purposes of the ~~contested hearing~~ administrative process, and notwithstanding any law or rule to the contrary, the service of the proposed order pursuant to ~~under this paragraph~~ shall be deemed to have commenced a proceeding and the judge, ~~including an administrative law judge or a referee,~~ shall have jurisdiction over the a contested hearing administrative proceeding.

~~(d) (b) If a conference under subdivision 3 is not requested the public authority is not contacted by a party within 21 30 days after the date of service of the proposed order, the public authority may submit the proposed order as the default order. The default order becomes enforceable upon signature by an administrative law judge, district court judge, or referee. The public authority may also prepare and serve a new notice and proposed order if new information is subsequently obtained. The default order shall be a final order, and shall be served under the rules of civil procedure.~~

(c) If the public authority obtains new information after service of the proposed order, the public authority may prepare one notice and revised proposed order. The revised order must be served by first class mail on the parties. If the public authority is not contacted within seven days after the date of service of the revised order, the public authority may submit the revised order as a default order but in no event sooner than 30 days after the service of the original proposed order.

~~(e) (d) The public authority shall file in the district court copies of all notices served on the parties, proof of service, the support order worksheet, and all orders.~~

Sec. 20. Minnesota Statutes 1996, section 518.5511, subdivision 3, is amended to read:

Subd. 3. [ADMINISTRATIVE CONFERENCE.] (a) If a party requests a conference contacts the public authority within 21 30 days of the date of service of the proposed order, and the public authority does not choose to proceed directly to a contested administrative proceeding, the public authority shall schedule a conference, and shall serve send written notice of the date, time, and place of the conference and the date, time, and place of a contested administrative proceeding in the event the administrative conference fails to resolve all of the issues on the parties. The public authority may request any additional information necessary to establish child support. The public authority may choose to go directly to a contested administrative proceeding and is not required to conduct an administrative conference. The date of the contested administrative proceeding must be set within 31 days of the administrative conference or not more than 60 days from the date of the notice of the administrative conference. A request for a continuance must be made to the chief administrative law judge according to Minnesota Rules, part 1400.7500.

(b) The purpose of the conference is to review all available information and seek an agreement to enter a consent order. The notice shall state the purpose of the conference, and that the proposed order will be entered as a final and binding default order if the requesting party fails both parties fail to appear at the conference. The notice must also state that if only one party appears at the conference and there is no new information provided, the matter shall proceed by default. The notice shall be served on the parties by first class mail at their last known addresses, and the method of service shall be documented in the public authority file. All available and relevant information must be shared with the parties at the conference subject to the limitations of sections 256.87, subdivision 8, 257.70, and 518.005, subdivision 5. If a conference is not held, information which would have been shared at the conference by the public authority must be provided to a party or the party's attorney within 15 days of receipt of a written request.

(c) A party alleging domestic abuse by the other party shall not be required to participate in a conference. In such a case, the public authority shall meet separately with the parties in order to determine whether an agreement can be reached.

(d) If all parties appear at the conference and agree to all issues, and the public authority approves the agreement, the public authority shall prepare a consent order for the parties and the public authority to sign. The public authority shall submit the consent order to the administrative

law judge. Upon signature, the order is a final order and must be served on the parties by first class mail.

~~(d) If the party requesting the conference does not appear and fails to provide a written excuse (with supporting documentation if relevant) to the public authority within seven days after the date of the conference which constitutes good cause (e) If only one party appears at the conference and there is no new information available, or if both of the parties fail to appear at the conference, the public authority may enter submit a default order through the uncontested administrative process. The public authority shall not enter the default order until at least seven days after the date of the conference.~~

~~For purposes of this section, misrepresentation, excusable neglect, or circumstances beyond the control of the person who requested the conference which prevented the person's appearance at the conference constitutes good cause for failure to appear. If the public authority finds good cause, the conference shall be rescheduled by the public authority and the public authority shall send notice as required under this subdivision. If only one party appears at the conference and there is new information available, the matter shall proceed directly to the scheduled contested administrative proceeding.~~

~~(e) (f) If the parties appear at the conference, the public authority shall seek and do not reach agreement of the parties to the entry of a consent order which establishes child support in accordance with applicable law, the public authority shall advise the parties that if a consent order is not entered, the matter will be remains scheduled for a hearing before an administrative law judge, or a district court judge or referee contested administrative proceeding, and that the public authority will seek the establishment of child support at the hearing proceeding in accordance with the highest amount permitted under section 518.551, subdivision 5. If an agreement to enter the consent order is not reached at the conference, the public authority shall schedule the matter for a contested hearing child support guidelines.~~

~~(f) If an agreement is reached by the parties at the conference, a consent order shall be prepared by the public authority, and shall be signed by the parties. All consent and default orders shall be signed by the nonattorney employee of the public authority and shall be submitted to an administrative law judge or the district court for approval and signature. The order is enforceable upon the signature by the administrative law judge or the district court. The consent order shall be served on the parties under the rules of civil procedure.~~

~~(g) If one or both of the parties appear at the administrative conference and there is new information that makes the proposed order unreasonable or inappropriate, the public authority may issue a revised proposed order pursuant to subdivision 2, paragraph (c), or proceed directly to a contested administrative proceeding.~~

Sec. 21. Minnesota Statutes 1996, section 518.5511, is amended by adding a subdivision to read:

Subd. 3a. [ALTERNATIVE ADMINISTRATIVE RESOLUTIONS.] (a)(1) Any party may proceed directly to a contested administrative proceeding under subdivision 4 by making a written request to the public authority. After the public authority receives a written request, the public authority shall request or schedule a contested administrative proceeding and inform the requester of the date, time, and place of the hearing. The public authority shall also provide the requester with the contested administrative documents necessary for the proceeding. These documents must be completed by the requester, served on the other party and the public authority, and filed with the court administrator at least 21 days before the hearing. If the documents are not filed with the court administrator, the contested administrative proceeding must be canceled unless the public authority or a party objects.

(2) The public authority may also proceed directly to a contested administrative proceeding.

(b) At any time in the administrative process, including prior to the issuance of the proposed order, if the parties and the public authority are in agreement, the public authority shall prepare a consent order to be signed by the public authority and the parties. The parties must waive any of

their rights to the notices and time frames required by this section. The public authority shall submit the order to the administrative law judge. Upon signature by the court, the order is a final order and must be filed with the court administrator and served by first class mail on the parties.

Sec. 22. Minnesota Statutes 1996, section 518.5511, subdivision 4, is amended to read:

Subd. 4. [CONTESTED ADMINISTRATIVE PROCEEDING.] (a) All counties shall participate in the contested administrative process established in this section as designated in a statewide implementation plan to be set forth by the commissioner of human services. No county shall be required to participate in the contested administrative process until after the county has been trained. The contested administrative process shall be in operation in all counties no later than July 1, 1998, with the exception of Hennepin county which shall have a pilot program in operation no later than July 1, 1996.

~~The Hennepin county pilot program shall be jointly planned, implemented, and evaluated by the department of human services, the office of administrative hearings, the fourth judicial district court, and Hennepin county. The pilot program shall provide that one-half of the case load use the contested administrative process. The pilot program shall include an evaluation which shall be conducted after one year of program operation. A preliminary evaluation report shall be submitted by the commissioner to the legislature by March 1, 1997. A final evaluation report shall be submitted by the commissioner to the legislature by January 15, 1998. The pilot program shall continue pending final decision by the legislature, or until the commissioner determines that the pilot program shall discontinue and that Hennepin county shall not participate in the contested administrative process.~~

In counties designated by the commissioner, contested hearings administrative proceedings required under this section shall be scheduled before administrative law judges, and shall be conducted in accordance with the provisions under this section. In counties not designated by the commissioner, contested hearings administrative proceedings shall be conducted in district court in accordance with the rules of civil procedure and the rules of family court.

(b) An administrative law judge may conduct hearings administrative proceedings and approve a stipulation reached on a contempt motion brought by the public authority. Any stipulation that involves a finding of contempt and a jail sentence, whether stayed or imposed, shall require the review and signature of a district court judge.

(c) A party, witness, or attorney may appear or testify by telephone, audiovisual means, or other electronic means, at the discretion of the administrative law judge.

(d) Before implementing the process in a county, the chief administrative law judge, the commissioner of human services, the director of the county human services agency, the county attorney, the county court administrator, and the county sheriff shall jointly establish procedures, and the county shall provide hearing facilities for implementing this process in the county. A contested administrative hearing proceeding shall be conducted in a courtroom, if one is available, or a conference or meeting room with at least two exits and of sufficient size to permit adequate physical separation of the parties. The court administrator shall, to the extent practical, provide administrative support for the contested hearing administrative proceeding. Security personnel shall either be present during the administrative hearings proceedings, or be available to respond to a request for emergency assistance.

(e) The contested administrative hearings shall be conducted under the rules of the office of administrative hearings, Minnesota Rules, parts 1400.5275, 1400.5500, 1400.6000 to 1400.6400, 1400.6600 to 1400.7000, 1400.7100 to 1400.7500, 1400.7700, 1400.7800, and 1400.8100, as adopted by the chief administrative law judge. For matters not initiated under subdivision 2, documents from the moving party shall be served and filed at least ~~21~~ 14 days prior to the hearing and the opposing party shall serve and file documents raising new issues at least ten days prior to the hearing. In all contested administrative proceedings, the administrative law judge may limit the extent and timing of discovery. Except as provided under this section, other aspects of the case, including, but not limited to, discovery, shall be conducted under the rules of family court, the rules of civil procedure, and chapter 518.

(f) Pursuant to Following a contested administrative hearing, the administrative law judge shall make findings of fact, conclusions, and a final decision and issue an order. Orders issued by an administrative law judge may be enforceable by the contempt powers of the district courts.

(g) At the time the matter is scheduled for a contested hearing administrative proceeding, the public authority shall file in the district court copies of all relevant documents sent to or received from the parties that have been provided to all parties, in addition to the any documents filed under subdivision 2, paragraph (e) (d). These documents may be used as evidence by the judge in deciding the case without need for further foundation testimony. For matters scheduled for a contested hearing administrative proceeding which were not initiated under subdivision 2, the public authority shall obtain any income information available to the public authority through the department of economic security and serve this information on all parties and file the information with the court at least five days prior to the hearing.

(h) If only one party appears at the contested administrative proceeding, a hearing must be conducted. The administrative law judge shall prepare an order and file it with the district court. The court shall serve the order on the parties by first class mail at the last known address and shall provide a copy of the order to the public authority.

(i) If neither party appears at the contested administrative proceeding and no new information has been submitted or made available to the court or public authority, the public authority shall submit the default order to the administrative law judge for signature. If neither party appears and new information is available to the court or public authority, the administrative law judge shall prepare an order based on the new information. The court shall serve the order on the parties by first class mail at the last known address and shall provide a copy of the order to the public authority.

(j) The decision and order of the administrative law judge is appealable to the court of appeals in the same manner as a decision of the district court.

Sec. 23. Minnesota Statutes 1996, section 518.5512, subdivision 3, is amended to read:

Subd. 3. [COST-OF-LIVING ADJUSTMENT.] ~~The notice of application for adjustment shall be treated as a proposed order under section 518.5511, subdivision 2, paragraph (e). The public authority shall send notice of its application for a cost-of-living adjustment on the obligor in accord with section 518.641. The public authority shall stay the adjustment of support upon receipt by the public authority of a request for an administrative conference by the obligor to proceed directly to a contested administrative proceeding under section 518.5511, subdivision 4. An obligor requesting an administrative conference shall provide all relevant information that establishes an insufficient increase in income to justify the adjustment of the support obligation. If the obligor fails to submit any evidence at the administrative conference, the cost-of-living adjustment will immediately go into effect.~~

Sec. 24. Minnesota Statutes 1996, section 518.5512, is amended by adding a subdivision to read:

Subd. 3a. [FORM.] The public authority shall prepare and make available to the court and obligors a form, to be submitted to the public authority by the obligor, to request to proceed directly to a contested administrative proceeding regarding a cost-of-living adjustment.

Sec. 25. Minnesota Statutes 1996, section 518.553, is amended to read:

518.553 [PAYMENT AGREEMENTS.]

In proposing or approving proposed written payment agreements for purposes of section 518.551, the court, an administrative law judge, or the public authority shall take into consideration the amount of the arrearages, the amount of the current support order, any pending request for modification, and the earnings of the obligor. The court, administrative law judge, or public authority shall consider the individual financial circumstances of each obligor in evaluating the obligor's ability to pay any proposed payment agreement and shall propose a reasonable payment agreement tailored to the individual financial circumstances of each obligor.

Sec. 26. Minnesota Statutes 1996, section 518.5852, is amended to read:

518.5852 [CENTRAL COLLECTIONS UNIT.]

The commissioner of human services shall create and maintain a central collections unit for the purpose of receiving, processing, and disbursing payments, and for maintaining a record of payments, in all cases in which:

- (1) the state or county is a party;
- (2) the state or county provides child support enforcement services to a party; or
- (3) payment is collected through income withholding.

The commissioner of human services may contract for services to carry out these provisions, provided that the commissioner first meets and negotiates with the affected exclusive representatives.

Sec. 27. [518.618] [CASE REVIEWER.]

The commissioner shall make a case reviewer available to obligors and obligees. The reviewer must be available to answer questions concerning the collection process and to review the collection activity taken. A reviewer who reasonably believes that a particular action being taken is unreasonable or unfair may make recommendations to the commissioner and the applicable county in regard to the collection action.

Sec. 28. [518.619] [COLLECTION; ARREARS ONLY.]

(a) Remedies available for the collection and enforcement of support in this chapter and chapters 256, 257, and 518C also apply to cases in which the child or children for whom support is owed are emancipated and the obligor owes past support or has an accumulated arrearage as of the date of the youngest child's emancipation. Child support arrearages under this section include arrearages for child support, medical support, child care, pregnancy and birth expenses, and unreimbursed medical expenses as defined in section 518.171.

(b) This section applies retroactively to any support arrearage that accrued on or before the date of enactment and to all arrearages accruing after the date of enactment.

Sec. 29. Minnesota Statutes 1996, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party or the child or children that are the subject of these proceedings; (3) receipt of assistance under sections 256.72 to 256.87 or 256B.01 to 256B.40; (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair; (5) extraordinary medical expenses of the child not provided for under section 518.171; or (6) the addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses.

(b) It is presumed that there has been a substantial change in circumstances under clause (1), (2), or (4) paragraph (a) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if:

(1) the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$50 per month higher or lower than the current support order;

(2) the medical support provisions of the order established under section 518.171 are not enforceable by the public authority or the custodial parent;

(3) health coverage ordered under section 518.171 is not available to the child for whom the order is established by the parent ordered to provide; or

(4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount.

~~(b)~~ (c) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall apply section 518.551, subdivision 5, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

~~(e)~~ (d) A modification of support or maintenance may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record. However, modification may be applied to an earlier period if the court makes express findings that:

(1) the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court and that the party seeking modification, when no longer precluded, promptly served a motion;

(2) the party seeking modification was a recipient of federal Supplemental Security Income (SSI), Title II Older Americans, Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need during the period for which retroactive modification is sought; or

(3) the order for which the party seeks amendment was entered by default, the party shows good cause for not appearing, and the record contains no factual evidence, or clearly erroneous evidence regarding the individual obligor's ability to pay.

The court may provide that a reduction in the amount allocated for child care expenses based on a substantial decrease in the expenses is effective as of the date the expenses decreased.

~~(d)~~ (e) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

(e) (f) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

(f) (g) Section 518.14 shall govern the award of attorney fees for motions brought under this subdivision.

Sec. 30. Minnesota Statutes 1996, section 518.641, subdivision 2, is amended to read:

Subd. 2. [CONDITIONS.] No adjustment under this section may be made unless the order provides for it and until the following conditions are met:

(a) the obligee ~~or public authority~~ serves notice of its ~~the~~ application for adjustment by mail on the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment;

(b) the notice to the obligor informs the obligor of the date on which the adjustment in payments will become effective; ~~and~~

(c) after receipt of notice and before the effective day of the adjustment, the obligor fails to request a hearing on the issue of whether the adjustment should take effect, and ex parte, to stay imposition of the adjustment pending outcome of the hearing; ~~or~~

(d) the public authority sends notice of its application for adjustment to the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment, and the notice informs the obligor of the date on which the adjustment will become effective and the procedures for contesting the adjustment according to section 518.5512.

Sec. 31. Minnesota Statutes 1996, section 609.375, is amended by adding a subdivision to read:

Subd. 7. [CONDITIONS OF WORK RELEASE; PROBATION VIOLATION.] Upon conviction under this section, a defendant may obtain work release only upon the imposition of an automatic income withholding order, and may be required to post a bond in avoidance of jail time and conditioned upon payment of all child support owed. Nonpayment of child support is a violation of any probation granted following conviction under subdivision 2a.

Sec. 32. [INDEPENDENT CONTRACTORS.]

The department of human services shall report to the chairs of the judiciary committees in the house of representatives and the senate by February 1, 1998, on the state's experience including independent contractors for the state in the work reporting system.

Sec. 33. [CHILD SUPPORT ON-TIME PERFORMANCE BONUS INCENTIVE PROGRAM.]

The commissioner shall develop a proposal for a bonus incentive program to reward timeliness of child support service delivery, including the establishment of orders, the modification of orders, and the administrative process. Special emphasis must be given to cases where timely delivery of services may divert families from public assistance or help families exit public assistance with minimal loss of time-limited public assistance benefits. The proposal must treat current federal law service delivery timelines as minimum standards and reward county agencies that surpass the minimum standards. Other methods to enhance timely service delivery may be considered. The commissioner shall consult with public assistance recipients and low-income nonpublic assistance recipients in developing the proposal. The commissioner shall report and make recommendations to the legislature by January 15, 1998.

Sec. 34. [REPEALER.]

Minnesota Statutes 1996, section 609.375, subdivisions 3, 4, and 6, are repealed.

Sec. 35. [EFFECTIVE DATES.]

Sections 16 and 25 are effective the day following final enactment.

ARTICLE 2
VISITATION

Section 1. Minnesota Statutes 1996, section 518.157, is amended to read:

518.157 [ORIENTATION PARENT EDUCATION PROGRAM IN PROCEEDINGS INVOLVING CHILDREN.]

Subdivision 1. [IMPLEMENTATION; ADMINISTRATION.] By January 1, 1998, the chief judge of each judicial district or a designee shall implement one or more parent education programs within the judicial district for the purpose of educating parents about the impact that divorce, the restructuring of families, and judicial proceedings have upon children and families; methods for preventing visitation conflicts; and dispute resolution options. The chief judge of each judicial district or a designee may require that children attend a separate education program designed to deal with the impact of divorce upon children as part of the parent education program. Each parent education program must enable persons to have timely and reasonable access to education sessions.

Subd. 2. [MINIMUM STANDARDS; PLAN.] The Minnesota supreme court should promulgate minimum standards for the implementation and administration of a parent education program. The chief judge of each judicial district or a designee shall submit a plan to the Minnesota conference of chief judges for their approval that is designed to implement and administer a parent education program in the judicial district. The plan must be consistent with the minimum standards promulgated by the Minnesota supreme court.

Subd. 3. [ATTENDANCE.] In a proceeding under this chapter involving custody, support, or visitation of children, the court may require the parties to or sections 257.51 to 257.75 where custody or visitation is contested, the parents of a minor child shall attend an orientation and education program regarding the proceedings and the impact on the children. that meets the minimum standards promulgated by the Minnesota supreme court. In all other proceedings involving custody, support, or visitation the court may order the parents of a minor child to attend a parent education program. The program shall provide the court with names of persons who fail to attend the parent education program as ordered by the court. Persons who are separated or contemplating involvement in a dissolution, paternity, custody, or visitation proceeding may attend a parent education program without a court order. Participation in a parent education program must occur as early as possible. Parent education programs must offer an opportunity to participate at all phases of a pending or postdecree proceeding. Upon request of a party and a showing of good cause, the court shall may excuse the party from attending the program. Parties may be required to pay a fee to cover the cost of the program, except that if a party is entitled to proceed in forma pauperis under section 563.01, the court shall waive the fee or direct its payment under section 563.01. If past or present domestic abuse, as defined in chapter 518B, is alleged, the court may shall not require the parties to attend the same orientation session parent education sessions and shall enter an order setting forth the manner in which the parties may safely participate in the program.

Subd. 4. [SANCTIONS.] The court may impose sanctions upon a parent for failure to attend or complete a parent education program as ordered.

Subd. 5. [CONFIDENTIALITY.] Unless all parties agree in writing, statements made by a party during participation in a parent education program are inadmissible as evidence for any purpose, including impeachment. No record may be made regarding a party's participation in a parent education program, except a record of attendance at and completion of the program as required under this section. Instructors shall not disclose information regarding an individual participant obtained as a result of participation in a parent education program. Parent education instructors may not be subpoenaed or called as witnesses in court proceedings.

Subd. 6. [FEE.] Except as provided in this subdivision, each person who attends a parent education program shall pay a fee to defray the cost of the program. A party who qualifies for waiver of filing fees under section 563.01 is exempt from paying the parent education program fee

and the court shall waive the fee or direct its payment under section 563.01. Program providers shall implement a sliding fee scale.

Sec. 2. Minnesota Statutes 1996, section 518.175, subdivision 6, is amended to read:

Subd. 6. [REMEDIES.] (a) The court may provide for one or more of the following remedies for denial of or interference with court-ordered visitation as provided under this subdivision. All visitation orders must include notice of the provisions of this subdivision.

(b) If the court finds that a person has been wrongfully deprived of the duly established right to court-ordered visitation, the court shall order the custodial parent to permit additional visits to compensate for the visitation of which the person was deprived or the court shall make specific findings as to why a request for compensatory visitation is denied. If compensatory visitation is awarded, additional visits must be:

(1) at least of the same type and duration as the wrongfully denied deprived visit and, at the discretion of the court, may be in excess of or of a different type than the deprived visit;

(2) taken within one year after the wrongfully denied deprived visit; and

(3) at a time acceptable to the person deprived of visitation.

(c) If the court finds that a party has wrongfully failed to comply with a visitation order or a binding agreement or decision under section 518.1751, the court may:

(1) impose a civil penalty of up to \$500 on the party; or

(2) require the party to post a bond with the court for a specified period of time to secure the party's compliance;

(3) award reasonable attorney's fees and costs;

(4) require the party who violated the visitation order or binding agreement or decision of the visitation expeditor to reimburse the other party for costs incurred as a result of the violation of the order or agreement or decision; or

(5) award any other remedy that the court finds to be in the best interests of the children involved.

A civil penalty imposed under this paragraph must be deposited in the county general fund and must be used to fund the costs of a visitation expeditor program in a county with this program. In other counties, the civil penalty must be deposited in the state general fund.

(d) If the court finds that a party has been denied visitation and has incurred expenses in connection with the denied visitation, the court may require the party who denied visitation to post a bond in favor of the other party in the amount of prepaid expenses associated with an upcoming planned visitation.

(e) Proof of an unwarranted denial of or interference with duly established visitation may constitute contempt of court and may be sufficient cause for reversal of custody.

Sec. 3. Minnesota Statutes 1996, section 518.1751, is amended to read:

518.1751 [VISITATION DISPUTE RESOLUTION.]

Subdivision 1. [VISITATION EXPEDITOR.] (a) Upon request of either party, the parties' stipulation, or upon the court's own motion, the court may appoint a visitation expeditor to resolve visitation disputes that occur under a visitation order while a matter is pending under this chapter, chapter 257 or 518A, or after a decree is entered. Prior to appointing the visitation expeditor, the court shall give the parties notice that the costs of the visitation expeditor will be apportioned among the parties and that if the parties do not reach an agreement, the visitation expeditor will make a nonbinding decision resolving the dispute.

Subd. 1a. [EXCEPTIONS.] A party may not be required to refer a visitation dispute to a visitation expeditor under this section if:

- (1) one of the parties claims to be the victim of domestic abuse by the other party;
- (2) the court determines there is probable cause that one of the parties or a child of the parties has been physically abused or threatened with physical abuse by the other party; or
- (3) the party is unable to pay the costs of the expeditor, as provided under subdivision 2a.

If the court is satisfied that the parties have been advised by counsel and have agreed to use the visitation expeditor process and the process does not involve face-to-face meeting of the parties, the court may direct that the visitation expeditor process be used.

Subd. 1b. [PURPOSE; DEFINITIONS.] (a) The purpose of a visitation expeditor is to resolve visitation disputes by enforcing, interpreting, clarifying, and addressing circumstances not specifically addressed by an existing visitation order and, if appropriate, to make a determination as to whether the existing visitation order has been violated. A visitation expeditor may be appointed to resolve a one-time visitation dispute or to provide ongoing visitation dispute resolution services.

(b) For purposes of this section, "visitation dispute" means a disagreement among parties about visitation with a child, including a dispute about an anticipated denial of a future scheduled visit. "Visitation dispute" includes a claim by a custodial parent that a noncustodial parent is not visiting a child as well as a claim by a noncustodial parent that a custodial parent is denying or interfering with visitation.

(c) A "visitation expeditor" is a neutral person authorized to use a mediation-arbitration process to resolve visitation disputes. A visitation expeditor shall attempt to resolve a visitation dispute by facilitating negotiations between the parties to promote settlement and, if it becomes apparent that the dispute cannot be resolved by an agreement of the parties, the visitation expeditor shall make a decision resolving the dispute.

Subd. 2. [APPOINTMENT; COSTS.] ~~The court shall appoint the visitation expeditor and indicate the term of the appointment. If the parties cannot agree on a visitation expeditor, the court shall present a list of candidates with one more candidate than there are parties to the dispute. In developing the list of candidates, the court must give preference~~ (a) The parties may stipulate to the appointment of a visitation expeditor or a team of two expeditors without appearing in court by submitting to the court a written agreement identifying the names of the individuals to be appointed by the court; the nature of the dispute; the responsibilities of the visitation expeditor, including whether the expeditor is appointed to resolve a specific issue or on an ongoing basis; the term of the appointment; and the apportionment of fees and costs. The court shall review the agreement of the parties.

(b) ~~If the parties cannot agree on a visitation expeditor, the court shall provide to the parties a copy of the court administrator's roster of visitation expeditors and require the parties to exchange the names of three potential visitation expeditors by a specific date. If after exchanging names the parties are unable to agree upon a visitation expeditor, the court shall select the visitation expeditor and, in its discretion, may appoint one expeditor or a team of two visitation expeditors. In the selection process the court must give consideration to the financial circumstances of the parties and the fees of those being considered as visitation expeditors. Preference must be given to persons who agree to volunteer their services or who will charge a variable fee for services based on the ability of the parties to pay for them. Each party shall strike one name and the court shall appoint the remaining individual as the visitation expeditor. In its order appointing the visitation expeditor, the court shall apportion the costs of the visitation expeditor among the parties, with each party bearing the portion of costs that the court determines is just and equitable under the circumstances. If a party files a pro se motion regarding a visitation dispute and there is not a court order that provides for apportionment of the costs of an expeditor, the court administrator may require the party requesting the appointment of an expeditor to pay the costs of the expeditor in advance. Neither party may be required to submit a dispute to a visitation expeditor if the party~~

cannot afford to pay for the costs of an expeditor and an affordable expeditor is not available, unless the other party agrees to pay the costs. After costs are incurred, a party may by motion request that the costs be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. The court may consider information from the expeditor in determining bad faith.

(c) An order appointing a visitation expeditor must identify the name of the individual to be appointed, the nature of the dispute, the responsibilities of the visitation expeditor including whether the expeditor is appointed to resolve a specific issue or on an ongoing basis, the term of the appointment, the apportionment of fees, and notice that if the parties are unable to reach an agreement with the assistance of the visitation expeditor, the visitation expeditor is authorized to make a decision resolving the dispute which is binding upon the parties unless modified or vacated by the court.

Subd. 2a. [FEES.] Prior to appointing the visitation expeditor, the court shall give the parties notice that the fees of the visitation expeditor will be apportioned among the parties. In its order appointing the visitation expeditor, the court shall apportion the fees of the visitation expeditor among the parties, with each party bearing the portion of fees that the court determines is just and equitable under the circumstances. If a party files a pro se motion regarding a visitation dispute and there is not a court order that provides for apportionment of the fees of an expeditor, the court administrator may require the party requesting the appointment of an expeditor to pay the fees of the expeditor in advance. Neither party may be required to submit a dispute to a visitation expeditor if the party cannot afford to pay for the fees of an expeditor and an affordable expeditor is not available, unless the other party agrees to pay the fees. After fees are incurred, a party may by motion request that the fees be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. The court may consider information from the expeditor in determining bad faith.

Subd. 2b. [ROSTER OF VISITATION EXPEDITORS.] Each court administrator shall maintain and make available to the public and judicial officers a roster of individuals available to serve as visitation expeditors, including each individual's name, address, telephone number, and fee charged, if any. A court administrator shall not place on the roster the name of an individual who has not completed the training required in subdivision 2c. If the use of a visitation expeditor is initiated by stipulation of the parties, the parties may agree upon a person to serve as a visitation expeditor even if that person has not completed the training described in subdivision 2c. The court may appoint a person to serve as a visitation expeditor even if the person is not on the court administrator's roster, but may not appoint a person who has not completed the training described in subdivision 2c, unless so stipulated by the parties. To maintain one's listing on a court administrator's roster of visitation expeditors, an individual shall annually submit to the court administrator proof of completion of continuing education requirements.

Subd. 2c. [TRAINING AND CONTINUING EDUCATION REQUIREMENTS.] To qualify for listing on a court administrator's roster of visitation expeditors, an individual shall complete a minimum of 40 hours of family mediation training that has been certified by the Minnesota supreme court, which must include certified training in domestic abuse issues as required under Rule 114 of the Minnesota General Rules of Practice for the District Courts. To maintain one's listing on a court administrator's roster of visitation expeditors, an individual shall annually attend three hours of continuing education about alternative dispute resolution subjects.

Subd. 3. [AGREEMENT OR DECISION.] (a) If a visitation dispute arises Within five days of notice of the appointment, or within five days of notice of a subsequent visitation dispute between the same parties, the visitation expeditor shall meet with the parties together or separately within five days and shall make a diligent effort to facilitate an agreement to resolve the visitation dispute. If a visitation dispute requires immediate resolution, the visitation expeditor may confer with the parties through a telephone conference or similar means. An expeditor may make a decision without conferring with a party if the expeditor made a good faith effort to confer with the party, but the party chose not to participate in resolution of the dispute.

(b) If the parties do not reach an agreement, the expeditor shall make a decision resolving the

dispute as soon as possible but not later than five days after receiving all information necessary to make a decision and after the final meeting or conference with the parties. Resolution of a dispute may include The visitation expeditor is authorized to award compensatory visitation under section 518.175, subdivision 6, and may recommend to the court that the noncomplying party pay attorney's fees, court costs, and other costs under section 518.175, subdivision 6, paragraph (d), if the visitation order has been violated. The visitation expeditor shall not lose authority to make a decision if circumstances beyond the visitation expeditor's control make it impracticable to meet the five-day timelines.

(c) Unless the parties mutually agree, the visitation expeditor may shall not make a decision that modifies visitation rights ordered by the court. is inconsistent with an existing visitation order, but may make decisions interpreting or clarifying a visitation order, including the development of a specific schedule when the existing court order grants "reasonable visitation."

(d) The expeditor shall put an agreement or decision in writing, and provide a copy to the parties, and file a copy with the court. The visitation expeditor may include or omit reasons for the agreement or decision. An agreement of the parties or a decision of the visitation expeditor is binding on the parties unless vacated or modified by the court. If a party does not comply with an agreement of the parties or a decision of the expeditor, any party may bring a motion with the court to resolve the dispute and shall attach a copy of the parties' written agreement or decision of the expeditor. The court may consider enforce, modify, or vacate the agreement of the parties or the decision of the expeditor, but neither is binding on the court.

Subd. 4. [OTHER AGREEMENTS.] This section does not preclude the parties from voluntarily agreeing to submit their visitation dispute to a neutral third party or from otherwise resolving visitation disputes on a voluntary basis.

Subd. 4a. [CONFIDENTIALITY.] (a) Statements made and documents produced as part of the visitation expeditor process which are not otherwise discoverable are not subject to discovery or other disclosure and are not admissible into evidence for any purpose at trial or in any other proceeding, including impeachment.

(b) Sworn testimony may be used in subsequent proceedings for any purpose for which it is admissible under the rules of evidence. Visitation expeditors, and lawyers for the parties to the extent of their participation in the visitation expeditor process, must not be subpoenaed or called as witnesses in court proceedings.

(c) Notes, records, and recollections of visitation expeditors are confidential and must not be disclosed to the parties, the public, or anyone other than the visitation expeditor unless:

- (1) all parties and the visitation expeditor agree in writing to the disclosure; or
- (2) disclosure is required by law or other applicable professional codes.

Notes and records of visitation expeditors must not be disclosed to the court unless after a hearing the court determines that the notes or records should be reviewed in camera. Those notes or records must not be released by the court unless it determines that they disclose information showing illegal violation of the criminal law of the state.

Subd. 5. [IMMUNITY.] A visitation expeditor is immune from civil liability for actions taken or not taken when acting under this section.

Subd. 5a. [REMOVAL.] If a visitation expeditor has been appointed on a long-term basis, a party or the visitation expeditor may file a motion seeking to have the expeditor removed for good cause shown.

Subd. 6. [MANDATORY VISITATION DISPUTE RESOLUTION.] (a) Subject to subdivision 7 1a, a judicial district may establish a mandatory visitation dispute resolution program as provided in this subdivision. In a district where a program has been established, parties may be required to submit visitation disputes to a visitation expeditor as a prerequisite to a motion on the dispute being heard by the court, or either party may submit the dispute to a visitation expeditor. A

party may file a motion with the court for purposes of obtaining a court date, if necessary, but a hearing may not be held until resolution of the dispute with the visitation expeditor. The appointment of a visitation expeditor must be in accordance with subdivision 2. Visitation expeditor fees must be paid in accordance with subdivision 2a.

~~(b) If a visitation expeditor has not been previously appointed for the parties under subdivision 1 and the parties cannot agree on a visitation expeditor, the court or court administrator shall appoint a visitation expeditor from a list of candidates established by the judicial district, giving preference to candidates who agree to volunteer their services or charge a variable fee based on the ability of the parties to pay.~~

~~(c) Notwithstanding subdivision 1, an agreement of the parties or decision of the visitation expeditor under this subdivision is binding on the parties unless vacated or modified by the court. The expeditor shall put the agreement or decision in writing, provide a copy to the parties, and file a copy with the court. The court may consider the agreement of the parties or the decision of the expeditor, but neither is binding on the court.~~

~~Subd. 7. [EXCEPTIONS.] A party may not be required to refer a visitation dispute to a visitation expeditor under this section if:~~

- ~~(1) the party has obtained an order for protection under chapter 518B against the other party; or~~
- ~~(2) the party is unable to pay the costs of the expeditor, as provided under subdivision 2.~~

~~Sec. 4. Minnesota Statutes 1996, section 518.179, subdivision 1, is amended to read:~~

~~Subdivision 1. [SEEKING CUSTODY OR VISITATION.] Notwithstanding any contrary provision in section 518.17 or 518.175, if a person seeking child custody or visitation has been convicted of a crime described in subdivision 2, the person seeking custody or visitation has the burden to prove that custody or visitation by that person is in the best interests of the child if:~~

- ~~(1) the conviction occurred within the preceding five years;~~
- ~~(2) the person is currently incarcerated, on probation, or under supervised release for the offense; or~~
- ~~(3) the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2.~~

~~If this section applies, the court may not grant custody or visitation to the person unless it finds that the custody or visitation is in the best interests of the child. If the victim of the crime was a family or household member, the standard of proof is clear and convincing evidence. A guardian ad litem must be appointed in any case where this section applies.~~

~~Sec. 5. Minnesota Statutes 1996, section 518.195, is amended to read:~~

~~518.195 [PILOT PROJECT SUMMARY DISSOLUTION PROCESS.]~~

~~Subdivision 1. [CRITERIA.] ~~In the counties selected under subdivision 4,~~ A couple desirous of dissolving their marriage may use the streamlined procedure in this section if:~~

- ~~(1) no living minor children have been born to or adopted by the parties before or during the marriage, unless someone other than the husband has been adjudicated the father;~~
- ~~(2) the wife is not pregnant;~~
- ~~(3) they have been married fewer than five eight years as of the date they file their joint declaration;~~
- ~~(4) neither party owns any real estate;~~
- ~~(5) there are no unpaid debts in excess of \$5,000 \$8,000 incurred by either or both of the parties during the marriage, excluding encumbrances on automobiles;~~

(6) the total fair market value of the marital assets does not exceed \$25,000, including net equity on automobiles;

(7) neither party has nonmarital assets in excess of \$25,000; and

(8) neither party has been a victim of domestic abuse by the other.

Subd. 2. [PROCEDURE.] A couple qualifying under all of the criteria in subdivision 1, may obtain a judgment and decree by:

(1) filing a sworn joint declaration, on which both of their signatures must be notarized, containing or appending the following information:

(i) the demographic data required in section 518.10;

(ii) verifying the qualifications set forth in subdivision 1;

(iii) listing each party's nonmarital property;

(iv) setting forth how the marital assets and debts will be apportioned;

(v) verifying both parties' income and preserving their rights to spousal maintenance; and

(vi) certifying that there has been no domestic abuse of one party by the other; and

(2) viewing any introductory and summary process educational videotapes, if then available from the court, and certifying that they watched any such tapes within the 30 days preceding the filing of the joint declaration.

The district court administrator shall enter a decree of dissolution 30 days after the filing of the joint declaration if the parties meet the statutory qualifications and have complied with the procedural requirements of this subdivision.

Subd. 3. [FORMS.] The state court administrator shall develop simplified forms and instructions for the summary process ~~within 120 days of July 1, 1994~~. District court administrators shall make the forms for the summary process available upon request and shall accept joint declarations for filing ~~180 days after July 1, 1994~~ on and after July 1, 1997.

~~Subd. 4. [PILOT PROGRAM.] The state court administrator shall designate no more than five counties in at least three different judicial districts as pilot jurisdictions for testing the streamlined process. District court administrators shall make the forms for the summary process available upon request to appropriate residents of the pilot jurisdictions.~~

Sec. 6. Minnesota Statutes 1996, section 518.68, subdivision 2, is amended to read:

Subd. 2. [CONTENTS.] The required notices must be substantially as follows:

IMPORTANT NOTICE

1. PAYMENTS TO PUBLIC AGENCY

Pursuant to Minnesota Statutes, section 518.551, subdivision 1, payments ordered for maintenance and support must be paid to the public agency responsible for child support enforcement as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. MAIL PAYMENTS TO:

2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A FELONY

A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or visitation rights), pursuant to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

3. RULES OF SUPPORT, MAINTENANCE, VISITATION

(a) Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

(b) Payment of support must be made as it becomes due, and failure to secure or denial of rights of visitation is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.

(c) Nonpayment of support is not grounds to deny visitation. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.

(d) The payment of support or spousal maintenance takes priority over payment of debts and other obligations.

(e) A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

(f) Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

(g) If there is a layoff or a pay reduction, support may be reduced as of the time of the layoff or pay reduction if a motion to reduce the support is served and filed with the court at that time, but any such reduction must be ordered by the court. The court is not permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 518.64, subdivision 2, paragraph (c).

(h) Reasonable visitation guidelines are contained in Appendix B, which is available from the court administrator.

4. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3

Unless otherwise provided by the Court:

(a) Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

(b) Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

(c) In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

(d) Each party has the right of reasonable access and telephone contact with the minor children.

5. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, sections 518.611 and 518.613, have been met. A copy of those sections is available from any district court clerk.

6. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, the person responsible to make support or maintenance payments shall notify the person entitled to receive the payment and the public authority responsible for collection, if applicable, of a change of address or residence within 60 days of the address or residence change.

7. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using Department of Labor Consumer Price Index, unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 518.641, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518.641, and forms necessary to request or contest a cost of living increase are available from any district court clerk.

8. JUDGMENTS FOR UNPAID SUPPORT

If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment WITHOUT NOTICE to the person responsible to make the payment under Minnesota Statutes, section 548.091. Interest begins to accrue on a payment or installment of child support whenever the unpaid amount due is greater than the current support due, pursuant to Minnesota Statutes, section 548.091, subdivision 1a.

9. JUDGMENTS FOR UNPAID MAINTENANCE

A judgment for unpaid spousal maintenance may be entered when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any district court clerk.

10. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT

A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of section 518.14, subdivision 2, are met. A copy of section 518.14 and forms necessary to request or contest these attorney fees and collection costs are available from any district court clerk.

11. VISITATION EXPEDITOR PROCESS

On request of either party or on its own motion, the court may appoint a visitation expeditor to resolve visitation disputes under Minnesota Statutes, section 518.1751. A copy of that section and a description of the expeditor process is available from any district court clerk.

12. VISITATION REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of visitation rights are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory visitation; civil penalties; bond requirements; contempt; and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any district court clerk.

Sec. 7. Minnesota Statutes 1996, section 519.05, is amended to read:

519.05 [LIABILITY OF HUSBAND AND WIFE.]

(a) A spouse is not liable to a creditor for any debts of the other spouse, except for necessities furnished to the other after marriage, where the spouse would be liable at common law. Where husband and wife are living together, they shall be jointly and severally liable for all necessary household articles and supplies furnished to and used by the family. Notwithstanding this paragraph, in a proceeding under chapter 518 the court may apportion such debt between the spouses.

(b) Either spouse may close a credit card account or other unsecured consumer line of credit on which both spouses are contractually liable, by giving written notice to the creditor.

Sec. 8. Minnesota Statutes 1996, section 626.556, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so, failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so, or failure to take steps to ensure that a child is educated in accordance with state law. Nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care. Neglect includes prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance. Neglect also means "medical neglect" as defined in section 260.015, subdivision 2a, clause (5).

(d) "Physical abuse" means any physical or mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16.

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

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to

employee assistance counseling and the provision of guardian ad litem and visitation expeditor services.

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

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

Sec. 9. Minnesota Statutes 1996, section 631.52, subdivision 1, is amended to read:

Subdivision 1. [SUSPENSION OF VISITATION RIGHTS; TRANSFER OF CUSTODY.] (a) If a person who has court-ordered custody of a child or visitation rights is convicted of a crime listed in subdivision 2 and if no action is pending regarding custody or visitation, the sentencing court shall refer the matter to the appropriate family court for action under this section. The family court shall:

(1) grant temporary custody to the noncustodial parent, unless it finds that another custody arrangement is in the best interests of the child; or

(2) suspend visitation rights, unless it finds that visitation with the convicted person is in the best interests of the child.

The family court shall expedite proceedings under this section. The defendant has the burden of proving that continued custody or visitation with the defendant is in the best interests of the child. If the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2, the standard of proof is clear and convincing evidence. A guardian ad litem must be appointed in any case to which this section applies.

(b) If a person who has child custody or visitation rights was convicted of a crime listed in subdivision 2 before July 1, 1990, then any interested party may petition the sentencing court for relief under paragraph (a) if:

(1) the defendant is currently incarcerated, on probation, or under supervised release for the offense; or

(2) the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2.

Sec. 10. [COOPERATION FOR THE CHILDREN PROGRAM.]

Subdivision 1. [ESTABLISHMENT; PILOT PROJECT.] Within the limits of funding provided, by January 1, 1998, the state court administrator shall develop and implement a cooperation for the children program as a 24-month pilot project in at least two counties as an effort to promote parental relationships with children. The state court administrator may allow additional counties to participate in the pilot project if those counties provide their own funding or if other funding becomes available. The provisions of Minnesota Statutes, section 518.1751, subdivision 6, pertaining to mandatory visitation dispute resolution programs, do not apply to counties participating in the cooperation for the children program pilot project.

Subd. 2. [PARTICIPATION.] (a) Except as provided in this subdivision, in cases where visitation is the sole issue in conflict, the person seeking relief in regard to a visitation dispute must first seek assistance from the cooperation for the children program before filing with the court or serving upon the other party a motion requesting a court hearing.

(b) An individual who submits to the program proof that the person has used, or in good faith has attempted to use, the services of a visitation expeditor or mediator or other alternative dispute resolution process to resolve the visitation dispute may, upon request to the program, be exempted from mandatory participation in the cooperation for the children program and the person may seek assistance from the court by filing a motion requesting a hearing.

(c) In cases where visitation is not the only issue in conflict, the person seeking relief may either file with the court a motion seeking resolution of all issues or may seek resolution of the visitation issue with the cooperation for the children program and resolution of the other issues with the court. In cases where the person seeking relief chooses to proceed in court, the court may determine whether the nonvisitation issues are or are not valid. If the court determines that the nonvisitation issues are not valid or that the nonvisitation issues were raised for the purpose of avoiding participation in the cooperation for the children program, the court may order the parties to participate in the cooperation for the children program or may resolve the dispute if both parties are present.

Subd. 3. [FEE.] Except as provided in this subdivision, a person who participates in the cooperation for the children program shall pay a fee to defray the cost of the program. A party who qualifies for waiver of filing fees under Minnesota Statutes, section 563.01, is exempt from paying the program fee and the court shall waive the fee or direct its payment under Minnesota Statutes, section 563.01. Program providers shall implement a sliding fee scale.

Subd. 4. [EVALUATION.] By December 15, 1999, the state court administrator shall submit to the legislature a report evaluating the cooperation for the children program pilot project based on at least 12 months of data from the project.

Sec. 11. [FEDERAL FUNDS FOR VISITATION AND ACCESS.]

The commissioner of human services may accept on behalf of the state any federal funding received under Public Law Number 104-193 for access and visitation programs, and shall transfer these funds to the state court administrator for the cooperation for the children pilot project and the parent education program under Minnesota Statutes, section 518.571.

Sec. 12. [REPEALER.]

Minnesota Statutes 1996, section 256.996, is repealed.

Sec. 13. [EFFECTIVE DATE.]

Section 11 is effective the day following final enactment.

ARTICLE 3

TECHNICAL AND CONFORMING AMENDMENTS

Section 1. 1997 S.F. No. 1908, article 6, section 3, subdivision 1, if enacted, is amended to read:

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this section.

(a) "Account" means a demand deposit account, checking or negotiable withdraw order account, savings account, time deposit account, or money market mutual fund.

(b) "Account information" means the type of account, the account number, whether the account is singly or jointly owned, and in the case of jointly owned accounts the name and address of the nonobligor account owner if available.

(c) "Financial institution" means any of the following that do business within the state:

(1) federal or state commercial banks and federal or state savings banks, including savings and loan associations and cooperative banks;

(2) federal and state chartered credit unions;

(3) benefit associations;

(4) life insurance companies;

(5) safe deposit companies; and

(6) money market mutual funds.

(d) "Obligor" means an individual who is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority.

(e) "Public authority" means the public authority responsible for child support enforcement.

Sec. 2. 1997 S.F. No. 1908, article 6, section 3, subdivision 4, if enacted, is amended to read:

Subd. 4. [METHOD TO PROVIDE DATA.] To comply with the requirements of this section, a financial institution may either:

(1) provide to the public authority a list containing only the names and other necessary personal identifying information of all account holders for the public authority to compare against its list of child support obligors for the purpose of identifying which obligors maintain an account at the financial institution; the names of the obligors who maintain an account at the institution shall then be transmitted to the financial institution which shall provide the public authority with account information on those obligors; or

(2) obtain a list of child support obligors from the public authority and compare that data to the data maintained at the financial institution to identify which of the identified obligors maintains an account at the financial institution.

A financial institution shall elect either method in writing upon written request of the public authority, and the election remains in effect unless the public authority agrees in writing to a change.

The commissioner shall keep track of the number of financial institutions that elect to report under clauses (1) and (2) respectively and shall report this information to the legislature by December 1, 1999.

Sec. 3. 1997 S.F. No. 1908, article 6, section 3, subdivision 6, if enacted, is amended to read:

Subd. 6. [ACCESS TO DATA.] (a) With regard to account information on all account holders provided by a financial institution under subdivision 4, clause (1), the commissioner of human services shall retain the reported information only until the account information is compared against the public authority's obligor database. Notwithstanding section 138.17, all account information that does not pertain to an obligor listed in the public authority's database must be immediately discarded, and no retention or publication may be made of that data by the public authority. All account information that does pertain to an obligor listed in the public authority's database must be incorporated into the public authority's database. Access to that data is governed by chapter 13. Notwithstanding section 16D.06, data collected pursuant to this chapter is available for the collection of child support debt only and is not available for other debt collection activities undertaken by the state under chapter 16D.

(b) With regard to data on obligors provided by the public authority to a financial institution under subdivision 4, clause (2), the financial institution shall retain the reported information only until the financial institution's database is compared against the public authority's database. Data that do not pertain to an account holder at the financial institution must be immediately discarded, and no retention or publication may be made of that data by the financial institution.

Sec. 4. 1997 S.F. No. 1908, article 6, section 3, subdivision 10, if enacted, is amended to read:

Subd. 10. [CIVIL ACTION FOR UNAUTHORIZED DISCLOSURE BY FINANCIAL INSTITUTION.] (a) An account holder may bring a civil action in district court against a financial institution for unauthorized disclosure of data received from the public authority under subdivision 4, clause (2). A financial institution found to have violated this subdivision shall be liable as provided in paragraph (b) or (c).

(b) Any financial institution that willfully and maliciously discloses data received from the public authority under subdivision 4 is liable to that account holder in an amount equal to the sum of:

(1) any actual damages sustained by the ~~consumer~~ account holder as a result of the disclosure; and

(2) in the case of any successful action to enforce any liability under this section, the costs of the action taken plus reasonable attorney's fees as determined by the court.

(c) Any financial institution that negligently discloses data received from the public authority under subdivision 4 is liable to that account holder in an amount equal to any actual damages sustained by the account holder as a result of the disclosure.

(d) A financial institution may not be held liable in any action brought under this subdivision if the financial institution shows, by a preponderance of evidence, that the disclosure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably ~~adapted~~ adopted to avoid any error.

Sec. 5. 1997 S.F. No. 1908, article 6, section 5, subdivision 4, if enacted, is amended to read:

Subd. 4. [EFFECT OF ASSIGNMENT.] Assignments in this section take effect upon a determination that the applicant is eligible for public assistance. The amount of support assigned under this subdivision may not exceed the total amount of public assistance issued or the total support obligation, whichever is less. Child care support collections made pursuant to an assignment under subdivision 2, paragraph (c), must be transferred, subject to any limitations of federal law, from the commissioner of human services to the commissioner of children, families, and learning and dedicated to the child care fund under chapter 119B. These collections are in addition to state and federal funds appropriated to the child care fund.

Sec. 6. Minnesota Statutes 1996, section 256.978, subdivision 2, as amended by 1997 S.F. No. 1908, article 6, section 12, if enacted, is amended to read:

Subd. 2. [ACCESS TO INFORMATION.] (a) A request for information by the public authority responsible for child support of this state or any other state may be made to:

(1) employers when there is reasonable cause to believe that the subject of the inquiry is or was an employee or independent contractor of the employer. Information to be released by employers of employees is limited to place of residence, employment status, wage or payment information, benefit information, and social security number. Information to be released by employers of independent contractors is limited to place of residence or address, contract status, payment information, benefit information, and social security number or identification number;

(2) utility companies when there is reasonable cause to believe that the subject of the inquiry is or was a retail customer of the utility company. Customer information to be released by utility companies is limited to place of residence, home telephone, work telephone, source of income, employer and place of employment, and social security number;

(3) insurance companies when there is reasonable cause to believe that the subject of the inquiry is or was receiving funds either in the form of a lump sum or periodic payments. Information to be released by insurance companies is limited to place of residence, home telephone, work telephone, employer, social security number, and amounts and type of payments made to the subject of the inquiry;

(4) labor organizations when there is reasonable cause to believe that the subject of the inquiry is or was a member of the labor association. Information to be released by labor associations is limited to place of residence, home telephone, work telephone, social security number, and current and past employment information; and

(5) financial institutions when there is reasonable cause to believe that the subject of the inquiry has or has had accounts, stocks, loans, certificates of deposits, treasury bills, life insurance

policies, or other forms of financial dealings with the institution. Information to be released by the financial institution is limited to place of residence, home telephone, work telephone, identifying information on the type of financial relationships, social security number, current value of financial relationships, and current indebtedness of the subject with the financial institution.

(b) For purposes of this subdivision, utility companies include telephone companies, radio common carriers, and telecommunications carriers as defined in section 237.01, and companies that provide electrical, telephone, natural gas, propane gas, oil, coal, or cable television services to retail customers. The term financial institution includes banks, savings and loans, credit unions, brokerage firms, mortgage companies, insurance companies, benefit associations, safe deposit companies, money market mutual funds, or similar entities authorized to do business in the state.

Sec. 7. Minnesota Statutes 1996, section 256.998, subdivision 3, is amended to read:

Subd. 3. [DUTY TO REPORT.] Employers doing business in this state shall report to the commissioner of human services the hiring of any employee who resides or works in this state to whom the employer anticipates paying earnings. Employers shall submit reports required under this subdivision within 15 20 calendar days of the date of hiring of the employee.

Employers are not required to report the hiring of any person who will be employed for less than two months' duration; and will have gross earnings less than \$250 per month.

Sec. 8. Minnesota Statutes 1996, section 257.75, subdivision 4, is amended to read:

Subd. 4. [ACTION TO VACATE RECOGNITION.] An action to vacate a recognition of paternity may be brought by the mother, father, husband or former husband who executed a joinder, or the child. An action to vacate a recognition of parentage may be brought by the public authority. A mother, father, or husband or former husband who executed a joinder must bring the action within one year of the execution of the recognition or within six months after the person bringing the action obtains the results of blood or genetic tests that indicate that the man who executed the recognition is not the father of the child. A child must bring an action to vacate within six months after the child obtains the result of blood or genetic tests that indicate that the man who executed the recognition is not the father of the child, or within one year of reaching the age of majority, whichever is later. If the court finds a prima facie basis for vacating the recognition, the court shall order the child, mother, father, and husband or former husband who executed a joinder to submit to blood tests. If the court issues an order for the taking of blood tests, the court shall require the party seeking to vacate the recognition to make advance payment for the costs of the blood tests. If the party fails to pay for the costs of the blood tests, the court shall dismiss the action to vacate with prejudice. The court may also order the party seeking to vacate the recognition to pay the other party's reasonable attorney fees, costs, and disbursements. If the results of the blood tests establish that the man who executed the recognition is not the father, the court shall vacate the recognition. If a recognition is vacated, any joinder in the recognition under subdivision 1a is also vacated. The court shall terminate the obligation of a party to pay ongoing child support based on the recognition. A modification of child support based on a recognition may be made retroactive with respect to any period during which the moving party has pending a motion to vacate the recognition but only from the date of service of notice of the motion on the responding party.

Sec. 9. Minnesota Statutes 1996, section 518.54, subdivision 6, as amended by 1997 S.F. No. 1908, article 6, section 41, if enacted, is amended to read:

Subd. 6. [INCOME.] (a) "Income" means any form of periodic payment to an individual including, but not limited to, wages, salaries, payments to an independent contractor, workers' compensation, reemployment insurance, annuity, military and naval retirement, pension and disability payments. Benefits received under Title IV-A of the Social Security Act are not income under this section.

~~(b) Income also includes nonperiodic distributions of workers' compensation claims, reemployment claims, personal injury recoveries for lost wages or salary, proceeds from a lawsuit for lost wages or salary, severance pay, and bonuses.~~

Sec. 10. Minnesota Statutes 1996, section 518.551, subdivision 12, as amended by 1997 S.F. No. 1908, article 6, section 42, if enacted, is amended to read:

Subd. 12. [OCCUPATIONAL LICENSE SUSPENSION.] (a) Upon motion of an obligee, if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state, county, or municipal agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the administrative law judge, or the court shall direct the licensing board or other licensing agency to suspend the license under section 214.101. The court's order must be stayed for 90 days in order to allow the obligor to execute a written payment agreement regarding both current support and arrearages. The payment agreement must be approved by either the court or the public authority responsible for child support enforcement. If the obligor has not executed or is not in compliance with a written payment agreement regarding both current support and arrearages after the 90 days expires, the court's order becomes effective. If the obligor is a licensed attorney, the court shall report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.

(b) If a public authority responsible for child support enforcement finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state, county, or municipal agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the court, an administrative law judge, or the public authority shall direct the licensing board or other licensing agency to suspend the license under section 214.101. If the obligor is a licensed attorney, the public authority may report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the public authority.

(c) At least 90 days before notifying a licensing authority or the lawyers professional responsibility board under paragraph (b), the public authority shall mail a written notice to the license holder addressed to the license holder's last known address that the public authority intends to seek license suspension under this subdivision and that the license holder must request a hearing within 30 days in order to contest the suspension. If the license holder makes a written request for a hearing within 30 days of the date of the notice, either a court hearing or a contested administrative proceeding must be held under section 518.5511, subdivision 4. Notwithstanding any law to the contrary, the license holder must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the license holder. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice, and the obligor does not execute a written payment agreement regarding both current support and arrearages approved by the public authority within 90 days of the date of the notice, the public authority shall direct the licensing board or other licensing agency to suspend the obligor's license under paragraph (b), or shall report the matter to the lawyers professional responsibility board.

(d) The administrative law judge, on behalf of the public authority, or the court shall notify the lawyers professional responsibility board for appropriate action in accordance with the rules of professional responsibility conduct or order the licensing board or licensing agency to suspend the license if the judge finds that:

(1) the person is licensed by a licensing board or other state agency that issues an occupational license;

(2) the person has not made full payment of arrearages found to be due by the public authority; and

(3) the person has not executed or is not in compliance with a payment plan approved by the court, an administrative law judge, or the public authority.

(e) Within 15 days of the date on which the obligor either makes full payment of arrearages found to be due by the court or public authority or executes and initiates good faith compliance with a written payment plan approved by the court, an administrative law judge, or the public authority, the court, an administrative law judge, or the public authority responsible for child support enforcement shall notify the licensing board or licensing agency or the lawyers professional responsibility board that the obligor is no longer ineligible for license issuance, reinstatement, or renewal under this subdivision.

(f) In addition to the criteria established under this section for the suspension of an obligor's occupational license, a court, an administrative law judge, or the public authority may direct the licensing board or other licensing agency to suspend the license of a party who has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding. Notice to an obligor of intent to suspend must be served by first class mail at the obligor's last known address. The notice must inform the obligor of the right to request a hearing. If the obligor makes a written request within ten days of the date of the hearing, a contested administrative proceeding must be held under section 518.5511, subdivision 4. At the hearing, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

(g) The license of an obligor who fails to remain in compliance with an approved payment agreement may be suspended. Notice to the obligor of an intent to suspend under this paragraph must be served by first class mail at the obligor's last known address and must include a notice of hearing. The notice must be served upon the obligor not less than ten days before the date of the hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with an approved payment agreement, the judge shall notify the occupational licensing board or agency to suspend the obligor's license under paragraph (c). If the obligor fails to appear at the hearing, the public authority may notify the occupational or licensing board to suspend the obligor's license under paragraph (c).

Sec. 11. Minnesota Statutes 1996, section 518.5512, subdivision 2, as amended by 1997 S.F. No. 1908, article 6, section 44, is amended to read:

Subd. 2. [PATERNITY.] (a) After service of the notice and proposed order, a nonattorney employee of the public authority may order the child, mother, or alleged father to submit to blood or genetic tests. In a case with multiple alleged fathers, a nonattorney employee of the public authority may order the child, mother, and alleged fathers to submit to blood or genetic tests after service of the notice of the parentage proceeding. The order for genetic tests must be served by personal service. The order of the public authority shall be effective unless, within 20 days of the date of the order, the child, mother, or an alleged father requests a contested administrative proceeding under section 518.5511, subdivision 3a. If a contested administrative proceeding is requested and held, any order issued by an administrative law judge supersedes the order issued by the public authority. In all other cases, the order of the public authority is controlling. Failure to comply with the order for blood or genetic tests may result in a default determination of parentage.

(b) If parentage is contested at the administrative hearing, the administrative law judge may order temporary child support under section 257.62, subdivision 5, and shall refer the case to the district court.

(c) The district court may appoint counsel for an indigent alleged father only after the return of the blood or genetic test results from the testing laboratory.

Sec. 12. Minnesota Statutes 1996, section 518C.305, is amended to read:

518C.305 [DUTIES AND POWERS OF RESPONDING TRIBUNAL.]

(a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to section 518C.301, paragraph (c), it shall cause the petition or pleading to be filed and notify the petitioner ~~by first class mail~~ where and when it was filed.

(b) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(1) issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney's fees and other fees and costs; and

(12) grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order by ~~first class mail~~ to the petitioner and the respondent and to the initiating tribunal, if any.

Sec. 13. Minnesota Statutes 1996, section 518C.306, is amended to read:

518C.306 [INAPPROPRIATE TRIBUNAL.]

If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner by ~~first class mail~~ where and when the pleading was sent.

Sec. 14. Minnesota Statutes 1996, section 518C.307, is amended to read:

518C.307 [DUTIES OF SUPPORT ENFORCEMENT AGENCY.]

(a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(b) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(1) take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

- (2) request an appropriate tribunal to set a date, time, and place for a hearing;
 - (3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;
 - (4) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice by ~~first-class mail~~ to the petitioner;
 - (5) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by ~~first-class mail~~ to the petitioner; and
 - (6) notify the petitioner if jurisdiction over the respondent cannot be obtained.
- (c) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Sec. 15. Minnesota Statutes 1996, section 518C.605, is amended to read:

518C.605 [NOTICE OF REGISTRATION OF ORDER.]

(a) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. ~~Notice must be given by certified or registered mail or by any means of personal service authorized by the law of this state.~~ The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:

- (1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;
- (2) that a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after ~~the date of mailing or personal service of the notice~~;
- (3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and
- (4) of the amount of any alleged arrearages.

(c) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to section 518.611 or 518.613.

Sec. 16. Minnesota Statutes 1996, section 518C.606, is amended to read:

518C.606 [PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED ORDER.]

(a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within 20 days after ~~the date of mailing or personal service of notice of the registration.~~ The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 518C.607.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the

registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties by ~~first class mail~~ of the date, time, and place of the hearing.

Sec. 17. Minnesota Statutes 1996, section 548.091, subdivision 9, as added by 1997 S.F. No. 1908, article 6, section 79, if enacted, is amended to read:

Subd. 9. [PAYOFF STATEMENT.] The public authority shall issue to the obligor, attorneys, lenders, and closers, or their agents, a payoff statement setting forth conclusively the amount necessary to satisfy the lien. Payoff statements must be issued within three business days after receipt of a request by mail, personal delivery, telefacsimile, or ~~e-mail~~ electronic mail transmission, and must be delivered to the requester by telefacsimile or ~~e-mail~~ electronic mail transmission if requested and if appropriate technology is available to the public authority.

Sec. 18. [EFFECTIVE DATES.]

1997 S.F. No. 1908, article 6, sections 44 to 46, if enacted, are effective August 1, 1997. An amendment in this article to 1997 S.F. No. 1908 takes effect at the same time that the section of law that it amends takes effect.

ARTICLE 4

TECHNICAL WELFARE REFORM AMENDMENTS

Section 1. Laws 1997, chapter 85, article 1, section 16, subdivision 1, as amended by 1997 S.F. No. 1908, article 12, section 10, if enacted, is amended to read:

Subdivision 1. [PERSON CONVICTED OF DRUG OFFENSES.] (a) Applicants or recipients who have been convicted of a drug offense after July 1, 1997, may, if otherwise eligible, receive AFDC or MFIP-S benefits subject to the following conditions:

(1) benefits for the entire assistance unit must be paid in vendor form for shelter and utilities during any time the applicant is part of the assistance unit;

(2) the convicted applicant or recipient shall be subject to random drug testing as a condition of continued eligibility and is subject to sanctions under section 256J.46 following any positive test for an illegal controlled substance, except that the grant must continue to be vendor paid under clause (1). For purposes of this subdivision, section 256J.46 is effective July 1, 1997.

This subdivision also applies to persons who receive food stamps under section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(b) For the purposes of this subdivision, "drug offense" means a conviction that occurred after July 1, 1997, of sections 152.021 to 152.025, 152.0261, or 152.096. Drug offense also means a conviction in another jurisdiction of the possession, use, or distribution of a controlled substance, or conspiracy to commit any of these offenses, if the offense occurred after July 1, 1997, and the conviction is a felony offense in that jurisdiction, or in the case of New Jersey, a high misdemeanor.

Sec. 2. Laws 1997, chapter 85, article 1, section 36, subdivision 2, is amended to read:

Subd. 2. [SANCTIONS FOR REFUSAL TO COOPERATE WITH SUPPORT REQUIREMENTS.] The grant of an MFIP-S caregiver who refuses to cooperate, as determined by the child support enforcement agency, with support requirements under section 256.741, if enacted, shall be subject to sanction as specified in this subdivision. The assistance unit's grant must be reduced by 25 percent of the applicable transitional standard. The residual amount of the grant, if any, must be paid to the caregiver. A sanction under this subdivision becomes effective ten days after the required notice is given. The sanction must be in effect for a minimum of one month, and shall be removed only when the caregiver cooperates with the support requirements. Each month that an MFIP-S caregiver fails to comply with the requirements of section 256.741 must be considered a separate occurrence of noncompliance. An MFIP-S caregiver who has had one or more sanctions imposed must remain in compliance with the requirements of section 256.741 for six months in order for a subsequent sanction to be considered a first occurrence.

Sec. 3. Laws 1997, chapter 85, article 1, section 43, subdivision 4, is amended to read:

Subd. 4. [SECONDARY ASSESSMENT.] (a) The job counselor must conduct a secondary assessment for those participants who:

(1) in the judgment of the job counselor, have barriers to obtaining employment that will not be overcome with a job search support plan under subdivision 3;

(2) have completed eight weeks of job search under subdivision 3 without obtaining suitable employment; or

(3) have not received a secondary assessment, are working at least 20 hours per week, and the participant, job counselor, or county agency requests a secondary assessment.

(b) In the secondary assessment the job counselor must evaluate the participant's skills and prior work experience, family circumstances, interests and abilities, need for preemployment activities, supportive, or educational services, and the extent of any barriers to employment. The job counselor must use the information gathered through the secondary assessment to develop an employment plan under subdivision 5.

(c) The provider shall make available to participants information regarding additional vendors or resources which provide employment and training services that may be available to the participant under a plan developed under this section. The information must include a brief summary of services provided and related performance indicators. Performance indicators must include, but are not limited to, the average time to complete program offerings, placement rates, entry and average wages, and retention rates. To be included in the information given to participants, a vendor or resource must provide counties with relevant information in the format required by the county.

Sec. 4. Laws 1997, chapter 85, article 1, section 43, subdivision 5, is amended to read:

Subd. 5. [EMPLOYMENT PLAN; CONTENTS.] Based on the secondary assessment under subdivision 4, the job counselor and the participant must develop an employment plan for the participant that includes specific activities that are tied to an employment goal and a plan for long-term self-sufficiency, and that is designed to move the participant along the most direct path to unsubsidized employment. The employment plan must list the specific steps that will be taken to obtain employment and a timetable for completion of each of the steps. As part of the development of the participant's employment plan, the participant shall have the option of selecting from among the vendors or resources that the job counselor determines will be effective in supplying one or more of the services necessary to meet the employment goals specified in the participant's plan. In compiling the list of vendors and resources that the job counselor determines would be effective in meeting the participant's employment goals, the job counselor must determine that adequate financial resources are available for the vendors or resources ultimately selected by the participant. The job counselor and the participant must sign the developed plan to indicate agreement between the job counselor and the participant on the contents of the plan.

Sec. 5. Laws 1997, chapter 85, article 1, section 66, subdivision 2, is amended to read:

Subd. 2. [REPORT TO THE LEGISLATURE.] The plan referred to in subdivision 1 and any resulting proposal for legislation must be presented to the legislature by ~~December 15, 1997~~ February 15, 1998.

Sec. 6. Laws 1997, chapter 85, article 3, is amended by adding a section to read:

Sec. 58. Minnesota Statutes 1996, section 268.0122, subdivision 5, is amended to read:

Subd. 5. [RULEMAKING.] (a) The commissioner may make emergency and permanent rules to carry out this chapter.

(b) Effective July 1, 1997, the commissioner may make rules to carry out section 256J.51.

Sec. 7. [EFFECTIVE DATE.]

An amendment in this article takes effect at the same time that the section of law that it amends takes effect."

Delete the title and insert:

"A bill for an act relating to family law; modifying provisions and procedures governing child support and maintenance, visitation, and related matters; making complying and technical changes; amending Minnesota Statutes 1996, sections 168A.05, subdivision 8; 171.19; 256.87, by adding a subdivision; 256.978, subdivision 2, as amended; 256.979, subdivisions 5, 6, 7, 8, and by adding a subdivision; 256.9791, subdivision 1; 256.998, subdivisions 3 and 9; 257.75, subdivisions 1a and 4; 518.157; 518.175, subdivision 6; 518.1751; 518.179, subdivision 1; 518.195; 518.54, subdivision 6, as amended; 518.551, subdivisions 5b, 7, 12, as amended, 14, and by adding subdivisions; 518.5511, subdivisions 1, 2, 3, 4, and by adding a subdivision; 518.5512, subdivisions 2, as amended, 3, and by adding a subdivision; 518.553; 518.5852; 518.64, subdivision 2; 518.641, subdivision 2; 518.68, subdivision 2; 518C.305; 518C.306; 518C.307; 518C.605; 518C.606; 519.05; 548.091, subdivision 9, as added; 609.375, by adding a subdivision; 626.556, subdivision 2; and 631.52, subdivision 1; Laws 1997, chapter 85, article 1, sections 16, subdivision 1, as amended; 36, subdivision 2; 43, subdivisions 4 and 5; and 66, subdivision 2; and article 3, by adding a section; S.F. No. 1908, article 6, sections 3, subdivisions 1, 4, 6, and 10; and 5, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 518; repealing Minnesota Statutes 1996, sections 256.996; and 609.375, subdivisions 3, 4, and 6."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Richard J. Cohen, David L. Knutson, Leo T. Foley

House Conferees: (Signed) Matt Entenza, Andy Dawkins, Sherry Broecker

Mr. Cohen moved that the foregoing recommendations and Conference Committee Report on S.F. No. 830 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 830 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Krentz	Olson	Scheid
Beckman	Higgins	Laidig	Ourada	Solon
Belanger	Hottinger	Larson	Pappas	Spear
Berg	Janezich	Lesewski	Pariseau	Stevens
Berglin	Johnson, D.E.	Limmer	Piper	Stumpf
Betzold	Johnson, D.H.	Lourey	Pogemiller	Ten Eyck
Cohen	Johnson, D.J.	Marty	Price	Terwilliger
Day	Johnson, J.B.	Metzen	Robertson	Vickerman
Dille	Junge	Morse	Robling	Wiener
Fischbach	Kelley, S.P.	Murphy	Runbeck	Wiger
Flynn	Kiscaden	Neuville	Sams	
Foley	Kleis	Novak	Samuelson	
Frederickson	Knutson	Oliver	Scheevel	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED**CONFIRMATION**

Mr. Betzold, for Ms. Ranum, moved that the appointments of notaries public, received May 19, 1997, be taken from the table. The motion prevailed.

Mr. Betzold, for Ms. Ranum, moved that the Senate do now consent to and confirm the appointments of the notaries public.

Pursuant to Rule 22, Mr. Foley moved that he be excused from voting on all questions pertaining to the confirmation of notaries public. The motion prevailed.

The question recurred on the adoption of the Betzold motion. The motion prevailed. So the appointments were confirmed.

S.F. No. 234 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 234

A bill for an act relating to human services; adding provisions for licensing programs; imposing and modifying civil penalties; amending Minnesota Statutes 1996, sections 144.057, subdivision 1; 144A.46, subdivision 5; 245A.02, subdivisions 15, 16, and 17, and by adding subdivisions; 245A.03, subdivision 2; 245A.04, subdivisions 3, 3a, 3b, 3c, 4, 5, 6, 7, and by adding a subdivision; 245A.06, subdivisions 1, 3, 4, 5, 5a, 6, and 7; 245A.07, subdivisions 1 and 3; 245A.08, subdivisions 1 and 2; 245A.09, subdivision 7; 245A.11, subdivision 2; 245A.16, subdivision 2; 256E.115; and 364.09; proposing coding for new law in Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 1996, sections 245A.091; 245A.20; 245A.21; and 252.53; Laws 1996, chapter 408, article 10, section 13; Minnesota Rules, parts 4668.0020; 9503.0170, subpart 7; 9525.0215; 9525.0225; 9525.0235; 9525.0243; 9525.0245; 9525.0255; 9525.0265; 9525.0275; 9525.0285; 9525.0295; 9525.0305; 9525.0315; 9525.0325; 9525.0335; 9525.0345; 9525.0355; 9525.0500; 9525.0510; 9525.0520; 9525.0530; 9525.0540; 9525.0550; 9525.0560; 9525.0570; 9525.0580; 9525.0590; 9525.0600; 9525.0610; 9525.0620; 9525.0630; 9525.0640; 9525.0650; 9525.0660; 9525.1240, subpart 1, item E, subitem (6); 9525.1500; 9525.1510; 9525.1520; 9525.1530; 9525.1540; 9525.1550; 9525.1560; 9525.1570; 9525.1590; 9525.1610; 9525.1620; 9525.1630; 9525.1640; 9525.1650; 9525.1660; 9525.1670; 9525.1680; 9525.1690; 9525.2000; 9525.2010; 9525.2020; 9525.2025; 9525.2030; 9525.2040; 9525.2050; 9525.2060; 9525.2070; 9525.2080; 9525.2090; 9525.2100; 9525.2110; 9525.2120; 9525.2130; 9525.2140; 9543.3070; 9555.8000; 9555.8100; 9555.8200; 9555.8300; 9555.8400; and 9555.8500.

May 18, 1997

The Honorable Allan H. Spear
President of the Senate

The Honorable Phil Carruthers
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 234, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 234 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1996, section 144.057, subdivision 1, is amended to read:

Subdivision 1. [BACKGROUND STUDIES REQUIRED.] The commissioner of health shall contract with the commissioner of human services to conduct background studies of:

(1) individuals providing services which have direct contact, as defined under section 245A.04, subdivision 3, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; residential care homes licensed under chapter 144B, and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.17.; and

(2) beginning July 1, 1999, all other employees in nursing homes licensed under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an individual in this section shall disqualify the individual from positions allowing direct contact or access to patients or residents receiving services.

If a facility or program is licensed by the department of human services and subject to the background study provisions of chapter 245A and is also licensed by the department of health, the department of human services is solely responsible for the background studies of individuals in the jointly licensed programs.

Sec. 2. Minnesota Statutes 1996, section 144A.46, subdivision 5, is amended to read:

Subd. 5. [PRIOR CRIMINAL CONVICTIONS.] (a) ~~Before the commissioner issues a an initial or renewal license and, as defined in the home care licensure rules promulgated by the commissioner of health, an owner or managerial official shall be required to disclose all criminal convictions. The commissioner may adopt rules that may require a person who must disclose criminal convictions under this subdivision to provide fingerprints and releases that authorize law enforcement agencies, including the bureau of criminal apprehension and the Federal Bureau of Investigation, to release information about the person's criminal convictions to the commissioner and home care providers. The bureau of criminal apprehension, county sheriffs, and local chiefs of police shall, if requested, provide the commissioner with criminal conviction data available from local, state, and national criminal record repositories, including the criminal justice data communications network complete a background study under section 144.057. No person may be involved in the management, operation, or control of a provider, if the person has been convicted of a crime that relates to the provision of home care services or to the position, duties, or responsibilities undertaken by that person in the operation of the home care provider, unless the person can provide sufficient evidence of rehabilitation. The commissioner shall adopt rules for determining whether a crime relates to home care services and what constitutes sufficient evidence of rehabilitation. The rules must require consideration of the nature and seriousness of the crime; the relationship of the crime to the purposes of home care licensure and regulation; the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the person's position; mitigating circumstances or social conditions surrounding the commission of the crime; the length of time elapsed since the crime was committed; the seriousness of the risk to the home care client's person or property; and other factors the commissioner considers appropriate disqualified under the provisions of chapter 245A. Individuals disqualified under these provisions can request a reconsideration, and if the disqualification is set aside are then eligible to be involved in the management, operation or control of the provider. For purposes of this section, owners of a home care provider subject to the background check requirement are those individuals whose ownership interest provides sufficient authority or control to affect or change decisions related to the operation of the home care provider. An owner includes a sole proprietor, a general partner, or any other individual whose individual ownership interest can affect the management and direction of the policies of the home care provider. For the purposes of this section, managerial officials subject to the background check requirement are those individuals who provide "direct contact" as defined in section 245A.04 or those individuals who have the responsibility for the ongoing management or direction of the policies, services, or employees of the home care provider. Data collected under this subdivision shall be classified as private data under section 13.02, subdivision 12.~~

(b) ~~Employees, contractors, and volunteers of a home care provider or hospice are subject to the background study required by section 144.057. These individuals shall be disqualified under the provisions of chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. Until October 1, 1997, grounds for disqualification shall also include the crimes specified under Minnesota~~

~~Rules, part 4668.0020, subpart 14, or a comparable crime or act in another jurisdiction. Nothing in this section shall be construed to prohibit a home care provider from requiring self-disclosure of criminal conviction information; however, compliance with the provisions of section 144.057 constitutes compliance with the provisions of Minnesota Rules, part 4668.0020, subpart 8.~~

~~(c) Notwithstanding the provisions of Minnesota Rules, part 4668.0020, subparts 12, 13, and 15, disqualifications under paragraph (b), removal from a direct care position, and the process for reconsiderations shall be governed by the provisions of section 144.057.~~

~~(d) Unless superseded by the provisions of section 144.057 or this section, the provisions of Minnesota Rules, part 4668.0020, remain in effect.~~

~~(e) Termination of an employee in good faith reliance on information or records obtained under paragraph (a) or (b) regarding a confirmed conviction does not subject the home care provider to civil liability or liability for reemployment insurance benefits.~~

Sec. 3. Minnesota Statutes 1996, section 245A.02, is amended by adding a subdivision to read:

Subd. 6b. [EXPERIENCE.] For purposes of child care centers, "experience" includes paid or unpaid employment serving children as a teacher, assistant teacher, aide, or a student intern in a licensed child care center, in a public or nonpublic school, or in a program licensed as a family day care or group family day care provider.

Sec. 4. Minnesota Statutes 1996, section 245A.02, subdivision 15, is amended to read:

Subd. 15. [RESPITE CARE SERVICES.] "Respite care services" means temporary services provided to a person due to the absence or need for relief of the primary caregiver, the person's family member, or legal representative who is the primary caregiver and principally responsible for the care and supervision of the person. Respite care services are those that provide the level of supervision and care that is necessary to ensure the health and safety of the person. Respite care services do not include services that are specifically directed toward the training and habilitation of the person.

Sec. 5. Minnesota Statutes 1996, section 245A.02, subdivision 16, is amended to read:

Subd. 16. [SCHOOL AGE CHILD.] "School age child," for programs licensed or required to be licensed as a child care center, means a child who is at least of sufficient age to have attended the first day of kindergarten, or is eligible to enter kindergarten within the next four months, but is younger than 13 years of age.

Sec. 6. Minnesota Statutes 1996, section 245A.02, subdivision 17, is amended to read:

Subd. 17. [SCHOOL AGE CHILD CARE PROGRAM.] "School age child care program" means a nonresidential program licensed or required to be licensed as a child care center, serving more than ten children with the primary purpose of providing child care for school age children. School age child care program does not include programs such as scouting, boys clubs, girls clubs, nor sports or art programs.

Sec. 7. Minnesota Statutes 1996, section 245A.02, is amended by adding a subdivision to read:

Subd. 18. [SUPERVISION.] For purposes of child care centers, "supervision" means when a program staff person is within sight and hearing of a child at all times so that the program staff can intervene to protect the health and safety of the child. When an infant is placed in a crib room to sleep, supervision occurs when a staff person is within sight or hearing of the infant. When supervision of a crib room is provided by sight or hearing, the center must have a plan to address the other supervision component.

Sec. 8. [245A.023] [IN-SERVICE TRAINING.]

For purposes of child care centers, in-service training must be completed within the license period for which it is required. In-service training completed by staff persons as required must be

transferable upon a staff person's change in employment to another child care program. License holders shall record all staff in-service training on forms prescribed by the commissioner of human services.

Sec. 9. Minnesota Statutes 1996, section 245A.03, subdivision 2, is amended to read:

Subd. 2. [EXCLUSION FROM LICENSURE.] Sections 245A.01 to 245A.16 do not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related unless the residential program is a foster care placement made by a local social services agency or a licensed child-placing agency, except as provided in subdivision 2a;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, mental retardation or a related condition, a functional impairment, or a physical handicap;

(4) sheltered workshops or work activity programs that are certified by the commissioner of economic security;

(5) programs for children enrolled in kindergarten to the 12th grade and prekindergarten special education in a school as defined in section 120.101, subdivision 4, and programs serving children in combined special education and regular prekindergarten programs that are operated or assisted by the commissioner of children, families, and learning;

(6) nonresidential programs primarily for children that provide care or supervision, without charge for ten or fewer days a year, and for periods of less than three hours a day while the child's parent or legal guardian is in the same building as the nonresidential program or present within another building that is directly contiguous to the building in which the nonresidential program is located;

(7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;

(8) board and lodge facilities licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness who have refused an appropriate residential program offered by a county agency. This exclusion expires on July 1, 1990;

(9) homes providing programs for persons placed there by a licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that operate for fewer than 40 calendar days in a calendar year or programs operated by a park and recreation board of a city of the first class whose primary purpose is to provide social and recreational activities to school age children, provided the program is approved by the park and recreation board;

(12) programs operated by a school as defined in section 120.101, subdivision 4, whose primary purpose is to provide child care to school-age children, provided the program is approved by the district's school board;

(13) head start nonresidential programs which operate for less than 31 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or mental retardation;

(15) nonresidential programs for nonhandicapped children provided for a cumulative total of less than 30 days in any 12-month period;

(16) residential programs for persons with mental illness, that are located in hospitals, until the commissioner adopts appropriate rules;

(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;

(18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;

(19) mental health outpatient services for adults with mental illness or children with emotional disturbance;

(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules;

(21) unrelated individuals who provide out-of-home respite care services to persons with mental retardation or related conditions from a single related family for no more than 90 days in a 12-month period and the respite care services are for the temporary relief of the person's family or legal representative;

(22) respite care services provided as a home and community-based service to a person with mental retardation or a related condition, in the person's primary residence;

(23) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17; or

(24) the placement of a child by a birth parent or legal guardian in a preadoptive home for purposes of adoption as authorized by section 259.47.

For purposes of clause (6), a building is directly contiguous to a building in which a nonresidential program is located if it shares a common wall with the building in which the nonresidential program is located or is attached to that building by skyway, tunnel, atrium, or common roof.

Sec. 10. Minnesota Statutes 1996, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [BACKGROUND STUDY OF THE APPLICANT.] (a) Before the commissioner issues a license, the commissioner shall conduct a study of the individuals specified in paragraph (c), clauses (1) to (5), according to rules of the commissioner.

Beginning January 1, 1997, the commissioner shall also conduct a study of employees providing direct contact services for nonlicensed personal care provider organizations described in paragraph (c), clause (5).

The commissioner shall recover the cost of these background studies through a fee of no more than \$12 per study charged to the personal care provider organization.

Beginning August 1, 1997, the commissioner shall conduct all background studies required under this chapter for adult foster care providers who are licensed by the commissioner of human services and registered under chapter 144D. The commissioner shall conduct these background studies in accordance with this chapter. The commissioner shall initiate a pilot project to conduct up to 5,000 background studies under this chapter in programs with joint licensure as home- and community-based services and adult foster care for people with developmental disabilities when the license holder does not reside in the foster care residence.

(b) Beginning July 1, 1997 1998, the commissioner shall conduct a background study on individuals specified in paragraph (c), clauses (1) to (5), who perform direct contact services in a nursing home or a home care agency licensed under chapter 144A or a boarding care home licensed under sections 144.50 to 144.58, when the subject of the study resides outside Minnesota; the study must be at least as comprehensive as that of a Minnesota resident and include a search of information from the criminal justice data communications network in the state where the subject of the study resides.

(c) The applicant, license holder, the bureau of criminal apprehension, the commissioner of health and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about the maltreatment of adults substantiated under section 626.557 and the maltreatment of minors in licensed programs substantiated under section 626.556. The individuals to be studied shall include:

- (1) the applicant;
- (2) persons over the age of 13 living in the household where the licensed program will be provided;
- (3) current employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;
- (4) volunteers or student volunteers who have direct contact with persons served by the program to provide program services, if the contact is not directly supervised by the individuals listed in clause (1) or (3); and
- (5) any person who, as an individual or as a member of an organization, exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, and 256B.0625, subdivision 19.

The juvenile courts shall also help with the study by giving the commissioner existing juvenile court records on individuals described in clause (2) relating to delinquency proceedings held within either the five years immediately preceding the application or the five years immediately preceding the individual's 18th birthday, whichever time period is longer. The commissioner shall destroy juvenile records obtained pursuant to this subdivision when the subject of the records reaches age 23.

For purposes of this section and Minnesota Rules, part 9543.3070, a finding that a delinquency petition is proven in juvenile court shall be considered a conviction in state district court.

For purposes of this subdivision, "direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by a program. For purposes of this subdivision, "directly supervised" means an individual listed in clause (1), (3), or (5) is within sight or hearing of a volunteer to the extent that the individual listed in clause (1), (3), or (5) is capable at all times of intervening to protect the health and safety of the persons served by the program who have direct contact with the volunteer.

A study of an individual in clauses (1) to (5) shall be conducted at least upon application for initial license and reapplication for a license. The commissioner is not required to conduct a study of an individual at the time of reapplication for a license or if the individual has been continuously affiliated with a foster care provider licensed by the commissioner of human services and registered under chapter 144D, other than a family day care or foster care license, if: (i) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder; (ii) the individual has been continuously affiliated with the license holder since the last study was conducted; and (iii) the procedure described in paragraph (d) has been implemented and was in effect continuously since the last study was conducted. For the purposes of this section, a physician licensed under chapter 147 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's background study results. For individuals who are required to have background studies under clauses (1) to (5) and who have been continuously affiliated with a foster care provider that is licensed in more than one county, criminal conviction data may be shared among those counties in which the foster care programs are licensed. A county agency's receipt of criminal conviction data from another county agency shall meet the criminal data background study requirements of this section.

The commissioner may also conduct studies on individuals specified in clauses (3) and (4) when the studies are initiated by:

- (i) personnel pool agencies;

(ii) temporary personnel agencies;

(iii) educational programs that train persons by providing direct contact services in licensed programs; and

(iv) professional services agencies that are not licensed and which contract with licensed programs to provide direct contact services or individuals who provide direct contact services.

Studies on individuals in items (i) to (iv) must be initiated annually by these agencies, programs, and individuals. Except for personal care provider organizations, no applicant, license holder, or individual who is the subject of the study shall pay any fees required to conduct the study.

(1) At the option of the licensed facility, rather than initiating another background study on an individual required to be studied who has indicated to the licensed facility that a background study by the commissioner was previously completed, the facility may make a request to the commissioner for documentation of the individual's background study status, provided that:

(i) the facility makes this request using a form provided by the commissioner;

(ii) in making the request the facility informs the commissioner that either:

(A) the individual has been continuously affiliated with a licensed facility since the individual's previous background study was completed, or since October 1, 1995, whichever is shorter; or

(B) the individual is affiliated only with a personnel pool agency, a temporary personnel agency, an educational program that trains persons by providing direct contact services in licensed programs, or a professional services agency that is not licensed and which contracts with licensed programs to provide direct contact services or individuals who provide direct contact services; and

(iii) the facility provides notices to the individual as required in paragraphs (a) to (d), and that the facility is requesting written notification of the individual's background study status from the commissioner.

(2) The commissioner shall respond to each request under paragraph (1) with a written or electronic notice to the facility and the study subject. If the commissioner determines that a background study is necessary, the study shall be completed without further request from a licensed agency or notifications to the study subject.

(3) When a background study is being initiated by a licensed facility or a foster care provider that is also registered under chapter 144D, a study subject affiliated with multiple licensed facilities may attach to the background study form a cover letter indicating the additional facilities' names, addresses, and background study identification numbers. When the commissioner receives such notices, each facility identified by the background study subject shall be notified of the study results. The background study notice sent to the subsequent agencies shall satisfy those facilities' responsibilities for initiating a background study on that individual.

(d) If an individual who is affiliated with a program or facility regulated by the department of human services or department of health or who is affiliated with a nonlicensed personal care provider organization, is convicted of a crime constituting a disqualification under Minnesota Rules, parts 9543.3000 to 9543.3090 subdivision 3d, the probation officer or corrections agent shall notify the commissioner of the conviction. The commissioner, in consultation with the commissioner of corrections, shall develop forms and information necessary to implement this paragraph and shall provide the forms and information to the commissioner of corrections for distribution to local probation officers and corrections agents. The commissioner shall inform individuals subject to a background study that criminal convictions for disqualifying crimes will be reported to the commissioner by the corrections system. A probation officer, corrections agent, or corrections agency is not civilly or criminally liable for disclosing or failing to disclose the information required by this paragraph. Upon receipt of disqualifying information, the commissioner shall provide the notifications required in subdivision 3a, as appropriate to agencies on record as having initiated a background study or making a request for documentation of the

background study status of the individual. This paragraph does not apply to family day care and child foster care programs.

(e) The individual who is the subject of the study must provide the applicant or license holder with sufficient information to ensure an accurate study including the individual's first, middle, and last name; home address, city, county, and state of residence for the past five years; zip code; sex; date of birth; and driver's license number. The applicant or license holder shall provide this information about an individual in paragraph (c), clauses (1) to (5), on forms prescribed by the commissioner. By January 1, 2000, for background studies conducted by the department of human services, the commissioner shall implement a system for the electronic transmission of: (1) background study information to the commissioner; and (2) background study results to the license holder. The commissioner may request additional information of the individual, which shall be optional for the individual to provide, such as the individual's social security number or race.

(f) Except for child foster care, adult foster care, and family day care homes, a study must include information related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (i), and the commissioner's records relating to the maltreatment of minors in licensed programs, information from juvenile courts as required in paragraph (c) for persons listed in paragraph (c), clause (2), and information from the bureau of criminal apprehension. For child foster care, adult foster care, and family day care homes, the study must include information from the county agency's record of substantiated maltreatment of adults, and the maltreatment of minors, information from juvenile courts as required in paragraph (c) for persons listed in paragraph (c), clause (2), and information from the bureau of criminal apprehension. The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, the commissioner of health, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or the Federal Bureau of Investigation if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual listed in paragraph (c), clauses (1) to (5). The commissioner is not required to conduct more than one review of a subject's records from the Federal Bureau of Investigation if a review of the subject's criminal history with the Federal Bureau of Investigation has already been completed by the commissioner and there has been no break in the subject's affiliation with the license holder who initiated the background studies.

When the commissioner has reasonable cause to believe that further pertinent information may exist on the subject, the subject shall provide a set of classifiable fingerprints obtained from an authorized law enforcement agency. For purposes of requiring fingerprints, the commissioner shall be considered to have reasonable cause under, but not limited to, the following circumstances:

(1) information from the bureau of criminal apprehension indicates that the subject is a multistate offender;

(2) information from the bureau of criminal apprehension indicates that multistate offender status is undetermined; or

(3) the commissioner has received a report from the subject or a third party indicating that the subject has a criminal history in a jurisdiction other than Minnesota.

(g) An applicant's or license holder's failure or refusal to cooperate with the commissioner is reasonable cause to disqualify a subject, deny an a license application or immediately suspend, suspend, or revoke a license. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended, suspended, or revoked.

(h) The commissioner shall not consider an application to be complete until all of the information required to be provided under this subdivision has been received.

(i) No person in paragraph (c), clause (1), (2), (3), (4), or (5) who is disqualified as a result of

this section may be retained by the agency in a position involving direct contact with persons served by the program.

(j) Termination of persons in paragraph (c), clause (1), (2), (3), (4), or (5), made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.

(k) The commissioner may establish records to fulfill the requirements of this section.

(l) The commissioner may not disqualify an individual subject to a study under this section because that person has, or has had, a mental illness as defined in section 245.462, subdivision 20.

~~(m) An individual who is subject to an applicant background study under this section and whose disqualification in connection with a license would be subject to the limitations on reconsideration set forth in subdivision 3b, paragraph (c), shall be disqualified for conviction of the crimes specified in the manner specified in subdivision 3b, paragraph (c). The commissioner of human services shall amend Minnesota Rules, part 9543.3070, to conform to this section.~~

~~(n) An individual subject to disqualification under this subdivision has the applicable rights in subdivision 3a, 3b, or 3c.~~

Sec. 11. Minnesota Statutes 1996, section 245A.04, subdivision 3a, is amended to read:

Subd. 3a. [NOTIFICATION TO SUBJECT AND LICENSE HOLDER OF STUDY RESULTS; DETERMINATION OF RISK OF HARM.] (a) The commissioner shall notify the applicant or license holder and the individual who is the subject of the study, in writing or by electronic transmission, of the results of the study. When the study is completed, a notice that the study was undertaken and completed shall be maintained in the personnel files of the program.

The commissioner shall notify the individual studied if the information in the study indicates the individual is disqualified from direct contact with persons served by the program. The commissioner shall disclose the information causing disqualification and instructions on how to request a reconsideration of the disqualification to the individual studied. An applicant or license holder who is not the subject of the study shall be informed that the commissioner has found information that disqualifies the subject from direct contact with persons served by the program. However, ~~the applicant or license holder shall not be told what that information is only the individual studied must be informed of the information contained in the subject's background study unless the only basis for the disqualification is failure to cooperate, the data practices act provides for release of the information, or the individual studied authorizes the release of the information.~~

(b) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact. The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm: the recency of the disqualifying characteristic, the recency of discharge from probation for the crimes; the number of disqualifying characteristics; the intrusiveness or violence of the disqualifying characteristic; the vulnerability of the victim involved in the disqualifying characteristic; and the similarity of the victim to the persons served by the program where the individual studied will have direct contact. The commissioner may determine that the evaluation of the information immediately available gives the commissioner reason to believe one of the following:

(1) The individual poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact. If the commissioner determines that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact, the individual and the license holder must be sent a notice of disqualification. The commissioner shall order the license holder to immediately remove the individual studied from direct contact. The notice to the individual studied must include an explanation of the basis of this determination.

(2) The individual poses a risk of harm requiring continuous supervision while providing direct contact services during the period in which the subject may request a reconsideration. If the commissioner determines that an individual studied poses a risk of harm that requires continuous supervision, the individual and the license holder must be sent a notice of disqualification. The commissioner shall order the license holder to immediately remove the individual studied from direct contact services or assure that the individual studied is within sight or hearing of another staff person when providing direct contact services during the period in which the individual may request a reconsideration of the disqualification. If the individual studied does not submit a timely request for reconsideration, or the individual submits a timely request for reconsideration, but the disqualification is not set aside for that license holder, the license holder will be notified of the disqualification and ordered to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder.

(3) The individual does not pose an imminent risk of harm or a risk of harm requiring continuous supervision while providing direct contact services during the period in which the subject may request a reconsideration. If the commissioner determines that an individual studied does not pose a risk of harm that requires continuous supervision, only the individual must be sent a notice of disqualification. The license holder must be sent a notice that more time is needed to complete the individual's background study. If the individual studied submits a timely request for reconsideration, and if the disqualification is set aside for that license holder, the license holder will receive the same notification received by license holders in cases where the individual studied has no disqualifying characteristic. If the individual studied does not submit a timely request for reconsideration, or the individual submits a timely request for reconsideration, but the disqualification is not set aside for that license holder, the license holder will be notified of the disqualification and ordered to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder.

Sec. 12. Minnesota Statutes 1996, section 245A.04, subdivision 3b, is amended to read:

Subd. 3b. ~~[RECONSIDERATION OF DISQUALIFICATION.] (a) Within 30 days after receiving notice of disqualification under subdivision 3a,~~ The individual who is the subject of the study ~~disqualification may request a reconsideration of the notice of disqualification.~~

The individual must submit the request for reconsideration to the commissioner in writing. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (1) or (2), must be submitted within 30 calendar days of the disqualified individual's receipt of the notice of disqualification. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (3), must be submitted within 15 calendar days of the disqualified individual's receipt of the notice of disqualification. Removal of a disqualified individual from direct contact shall be ordered if the individual does not request reconsideration within the prescribed time, and for an individual who submits a timely request for reconsideration, if the disqualification is not set aside. The individual must present information to show showing that:

(1) the information the commissioner relied upon is incorrect or inaccurate. If the basis of a reconsideration request is that a maltreatment determination or disposition under section 626.556 or 626.557 is incorrect, and the commissioner has issued a final order in an appeal of that determination or disposition under section 256.045, the commissioner's order is conclusive on the issue of maltreatment; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant or license holder.

(b) The commissioner may set aside the disqualification under this section if the commissioner finds that the information the commissioner relied upon is incorrect or the individual does not pose a risk of harm to any person served by the applicant or license holder. In determining that an individual does not pose a risk of harm, the commissioner shall review consider the consequences of the event or events that could lead to disqualification, whether there is more than one disqualifying event, the vulnerability of the victim at the time of the event, the time elapsed without a repeat of the same or similar event, and documentation of successful completion by the

individual studied of training or rehabilitation pertinent to the event, and any other information relevant to reconsideration. In reviewing a disqualification under this section, the commissioner shall give preeminent weight to the safety of each person to be served by the license holder or applicant over the interests of the license holder or applicant.

(c) Unless the information the commissioner relied on in disqualifying an individual is incorrect, the commissioner may not set aside the disqualification of an individual in connection with a license to provide family day care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home if:

(1) less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has been convicted of a violation of any offense listed in section sections 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury), 609.215 (aiding suicide or aiding attempted suicide), felony violations under 609.221 to 609.2231 (felony violations of assault in the first, second, third, or fourth degree), 609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.561 or 609.562 (arson in the first or second degree), 609.71 (riot), burglary in the first or second degree under 609.582 (burglary in the first or second degree), 609.66 (reckless use of a gun or dangerous weapon or intentionally pointing a gun at or towards a human being), 609.665 (setting a spring gun guns), 609.67 (unlawfully owning, possessing, or operating a machine gun guns and short-barreled shotguns), 609.749 (harassment; stalking), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult), 609.228 (great bodily harm caused by distribution of drugs), 609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients), 609.2325 (criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult), 609.2335 (financial exploitation of a vulnerable adult), 609.234 (failure to report), 609.265 (abduction), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), 609.378 (neglect or endangerment of a child), a gross misdemeanor offense under 609.377 (a gross misdemeanor offense of malicious punishment of a child), 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state, the elements of which are substantially similar to the elements of any of the foregoing offenses;

(2) regardless of how much time has passed since the discharge of the sentence imposed for the offense, the individual was convicted of a violation of any offense listed in sections 609.185 to 609.195 (murder in the first, second, or third degree), 609.2661 to 609.2663 (murder of an unborn child in the first, second, or third degree), a felony offense under 609.377 (a felony offense of malicious punishment of a child), 609.322 (~~soliciting~~ solicitation, inducement, or and promotion of prostitution), 609.323 (receiving profit derived from prostitution), 609.342 to 609.345 (criminal sexual conduct in the first, second, third, or fourth degree), 609.352 (solicitation of children to engage in sexual conduct), 617.246 (use of minors in a sexual performance), 617.247 (possession of pictorial representations of a minor), 609.365 (incest), or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state, the elements of which are substantially similar to any of the foregoing offenses;

(3) within the seven years preceding the study, the individual committed an act that constitutes maltreatment of a child under section 626.556, subdivision 10e, and that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(4) within the seven years preceding the study, the individual was determined under section 626.557 to be the perpetrator of a substantiated incident of abuse maltreatment of a vulnerable

adult that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

In the case of any ground for disqualification under clauses (1) to (4), if the act was committed by an individual other than the applicant or license holder residing in the applicant's or license holder's home, the applicant or license holder may seek reconsideration when the individual who committed the act no longer resides in the home.

The disqualification periods provided under clauses (1), (3), and (4) are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure because the license holder or applicant poses a risk of harm to a person served by that individual after the minimum disqualification period has passed.

(d) The commissioner shall respond in writing or by electronic transmission to all reconsideration requests for which the basis for the request is that the information relied upon by the commissioner to disqualify is incorrect or inaccurate within 30 working days of receipt of a request and all relevant information. If the basis for the request is that the individual does not pose a risk of harm, the commissioner shall respond to the request within 15 working days after receiving the request for reconsideration and all relevant information. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing or by electronic transmission of the decision.

(e) Except as provided in subdivision 3c, the commissioner's decision to disqualify an individual, including the decision to grant or deny a reconsideration or set aside a disqualification under this subdivision, ~~or to set aside or uphold the results of the study under subdivision 3~~ this section, is the final administrative agency action and shall not be subject to further review in a contested case under chapter 14 involving a negative licensing action appeal taken in response to the disqualification or involving an accuracy and completeness appeal under section 13.04.

Sec. 13. Minnesota Statutes 1996, section 245A.04, subdivision 3c, is amended to read:

Subd. 3c. [CONTESTED CASE.] If a disqualification is not set aside, a person who, ~~on or after the effective date of rules adopted under subdivision 3, paragraph (i),~~ is an employee of an employer, as defined in section 179A.03, subdivision 15, may request a contested case hearing under chapter 14. Rules adopted under this chapter may not preclude an employee in a contested case hearing for disqualification from submitting evidence concerning information gathered under subdivision 3, paragraph (e).

Sec. 14. Minnesota Statutes 1996, section 245A.04, is amended by adding a subdivision to read:

Subd. 3d. [DISQUALIFICATION.] When a background study completed under subdivision 3 shows any of the following: a conviction of one or more crimes listed in clauses (1) to (4); the individual has admitted to or a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in clauses (1) to (4); or an administrative determination listed under clause (4), the individual shall be disqualified from any position allowing direct contact with persons receiving services from the license holder:

(1) regardless of how much time has passed since the discharge of the sentence imposed for the offense, and unless otherwise specified, regardless of the level of the conviction, the individual was convicted of any of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of prostitution); 609.323 (receiving profit derived from prostitution); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest);

felony offense under 609.377 (malicious punishment of a child); 617.246 (use of minors in sexual performance prohibited); 617.247 (possession of pictorial representations of minors); or attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state or country, where the elements are substantially similar to any of the offenses listed in this clause;

(2) if less than 15 years have passed since the discharge of the sentence imposed for the offense; and the individual has received a felony conviction for a violation of any of these offenses: sections 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.221 to 609.2231 (assault in the first, second, third, or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); 609.2242 and 609.2243 (domestic assault; sentencing; repeat domestic assault); repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree); 609.713 (terroristic threats); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.563 (arson in the third degree); repeat offenses under 617.23 (indecent exposure; penalties); repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 609.71 (riot); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.749 (harassment; stalking; penalties); 609.228 (great bodily harm caused by distribution of drugs); 609.2325 (criminal abuse of a vulnerable adult); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.378 (neglect or endangerment of a child); 609.324, subdivision 1 (other prohibited acts); 609.52 (theft); 609.2335 (financial exploitation of a vulnerable adult); 609.521 (possession of shoplifting gear); 609.582 (burglary); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.27 (coercion); 609.275 (attempt to coerce); 609.687 (adulteration); 260.221 (grounds for termination of parental rights); and chapter 152 (drugs; controlled substance). An attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses in this clause. If the individual studied is convicted of one of the felonies listed in this clause, but the sentence is a gross misdemeanor or misdemeanor disposition, the look-back period for the conviction is the period applicable to the disposition, that is the period for gross misdemeanors or misdemeanors;

(3) if less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has received a gross misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 and 609.2243 (domestic assault); violation of an order for protection under 518B.01, subdivision 14; 609.3451 (criminal sexual conduct in the fifth degree); repeat offenses under 609.746 (interference with privacy); repeat offenses under 617.23 (indecent exposure); 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.71 (riot); 609.66 (dangerous weapons); 609.749 (harassment; stalking; penalties); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); 609.265 (abduction); 609.378 (neglect or endangerment of a child); 609.377 (malicious punishment of a child); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.52 (theft); 609.582 (burglary); 609.631 (check forgery; offering a forged check); 609.275 (attempt to coerce); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause. If the defendant is convicted of one of the gross misdemeanors listed in this clause, but the sentence is a misdemeanor disposition, the look-back period for the conviction is the period applicable to misdemeanors;

(4) if less than seven years have passed since the discharge of the sentence imposed for the offense; and the individual has received a misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 (domestic assault); violation of an order for protection under 518B.01 (domestic abuse act); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.746 (interference with privacy); 609.79 (obscene or harassing phone calls); 609.795 (letter, telegram, or package; opening; harassment); 617.23 (indecent exposure; penalties); 609.2672 (assault of an unborn child in the third degree); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.66 (dangerous weapons); 609.665 (spring guns); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.52 (theft); 609.27 (coercion); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause; failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or substantiated serious or recurring maltreatment of a minor under section 626.556 or of a vulnerable adult under section 626.557 for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment. For the purposes of this section, serious maltreatment means sexual abuse; maltreatment resulting in death; or maltreatment resulting in serious injury which reasonably requires the care of a physician whether or not the care of a physician was sought, including: bruises, bites, skin laceration or tissue damage; fractures; dislocations; evidence of internal injuries; head injuries with loss of consciousness; extensive second-degree or third-degree burns and other burns for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyeball; ingestion of foreign substances and objects that are harmful; near drowning; and heat exhaustion or sunstroke. For the purposes of this section, recurring maltreatment means more than one incident of maltreatment for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment.

Sec. 15. Minnesota Statutes 1996, section 245A.04, subdivision 4, is amended to read:

Subd. 4. [INSPECTIONS; WAIVER.] (a) Before issuing a an initial license, the commissioner shall conduct an inspection of the program. The inspection must include but is not limited to:

- (1) an inspection of the physical plant;
- (2) an inspection of records and documents;
- (3) an evaluation of the program by consumers of the program; and
- (4) observation of the program in operation.

For the purposes of this subdivision, "consumer" means a person who receives the services of a licensed program, the person's legal guardian, or the parent or individual having legal custody of a child who receives the services of a licensed program.

(b) The evaluation required in paragraph (a), clause (3) or the observation in paragraph (a), clause (4) is not required prior to issuing a provisional an initial license under subdivision 7. If the commissioner issues a provisional an initial license under subdivision 7, these requirements must be completed within one year after the issuance of a provisional an initial license. ~~The observation in paragraph (a), clause (4) is not required if the commissioner determines that the observation would hinder the persons receiving services in benefiting from the program.~~

Sec. 16. Minnesota Statutes 1996, section 245A.04, subdivision 5, is amended to read:

Subd. 5. [COMMISSIONER'S RIGHT OF ACCESS.] When the commissioner is exercising the powers conferred by sections 245A.01 to 245A.15 this chapter, the commissioner must be given access to the physical plant and grounds where the program is provided, documents, persons served by the program, and staff whenever the program is in operation and the information is

relevant to inspections or investigations conducted by the commissioner. The commissioner must be given access without prior notice and as often as the commissioner considers necessary if the commissioner is conducting an investigation of allegations of ~~abuse, neglect, maltreatment,~~ or other violation of applicable laws or rules. In conducting inspections, the commissioner may request and shall receive assistance from other state, county, and municipal governmental agencies and departments. The applicant or license holder shall allow the commissioner to photocopy, photograph, and make audio and video tape recordings during the inspection of the program at the commissioner's expense. The commissioner shall obtain a court order or the consent of the subject of the records or the parents or legal guardian of the subject before photocopying hospital medical records.

Persons served by the program have the right to refuse to consent to be interviewed, photographed, or audio or videotaped. Failure or refusal of an applicant or license holder to fully comply with this subdivision is reasonable cause for the commissioner to deny the application or immediately suspend or revoke the license.

Sec. 17. Minnesota Statutes 1996, section 245A.04, subdivision 6, is amended to read:

Subd. 6. [COMMISSIONER'S EVALUATION.] Before granting, suspending, revoking, or making ~~probationary~~ conditional a license, the commissioner shall evaluate information gathered under this section. ~~The commissioner's evaluation shall consider facts, conditions, or circumstances concerning the program's operation, the well-being of persons served by the program, available consumer evaluations of the program, and information about the qualifications of the personnel employed by the applicant or license holder.~~

~~The commissioner shall evaluate the results of the study required in subdivision 3 and determine whether a risk of harm to the persons served by the program exists. In conducting this evaluation, the commissioner shall apply the disqualification standards set forth in rules adopted under this chapter. Prior to the adoption of rules establishing disqualification standards, the commissioner shall forward the proposed rules to the commissioner of human rights for review and recommendation concerning the protection of individual rights. The recommendation of the commissioner of human rights is not binding on the commissioner of human services.~~

Sec. 18. Minnesota Statutes 1996, section 245A.04, subdivision 7, is amended to read:

Subd. 7. [ISSUANCE OF A LICENSE; PROVISIONAL EXTENSION OF A LICENSE.] (a) If the commissioner determines that the program complies with all applicable rules and laws, the commissioner shall issue a license. At minimum, the license shall state:

- (1) the name of the license holder;
- (2) the address of the program;
- (3) the effective date and expiration date of the license;
- (4) the type of license;
- (5) the maximum number and ages of persons that may receive services from the program; and
- (6) any special conditions of licensure.

(b) The commissioner may issue a ~~provisional~~ an initial license for a period not to exceed ~~one year~~ two years if:

- (1) the commissioner is unable to conduct the evaluation or observation required by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet operational;
- (2) certain records and documents are not available because persons are not yet receiving services from the program; and
- (3) the applicant complies with applicable laws and rules in all other respects.

~~A provisional license must not be issued except at the time that a license is first issued to an applicant.~~

(c) A decision by the commissioner to issue a license does not guarantee that any person or persons will be placed or cared for in the licensed program. A license shall not be transferable to another individual, corporation, partnership, voluntary association, other organization, or controlling or to another location.

For purposes of reimbursement for meals only, under the Child and Adult Care Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A, part 226, relocation within the same county by a licensed family day care provider, shall be considered an extension of the license for a period of no more than 30 calendar days or until the new license is issued, whichever occurs first, provided the county agency has determined the family day care provider meets licensure requirements at the new location.

Unless otherwise specified by statute, all licenses expire at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must apply for and be granted a new license to operate the program or the program must not be operated after the expiration date.

Sec. 19. Minnesota Statutes 1996, section 245A.06, subdivision 1, is amended to read:

Subdivision 1. ~~[CONTENTS OF CORRECTION ORDERS OR FINES.]~~ (a) If the commissioner finds that the applicant or license holder has failed to comply with an applicable law or rule and this failure does not imminently endanger the health, safety, or rights of the persons served by the program, the commissioner may issue a correction order to or impose a fine on the applicant or license holder. The correction order or fine must state:

- (1) the conditions that constitute a violation of the law or rule;
- (2) the specific law or rule violated; and
- (3) the time allowed to correct each violation; and
- (4) if a fine is imposed, the amount of the fine.

(b) Nothing in this section prohibits the commissioner from proposing a sanction as specified in section 245A.07, prior to issuing a correction order or fine.

Sec. 20. Minnesota Statutes 1996, section 245A.06, subdivision 3, is amended to read:

Subd. 3. ~~[FAILURE TO COMPLY.]~~ If ~~upon reinspection,~~ the commissioner finds that the applicant or license holder has not corrected the violations specified in the correction order, the commissioner may ~~order~~ impose a fine. ~~If a fine was imposed and the violation was not corrected, the commissioner may impose an additional fine.~~ This section does not prohibit the commissioner from seeking a court order, denying an application, or suspending, revoking, or making ~~probationary conditional~~ the license in addition to ~~ordering~~ imposing a fine.

Sec. 21. Minnesota Statutes 1996, section 245A.06, subdivision 4, is amended to read:

Subd. 4. ~~[NOTICE OF FINE; APPEAL RECONSIDERATION OF FINE.]~~ A license holder who is ordered to pay a fine must be notified of the order by certified mail. The notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the fine was ordered and must inform the license holder of the responsibility for payment of fines in subdivision 7 and the right to ~~a contested case hearing under chapter 14~~ request reconsideration of the fine. The license holder may ~~appeal request reconsideration of the order to forfeit a fine by notifying the commissioner by certified mail within 15 20 calendar days after receiving the order.~~ A timely ~~appeal request for reconsideration shall stay forfeiture of the fine until the commissioner issues a final order under section 245A.08, subdivision 5~~ decision on the request for reconsideration. The request for reconsideration must be in writing and:

- (1) specify the parts of the violation that are alleged to be in error;
- (2) explain why they are in error;
- (3) include documentation to support the allegation of error; and
- (4) any other information relevant to the fine or the amount of the fine.

The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

Sec. 22. Minnesota Statutes 1996, section 245A.06, subdivision 5, is amended to read:

Subd. 5. [FORFEITURE OF FINES.] The license holder shall pay the fines assessed on or before the payment date specified in the commissioner's order. If the license holder fails to fully comply with the order, the commissioner shall issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine.

Sec. 23. Minnesota Statutes 1996, section 245A.06, subdivision 5a, is amended to read:

Subd. 5a. [ACCRUAL OF FINES.] A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in an order to forfeit is corrected. ~~A fine assessed for a violation shall stop accruing when the commissioner receives the written notice. The commissioner shall reinspect the program within three working days after receiving the notice.~~ If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit, ~~accrual of the daily fine resumes on the date of reinspection and the amount of fines that otherwise would have accrued between the date the commissioner received the notice and date of the reinspection is added to the total assessment due from the license holder~~ the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail that ~~accrual of the a second fine has resumed~~ been assessed. The license holder may challenge the resumption in a contested case under chapter 14 by written request within 15 days after receipt of the notice of resumption. ~~Recovery of the resumed fine must be stayed if a controlling individual or a legal representative on behalf of the license holder makes a written request for a hearing. The request for hearing, however, may not stay accrual of the daily fine for violations that have not been corrected. The cost of reinspection conducted under this subdivision for uncorrected violations must be added to the total amount of accrued fines due from the license holder~~ request reconsideration of the second fine under the provisions of subdivision 4.

Sec. 24. Minnesota Statutes 1996, section 245A.06, subdivision 6, is amended to read:

Subd. 6. [AMOUNT OF FINES.] ~~Until the commissioner adopts one or more schedules of fines,~~ Fines shall be assessed as follows:

(1) the license holder shall forfeit \$1,000 for each occurrence of violation of law or rule prohibiting the maltreatment of children or the ~~abuse, neglect, or exploitation~~ maltreatment of vulnerable adults, including but not limited to corporal punishment, illegal or unauthorized use of physical, mechanical, or chemical restraints, and illegal or unauthorized use of aversive or deprivation procedures;

(2) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff to child or adult ratios, ~~except that the holder of a family or group family day care license shall forfeit \$100 for a violation under this clause;~~ and

(3) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those included in clauses (1) and (2), ~~except that the holder of a family or group family day care license shall forfeit \$50 for a violation under this clause.~~

For the purposes of this section, "occurrence" means each ~~calendar day or part of a day that a violation continues to exist after the date set for correction~~ identified in the commissioner's correction forfeiture order.

Sec. 25. Minnesota Statutes 1996, section 245A.06, subdivision 7, is amended to read:

Subd. 7. [RESPONSIBILITY FOR PAYMENT OF FINES.] When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.

Fines for child care centers must be assessed according to this section.

Sec. 26. Minnesota Statutes 1996, section 245A.07, subdivision 1, is amended to read:

Subdivision 1. [SANCTIONS AVAILABLE.] In addition to ordering forfeiture of fines, the commissioner may propose to suspend, revoke, or make ~~probationary conditional~~ the license or secure an injunction against the continuing operation of the program of a license holder who does not comply with applicable law or rule. When applying sanctions authorized under this section, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program.

Sec. 27. Minnesota Statutes 1996, section 245A.07, subdivision 3, is amended to read:

Subd. 3. [SUSPENSION, REVOCATION, ~~PROBATION DENIAL OF CONDITIONAL LICENSE.~~] The commissioner may suspend, revoke, ~~or make probationary conditional, or deny a license if an applicant or a license holder fails to comply fully with applicable laws or rules, or knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license or during an investigation.~~ A license holder who has had a license suspended, revoked, or made ~~probationary conditional~~ must be given notice of the action by certified mail. The notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the license was suspended, revoked, or made probationary conditional.

(a) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14. The license holder may appeal an order suspending or revoking a license. The appeal of an order suspending or revoking a license must be made in writing by certified mail and must be received by the commissioner within ten calendar days after the license holder receives notice that the license has been suspended or revoked.

(b) If the license was made ~~probationary conditional~~, the notice must inform the license holder of the right to request a reconsideration by the commissioner. The request for reconsideration must be made in writing by certified mail and must be received by the commissioner within ten calendar days after the license holder receives notice that the license has been made ~~probationary conditional~~. The license holder may submit with the request for reconsideration written argument or evidence in support of the request for reconsideration. The commissioner's disposition of a request for reconsideration is final and is not subject to appeal under chapter 14.

Sec. 28. Minnesota Statutes 1996, section 245A.08, subdivision 1, is amended to read:

Subdivision 1. [RECEIPT OF APPEAL; CONDUCT OF HEARING.] Upon receiving a timely appeal or petition pursuant to ~~sections section 245A.05 to or 245A.07,~~ the commissioner shall issue a notice of and order for hearing to the appellant under chapter 14.

Sec. 29. Minnesota Statutes 1996, section 245A.08, subdivision 2, is amended to read:

Subd. 2. [CONDUCT OF HEARINGS.] At any hearing provided for by ~~sections section 245A.05 to or 245A.07,~~ the appellant may be represented by counsel and has the right to call, examine, and cross-examine witnesses. The administrative law judge may require the presence of witnesses and evidence by subpoena on behalf of any party.

Sec. 30. Minnesota Statutes 1996, section 245A.09, subdivision 7, is amended to read:

Subd. 7. [REGULATORY METHODS.] (a) Where appropriate and feasible the commissioner shall identify and implement alternative methods of regulation and enforcement to the extent authorized in this subdivision. These methods shall include:

- (1) expansion of the types and categories of licenses that may be granted;
- (2) when the standards of another state or federal governmental agency or an independent accreditation body have been shown to predict compliance with the rules, the commissioner shall consider compliance with the governmental or accreditation standards to be equivalent to partial compliance with the rules; and
- (3) use of an abbreviated inspection that employs key standards that have been shown to predict full compliance with the rules.

~~For programs and services for people with developmental disabilities, the commissioner of human services shall develop demonstration projects to use the standards of the commission on accreditation of rehabilitation facilities and the standards of the accreditation council on services to persons with disabilities during the period of July 1, 1993 to December 31, 1994, and incorporate the alternative use of these standards and methods in licensing rules where appropriate. If the commissioner determines that the methods in clause (2) or (3) can be used in licensing a program, the commissioner may reduce any fee set under section 245A.10 by up to 50 percent. The commissioner shall present a plan by January 31, 1995, to accept accreditation by either the accreditation council on services to people with disabilities or the commission on the accreditation of rehabilitation services as evidence of being in compliance where applicable with state licensing.~~

(b) The commissioner shall work with the commissioners of health, public safety, administration, and children, families, and learning in consolidating duplicative licensing and certification rules and standards if the commissioner determines that consolidation is administratively feasible, would significantly reduce the cost of licensing, and would not reduce the protection given to persons receiving services in licensed programs. Where administratively feasible and appropriate, the commissioner shall work with the commissioners of health, public safety, administration, and children, families, and learning in conducting joint agency inspections of programs.

(c) The commissioner shall work with the commissioners of health, public safety, administration, and children, families, and learning in establishing a single point of application for applicants who are required to obtain concurrent licensure from more than one of the commissioners listed in this clause.

(d) The commissioner may specify in rule periods of licensure up to two years.

Sec. 31. Minnesota Statutes 1996, section 245A.11, subdivision 2, is amended to read:

Subd. 2. [PERMITTED SINGLE-FAMILY RESIDENTIAL USE.] Residential programs with a licensed capacity of six or fewer persons shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations, except that a residential program whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use. This exception shall not apply to residential programs licensed before July 1, 1995. Programs otherwise allowed under this subdivision shall not be prohibited by operation of restrictive covenants or similar restrictions, regardless of when entered into, which cannot be met because of the nature of the licensed program, including provisions which require the home's occupants be related, and that the home must be occupied by the owner, or similar provisions.

Sec. 32. Minnesota Statutes 1996, section 245A.16, subdivision 2, is amended to read:

Subd. 2. [INVESTIGATIONS.] (a) The county or private agency shall conduct timely investigations of allegations of ~~abuse or neglect~~ maltreatment of children or adults in programs for

which the county or private agency is the commissioner's designated representative and record a disposition of each complaint in accordance with applicable law or rule. The county or private agency shall conduct similar investigations of allegations of violations of rules governing licensure of the program.

(b) If an investigation conducted under clause (a) results in evidence that the commissioner should deny an application or suspend, revoke, or make ~~probationary~~ conditional a license, the county or private agency shall make that recommendation to the commissioner within ten working days.

Sec. 33. [245A.22] [INDEPENDENT LIVING ASSISTANCE FOR YOUTH.]

Subdivision 1. [INDEPENDENT LIVING ASSISTANCE FOR YOUTH.] "Independent living assistance for youth" means a nonresidential program that provides a system of services that includes training, counseling, instruction, supervision, and assistance provided to youth according to the youth's independent living plan, when the placements in the program are made by the county agency. Services may include assistance in locating housing, budgeting, meal preparation, shopping, personal appearance, counseling, and related social support services needed to meet the youth's needs and improve the youth's ability to conduct such tasks independently. Such services shall not extend to youths needing 24-hour per day supervision and services. Youths needing a 24-hour per day program of supervision and services shall not be accepted or retained in an independent living assistance program.

Subd. 2. [ADMISSION.] The license holder shall accept as clients in the independent living assistance program only individuals specified under section 256E.115.

Subd. 3. [INDEPENDENT LIVING PLAN.] Unless an independent living plan has been developed by the local agency, the license holder shall develop a plan based on the client's individual needs that specifies objectives for the client. The services provided shall include those specified in this section and the services specified under section 256E.115, subdivision 2, paragraph (a). The plan shall identify the persons responsible for implementation of each part of the plan. The plan shall be reviewed as necessary, but at least annually.

Subd. 4. [RECORDS.] The license holder shall maintain a record for each client.

(a) [REQUIRED RECORDS.] For each client the record maintained by the license holder shall document the following:

- (1) admission information;
- (2) the independent living plan;
- (3) delivery of the services required of the license holder in the independent living plan;
- (4) the client's progress toward obtaining the objectives identified in the independent living plan; and
- (5) a termination summary after service is terminated.

(b) [MONEY RECORDS.] If the license holder manages the client's money, the record maintained by the license holder shall also include the following:

- (1) written permission from the client or the client's legal guardian to manage the client's money;
- (2) the reasons the license holder is to manage the client's money; and
- (3) a complete record of the use of the client's money and reconciliation of the account.

Subd. 5. [SERVICE TERMINATION PLAN.] The license holder, in conjunction with the county agency, shall establish a service termination plan that specifies how independent living assistance services will be terminated and the actions to be performed by the involved agencies, including necessary referrals for other ongoing services.

Subd. 6. [PLACE OF RESIDENCE PROVIDED BY PROGRAM.] When a client's place of residence is provided by the license holder as part of the independent living assistance program, the place of residence is not subject to separate licensure.

Subd. 7. [GENERAL LICENSING REQUIREMENTS APPLY.] In addition to the requirements of this section, providers of independent living assistance are subject to general licensing requirements of this chapter.

Sec. 34. [245A.65] [LICENSE HOLDER REQUIREMENTS GOVERNING MALTREATMENT OF VULNERABLE ADULTS.]

Subdivision 1. [LICENSE HOLDER INTERNAL REPORTING AND INVESTIGATION OF MALTREATMENT.] All license holders serving vulnerable adults shall establish and enforce written policies and procedures related to suspected or alleged maltreatment, and shall orient clients and mandated reporters who are under the control of the license holder to these procedures, as defined in section 626.5572, subdivision 16.

(a) License holders must establish policies and procedures allowing but not mandating the internal reporting of alleged or suspected maltreatment. License holders shall ensure that the policies and procedures on internal reporting:

(1) meet all the requirements identified for the optional internal reporting policies and procedures in section 626.557, subdivision 4a; and

(2) identify the primary and secondary person or position to whom internal reports may be made and the primary and secondary person or position responsible for forwarding internal reports to the common entry point as defined in section 626.5572, subdivision 5. The secondary person must be involved when there is reason to believe that the primary person was involved in the alleged or suspected maltreatment.

(b) The license holder shall:

(1) establish and maintain policies and procedures to ensure that an internal review is completed when the facility has reason to know that an internal or external report of alleged or suspected maltreatment has been made. The review must include an evaluation of whether related policies and procedures were followed, whether the policies and procedures were adequate, whether there is a need for additional staff training, and whether there is a need for any further action to be taken by the facility to protect the health and safety of vulnerable adults;

(2) identify the primary and secondary person or position who will ensure that, when required, internal reviews are completed. The secondary person shall be involved when there is reason to believe that the primary person was involved in the alleged or suspected maltreatment; and

(3) document and make internal reviews accessible to the commissioner upon the commissioner's request.

(c) The license holder shall provide an orientation to the internal and external reporting procedures to all persons receiving services. The orientation shall include the telephone number for the license holder's common entry point as defined in section 626.5572, subdivision 5. If applicable, the person's legal representative must be notified of the orientation. The program shall provide this orientation for each new person within 24 hours of admission, or for persons who would benefit more from a later orientation, the orientation may take place within 72 hours.

(d) The license holder shall post a copy of the internal and external reporting policies and procedures, including the telephone number of the common entry point as defined in section 626.5572, subdivision 5, in a prominent location in the program and have it available upon request to mandated reporters, persons receiving services, and the person's legal representatives.

Subd. 2. [ABUSE PREVENTION PLANS.] All license holders shall establish and enforce ongoing written program abuse prevention plans and individual abuse prevention plans as required under section 626.557, subdivision 14.

(a) The scope of the program abuse prevention plan is limited to the population, physical plant, and environment within the control of the license holder and the location where licensed services are provided. In addition to the requirements in section 626.557, subdivision 14, the program abuse prevention plan shall meet the requirements in clauses (1) to (5).

(1) The assessment of the population shall include an evaluation of the following factors: age, gender, mental functioning, physical and emotional health or behavior of the client; the need for specialized programs of care for clients; the need for training of staff to meet identified individual needs; and the knowledge a license holder may have regarding previous abuse that is relevant to minimizing risk of abuse for clients.

(2) The assessment of the physical plant where the licensed services are provided shall include an evaluation of the following factors: the condition and design of the building as it relates to the safety of the clients; and the existence of areas in the building which are difficult to supervise.

(3) The assessment of the environment for each facility and for each site when living arrangements are provided by the agency shall include an evaluation of the following factors: the location of the program in a particular neighborhood or community; the type of grounds and terrain surrounding the building; the type of internal programming; and the program's staffing patterns.

(4) The license holder shall provide an orientation to the program abuse prevention plan for clients receiving services. If applicable, the client's legal representative must be notified of the orientation. The license holder shall provide this orientation for each new person within 24 hours of admission, or for persons who would benefit more from a later orientation, the orientation may take place within 72 hours.

(5) The license holder's governing body shall review the plan at least annually using the assessment factors in the plan and any substantiated maltreatment findings that occurred since the last review. The governing body shall revise the plan, if necessary, to reflect the review results.

(6) A copy of the program abuse prevention plan shall be posted in a prominent location in the program and be available upon request to mandated reporters, persons receiving services, and legal representatives.

(b) In addition to the requirements in section 626.557, subdivision 14, the individual abuse prevention plan shall meet the requirements in clauses (1) and (2).

(1) The plan shall include a statement of measures that will be taken to minimize the risk of abuse to the vulnerable adult when the individual assessment required in section 626.557, subdivision 14, paragraph (b), indicates the need for measures in addition to the specific measures identified in the program abuse prevention plan. The measures shall include the specific actions the program will take to minimize the risk of abuse within the scope of the licensed services, and will identify referrals made when the vulnerable adult is susceptible to abuse outside the scope or control of the licensed services. When the assessment indicates that the vulnerable adult does not need specific risk reduction measures in addition to those identified in the program abuse prevention plan, the individual abuse prevention plan shall document this determination.

(2) An individual abuse prevention plan shall be developed for each new person as part of the initial individual program plan or service plan required under the applicable licensing rule. The review and evaluation of the individual abuse prevention plan shall be done as part of the review of the program plan or service plan. The person receiving services shall participate in the development of the individual abuse prevention plan to the full extent of the person's abilities. If applicable, the person's legal representative shall be given the opportunity to participate with or for the person in the development of the plan. The interdisciplinary team shall document the review of all abuse prevention plans at least annually, using the individual assessment and any reports of abuse relating to the person. The plan shall be revised to reflect the results of this review.

Subd. 3. [ORIENTATION OF MANDATED REPORTERS.] The license holder shall ensure

that each new mandated reporter, as defined in section 626.5572, subdivision 16, who is under the control of the license holder, receives an orientation within 72 hours of first providing direct contact services as defined in section 245A.04, subdivision 3, to a vulnerable adult and annually thereafter. The orientation and annual review shall inform the mandated reporters of the reporting requirements and definitions in sections 626.557 and 626.5572, the requirements of this section, the license holder's program abuse prevention plan, and all internal policies and procedures related to the prevention and reporting of maltreatment of individuals receiving services.

Sec. 35. [245B.01] [RULE CONSOLIDATION.]

This chapter establishes new methods to ensure the quality of services to persons with mental retardation or related conditions, and streamlines and simplifies regulation of services and supports for persons with mental retardation or related conditions. Sections 245B.02 to 245B.07 establishes new standards that eliminate duplication and overlap of regulatory requirements by consolidating and replacing rule parts from four program rules. Section 245B.08 authorizes the commissioner of human services to develop and use new regulatory strategies to maintain compliance with the streamlined requirements.

Sec. 36. [245B.02] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The terms used in this chapter have the meanings given them.

Subd. 2. [APPLICANT.] "Applicant" has the meaning given in section 245A.02, subdivision 3.

Subd. 3. [CASE MANAGER.] "Case manager" means the individual designated by the county board under rules of the commissioner to provide case management services as delineated in section 256B.092 or successor provisions.

Subd. 4. [CONSUMER.] "Consumer" means a person who has been determined eligible to receive and is receiving services or support for persons with mental retardation or related conditions.

Subd. 5. [COMMISSIONER.] "Commissioner" means the commissioner of the department of human services or the commissioner's designated representative.

Subd. 6. [DAY TRAINING AND HABILITATION SERVICES FOR ADULTS WITH MENTAL RETARDATION OR RELATED CONDITIONS.] "Day training and habilitation services for adults with mental retardation or related conditions" has the meaning given in sections 252.40 to 252.46.

Subd. 7. [DEPARTMENT.] "Department" means the department of human services.

Subd. 8. [DIRECT SERVICE.] "Direct service" means, for a consumer receiving residential-based services, day training and habilitation services, or respite care services, one or more of the following: supervision, assistance, or training.

Subd. 9. [HEALTH SERVICES.] "Health services" means any service or treatment consistent with the health needs of the consumer, such as medication administration and monitoring, medical, dental, nutritional, health monitoring, wellness education, and exercise.

Subd. 10. [INCIDENT.] "Incident" means any serious injury as determined by section 245.91, subdivision 6; accident; reports of a child or vulnerable adult maltreatment; circumstances that involve a law enforcement agency; or a consumer's death.

Subd. 11. [INDIVIDUAL SERVICE PLAN.] "Individual service plan" has the meaning given in section 256B.092 or successor provisions.

Subd. 12. [INDIVIDUAL WHO IS RELATED.] "Individual who is related" has the meaning given in section 245A.02, subdivision 13.

Subd. 13. [INTERMEDIATE CARE FACILITY FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS OR ICF/MR.] "Intermediate care facility" for

persons with mental retardation or related conditions or ICF/MR means a residential program licensed to provide services to persons with mental retardation or related conditions under section 252.28 and chapter 245A and a physical facility licensed as a supervised living facility under chapter 144, which together are certified by the department of health as an intermediate care facility for persons with mental retardation or related conditions.

Subd. 14. [LEAST RESTRICTIVE ENVIRONMENT.] "Least restrictive environment" means an environment where services:

(1) are delivered with minimum limitation, intrusion, disruption, or departure from typical patterns of living available to persons without disabilities;

(2) do not subject the consumer or others to unnecessary risks to health or safety; and

(3) maximize the consumer's level of independence, productivity, and inclusion in the community.

Subd. 15. [LEGAL REPRESENTATIVE.] "Legal representative" means the parent or parents of a consumer who is under 18 years of age or a guardian, conservator, or guardian ad litem authorized by the court, or other legally authorized representative to make decisions about services for a consumer.

Subd. 16. [LICENSE.] "License" has the meaning given in section 245A.02, subdivision 8.

Subd. 17. [LICENSE HOLDER.] "License holder" has the meaning given in section 245A.02, subdivision 9.

Subd. 18. [PERSON WITH MENTAL RETARDATION OR A RELATED CONDITION.] "Person with mental retardation or a related condition" means a person who has been diagnosed under section 256B.092 as having substantial limitations in present functioning, manifested as significantly subaverage intellectual functioning, existing concurrently with demonstrated deficits in adaptive behavior, and who manifests these conditions before the person's 22nd birthday. A person with a related condition means a person who meets the diagnostic definition under section 252.27, subdivision 1a.

Subd. 19. [PSYCHOTROPIC MEDICATION USE CHECKLIST.] "Psychotropic medication use checklist" means the psychotropic medication monitoring checklist and manual used to govern the administration of psychotropic medications. The commissioner may revise or update the psychotropic medication use checklist to comply with legal requirements or to meet professional standards or guidelines in the area of developmental disabilities. For purposes of this chapter, psychotropic medication means any medication prescribed to treat mental illness and associated behaviors or to control or alter behavior. The major classes of psychotropic medication are antipsychotic (neuroleptic), antidepressant, antianxiety, antimania, stimulant, and sedative or hypnotic. Other miscellaneous medications are considered to be a psychotropic medication when they are specifically prescribed to treat a mental illness or to control or alter behavior.

Subd. 20. [RESIDENTIAL-BASED HABILITATION.] "Residential-based habilitation" means care, supervision, and training provided primarily in the consumer's own home or place of residence but also including community-integrated activities following the individual service plan. Residential habilitation services are provided in coordination with the provision of day training and habilitation services for those persons receiving day training and habilitation services under sections 252.40 to 252.46.

Subd. 21. [RESPITE CARE.] "Respite care" has the meaning given in section 245A.02, subdivision 15.

Subd. 22. [SERVICE.] "Service" means care, supervision, activities, or training designed to achieve the outcomes assigned to the license holder.

Subd. 23. [SEMI-INDEPENDENT LIVING SERVICES OR SILS] "Semi-independent living services" or "SILS" has the meaning given in section 252.275.

Subd. 24. [VOLUNTEER.] "Volunteer" means an individual who, under the direction of the license holder, provides direct services without pay to consumers served by the license holder.

Sec. 37. [245B.03] [APPLICABILITY AND EFFECT.]

Subdivision 1. [APPLICABILITY.] The standards in this chapter govern services to persons with mental retardation or related conditions receiving services from license holders providing residential-based habilitation; day training and habilitation services for adults; semi-independent living services; residential programs that serve more than four consumers, including intermediate care facilities for persons with mental retardation; and respite care provided outside the consumer's home for more than four consumers at the same time at a single site.

Subd. 2. [RELATIONSHIP TO OTHER STANDARDS GOVERNING SERVICES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.] (a) ICFs/MR are exempt from:

- (1) section 245B.04;
 - (2) section 245B.06, subdivisions 4 and 6; and
 - (3) section 245B.07, subdivisions 4, paragraphs (b) and (c); 7; and 8, paragraphs (1), clause (iv), and (2).
- (b) License holders also licensed under chapter 144 as a supervised living facility are exempt from section 245B.04.

(c) Residential service sites controlled by license holders licensed under chapter 245B for home and community-based waived services for four or fewer adults are exempt from compliance with Minnesota Rules, parts 9543.0040, subpart 2, item C; 9555.5505; 9555.5515, items B and G; 9555.5605; 9555.5705; 9555.6125, subparts 3, item C, subitem (2), and 4 to 6; 9555.6185; 9555.6225, subpart 8; 9555.6245; 9555.6255; and 9555.6265. The commissioner may approve alternative methods of providing overnight supervision using the process and criteria for granting a variance in section 245A.04, subdivision 9. This chapter does not apply to foster care homes that do not provide residential habilitation services funded under the home and community-based waiver programs defined in section 256B.092.

(d) The commissioner may exempt license holders from applicable standards of this chapter when the license holder meets the standards under section 245A.09, subdivision 7. License holders that are accredited by an independent accreditation body shall continue to be licensed under this chapter.

(e) License holders governed by sections 245B.02 to 245B.07 must also meet the licensure requirements in chapter 245A.

(f) Nothing in this chapter prohibits license holders from concurrently serving consumers with and without mental retardation or related conditions provided this chapter's standards are met as well as other relevant standards.

(g) The documentation that sections 245B.02 to 245B.07 require of the license holder meets the individual program plan required in section 256B.092 or successor provisions.

Sec. 38. [245B.04] [CONSUMER RIGHTS.]

Subdivision 1. [LICENSE HOLDER'S RESPONSIBILITY FOR CONSUMERS' RIGHTS.] The license holder must:

- (1) provide the consumer or the consumer's legal representative a copy of the consumer's rights on the day that services are initiated and an explanation of the rights in subdivisions 2 and 3 within five working days of service initiation. Reasonable accommodations shall be made by the license holder to provide this information in other formats as needed to facilitate understanding of the rights by the consumer and the consumer's legal representative, if any;

(2) document the consumer's or the consumer's legal representative's receipt of a copy of the rights and an explanation of the rights; and

(3) ensure the exercise and protection of the consumer's rights in the services provided by the license holder and authorized in the individual service plan.

Subd. 2. [SERVICE-RELATED RIGHTS.] A consumer's service-related rights include the right to:

(1) refuse or terminate services and be informed of the consequences of refusing or terminating services;

(2) know, in advance, limits to the services available from the license holder;

(3) know conditions and terms governing the provision of services, including those related to initiation and termination;

(4) know what the charges are for services, regardless of who will be paying for the services, and be notified of changes in those charges;

(5) know, in advance, whether services are covered by insurance, government funding, or other sources, and be told of any charges the consumer or other private party may have to pay; and

(6) receive licensed services from individuals who are competent and trained, who have professional certification or licensure, as required, and who meet additional qualifications identified in the individual service plan.

Subd. 3. [PROTECTION-RELATED RIGHTS.] The consumer's protection-related rights include the right to:

(1) have personal, financial, services, and medical information kept private, and be advised of the license holder's policies and procedures regarding disclosure of such information;

(2) access records and recorded information;

(3) be free from maltreatment;

(4) be treated with courtesy and respect for the consumer's individuality, mode of communication, and culture, and receive respectful treatment of the consumer's property;

(5) voice grievances, know the contact persons responsible for addressing problems and how to contact those persons;

(6) any procedures for grievance or complaint resolution and the right to appeal under section 256.045;

(7) know the name and address of the state, county, or advocacy agency to contact for additional information or assistance;

(8) assert these rights personally, or have them asserted by the consumer's family or legal representative, without retaliation;

(9) give or withhold written informed consent to participate in any research or experimental treatment;

(10) have daily, private access to and use of a noncoin- operated telephone for local calls and long-distance calls made collect or paid for by the resident;

(11) receive and send uncensored, unopened mail;

(12) marital privacy for visits with the consumer's spouse and, if both are residents of the site, the right to share a bedroom and bed;

(13) associate with other persons of the consumer's choice;

(14) personal privacy; and

(15) engage in chosen activities.

Sec. 39. [245B.05] [CONSUMER PROTECTION STANDARDS.]

Subdivision 1. [ENVIRONMENT.] The license holder must:

(1) ensure that services are provided in a safe and hazard-free environment when the license holder is the owner, lessor, or tenant of the service site. All other license holders shall inform the consumer or the consumer's legal representative and case manager about any environmental safety concerns in writing;

(2) lock doors only to protect the safety of consumers and not as a substitute for staff supervision or interactions with consumers;

(3) follow procedures that minimize the consumer's health risk from communicable diseases; and

(4) maintain equipment, vehicles, supplies, and materials owned or leased by the license holder in good condition.

Subd. 2. [LICENSED CAPACITY FOR FACILITY-BASED DAY TRAINING AND HABILITATION SERVICES.] Licensed capacity of day training and habilitation service sites must be determined by the amount of primary space available, the scheduling of activities at other service sites, and the space requirements of consumers receiving services. Primary space does not include hallways, stairways, closets, utility areas, bathrooms, kitchens, and floor areas beneath stationary equipment. A minimum of 40 square feet of primary space must be available for each consumer who is engaged in a day training and habilitation activity at the site for which the licensed capacity must be determined.

Subd. 3. [RESIDENTIAL SERVICE SITES FOR MORE THAN FOUR CONSUMERS; FOUR-BED ICFS/MR.] Residential service sites licensed to serve more than four consumers and four-bed ICFs/MR must meet the fire protection provisions of either the Residential Board and Care Occupancies Chapter or the Health Care Occupancies Chapter of the Life Safety Code (LSC), National Fire Protection Association, 1985 edition, or its successors. Sites meeting the definition of a residential board and care occupancy for 16 or less beds must have the emergency evacuation capability of residents evaluated in accordance with Appendix F of the LSC or its successors, except for those sites that meet the LSC Health Care Occupancies Chapter or its successors.

Subd. 4. [MEETING FIRE AND SAFETY CODES.] An applicant or license holder under sections 245A.01 to 245A.16 must document compliance with applicable building codes, fire and safety codes, health rules, and zoning ordinances, or document that an appropriate waiver has been granted.

Subd. 5. [CONSUMER HEALTH.] The license holder is responsible for meeting the health service needs assigned to the license holder in the individual service plan and for bringing health needs as discovered by the license holder promptly to the attention of the consumer, the consumer's legal representative, and the case manager. The license holder is required to maintain documentation on how the consumer's health needs will be met, including a description of procedures the license holder will follow for the consumer regarding medication monitoring and administration and seizure monitoring, if needed. The medication administration procedures are those procedures necessary to implement medication and treatment orders issued by appropriately licensed professionals, and must be established in consultation with a registered nurse, nurse practitioner, physician's assistant, or medical doctor.

Subd. 6. [FIRST AID.] When the license holder is providing direct service and supervision to a consumer who requires a 24-hour plan of care and receives services at a site licensed under this

chapter, the license holder must have available a staff person trained in first aid, and, if needed under section 245B.07, subdivision 6, paragraph (d), cardiopulmonary resuscitation from a qualified source, as determined by the commissioner.

Subd. 7. [REPORTING INCIDENTS AND EMERGENCIES.] The license holder must report the following incidents to the consumer's legal representative, caregiver, and case manager within 24 hours of the occurrence, or within 24 hours of receipt of the information:

- (1) the death of a consumer;
- (2) any medical emergencies, unexpected serious illnesses, or accidents that require physician treatment or hospitalization;
- (3) a consumer's unauthorized absence; or
- (4) any fires and incidents involving a law enforcement agency.

Death or serious injury of the consumer must also be reported to the commissioner and the ombudsman, as required under sections 245.91 and 245.94, subdivision 2a.

Sec. 40. [245B.06] [SERVICE STANDARDS.]

Subdivision 1. [OUTCOME-BASED SERVICES.] (a) The license holder must provide outcome-based services in response to the consumer's identified needs as specified in the individual service plan.

(b) Services must be based on the needs and preferences of the consumer and the consumer's personal goals and be consistent with the principles of least restrictive environment, self-determination, and consistent with:

- (1) the recognition of each consumer's history, dignity, and cultural background;
- (2) the affirmation and protection of each consumer's civil and legal rights;
- (3) the provision of services and supports for each consumer which:
 - (i) promote community inclusion and self-sufficiency;
 - (ii) provide services in the least restrictive environment;
 - (iii) promote social relationships, natural supports, and participation in community life;
 - (iv) allow for a balance between safety and opportunities; and
 - (v) provide opportunities for the development and exercise of age-appropriate skills, decision making and choice, personal advocacy, and communication; and
- (4) the provision of services and supports for families which address the needs of the consumer in the context of the family and support family self-sufficiency.

(c) The license holder must make available to the consumer opportunities to participate in the community, functional skill development, reduced dependency on care providers, and opportunities for development of decision-making skills. "Outcome" means the behavior, action, or status attained by the consumer that can be observed, measured, and can be determined reliable and valid. Outcomes are the equivalent of the long-range goals and short-term goals referenced in section 256B.092, and any rules promulgated under that section.

Subd. 2. [RISK MANAGEMENT PLAN.] The license holder must develop and document in writing a risk management plan that incorporates the individual abuse prevention plan as required in chapter 245C. License holders jointly providing services to a consumer shall coordinate and use the resulting assessment of risk areas for the development of this plan. Upon initiation of services, the license holder will have in place an initial risk management plan that identifies areas in which the consumer is vulnerable, including health, safety, and environmental issues and the supports the

provider will have in place to protect the consumer and to minimize these risks. The plan must be changed based on the needs of the individual consumer and reviewed at least annually.

Subd. 3. [ASSESSMENTS.] (a) The license holder shall assess and reassess the consumer within stated time lines and assessment areas specified in the individual service plan or as requested in writing by the case manager.

(b) For each area of assessment requested, the license holder must provide a written summary, analysis, and recommendations for use in the development of the individual service plan.

(c) All assessments must include information about the consumer that is descriptive of:

(1) the consumer's strengths and functional skills; and

(2) the level of support and supervision the consumer needs to achieve the outcomes in subdivision 1.

Subd. 4. [SUPPORTS AND METHODS.] The license holder, in coordination with other service providers, shall meet with the consumer, the consumer's legal representative, case manager, and other members of the interdisciplinary team within 45 days of service initiation. Within ten working days after the meeting, the license holder shall develop and document in writing:

(1) the methods that will be used to support the individual or accomplish the outcomes in section 245B.06, subdivision 1, including information about physical and social environments, the equipment and materials required, and techniques that are consistent with the consumer's communication mode and learning style specified as the license holder's responsibility in the individual service plan;

(2) the projected starting date for service supports and the criteria for identifying when the desired outcome has been achieved and when the service supports need to be reviewed; and

(3) the names of the staff, staff position, or contractors responsible for implementing each outcome.

Subd. 5. [PROGRESS REVIEWS.] The license holder must participate in progress review meetings following stated time lines established in the consumer's individual service plan or as requested in writing by the consumer, the consumer's legal representative, or the case manager, at a minimum of once a year. The license holder must summarize the progress toward achieving the desired outcomes and make recommendations in a written report sent to the consumer or the consumer's legal representative and case manager prior to the review meeting. For consumers under public guardianship, the license holder is required to provide quarterly written progress review reports to the consumer, designated family member, and case manager.

Subd. 6. [REPORTS.] The license holder shall provide written reports regarding the consumer's status as requested by the consumer, or the consumer's legal representative and case manager.

Subd. 7. [STAFFING REQUIREMENTS.] The license holder must provide supervision to ensure the health, safety, and protection of rights of each consumer and to be able to implement each consumer's individual service plan. Day training and habilitation programs must meet the minimum staffing requirements as specified in sections 252.40 to 252.46 and rules promulgated under those sections.

Subd. 8. [LEAVING THE RESIDENCE.] As specified in each consumer's individual service plan, each consumer requiring a 24-hour plan of care must leave the residence to participate in regular education, employment, or community activities. License holders, providing services to consumers living in a licensed site, shall ensure that they are prepared to care for consumers whenever they are at the residence during the day because of illness, work schedules, or other reasons.

Subd. 9. [DAY TRAINING AND HABILITATION SERVICE DAYS.] Day training and habilitation services must meet a minimum of 195 available service days.

Subd. 10. [PROHIBITION.] Psychotropic medication and the use of aversive and deprivation procedures, as referenced in section 245.825 and rules promulgated under that section, cannot be used as a substitute for adequate staffing, as punishment, or for staff convenience.

Sec. 41. [245B.07] [MANAGEMENT STANDARDS.]

Subdivision 1. [CONSUMER DATA FILE.] The license holder must maintain the following information for each consumer:

(1) identifying information that includes date of birth, medications, legal representative, history, medical, and other individual-specific information, and names and telephone numbers of contacts;

(2) consumer health information, including individual medication administration and monitoring information;

(3) the consumer's individual service plan. When a consumer's case manager does not provide a current individual service plan, the license holder shall make a written request to the case manager to provide a copy of the individual service plan and inform the consumer or the consumer's legal representative of the right to an individual service plan and the right to appeal under section 256.045;

(4) copies of assessments, analyses, summaries, and recommendations;

(5) progress review reports;

(6) incident and emergency reports involving the consumer;

(7) discharge summary, when applicable;

(8) record of other license holders serving the consumer that includes a contact person and telephone numbers, services being provided, services that require coordination between two license holders, and name of staff responsible for coordination; and

(9) incidents involving verbal and physical aggression between consumers and self-abuse affecting the consumer.

Subd. 2. [ACCESS TO RECORDS.] The license holder must ensure that the following people have access to the information in subdivision 1:

(1) the consumer, the consumer's legal representative, and anyone properly authorized by the consumer or legal representative;

(2) the consumer's case manager;

(3) staff providing direct services to the consumer unless the information is not relevant to carrying out the individual service plan; and

(4) the county adult foster care licenser, when services are also licensed as an adult foster home. Adult foster home means a licensed residence operated by an operator who, for financial gain or otherwise, provides 24-hour foster care to no more than four functionally impaired residents.

Subd. 3. [RETENTION OF CONSUMER'S RECORDS.] The license holder must retain the records required for consumers for at least three years following termination of services.

Subd. 4. [STAFF QUALIFICATIONS.] (a) The license holder must ensure that staff is competent through training, experience, and education to meet the consumer's needs and additional requirements as written in the individual service plan. Staff qualifications must be documented. Staff under 18 years of age may not perform overnight duties or administer medication.

(b) Delivery and evaluation of services provided by the license holder to a consumer must be coordinated by a designated person. The designated person or coordinator must minimally have a four-year degree in a field related to service provision, and one year work experience with consumers with mental retardation or related conditions, a two-year degree in a field related to service provision, and two years of work experience with consumers with mental retardation or related conditions, or a diploma in community-based developmental disability services from an accredited post-secondary institution and two years of work experience with consumers with mental retardation or related conditions. The coordinator must provide supervision, support, and evaluation of activities that include:

- (1) oversight of the license holder's responsibilities designated in the individual service plan;
- (2) instruction and assistance to staff implementing the individual service plan areas;
- (3) evaluation of the effectiveness of service delivery, methodologies, and progress on consumer outcomes based on the condition set for objective change; and
- (4) review of incident and emergency reports, identification of incident patterns, and implementation of corrective action as necessary to reduce occurrences.

(c) The coordinator is responsible for taking the action necessary to facilitate the accomplishment of the outcomes for each consumer as specified in the consumer's individual service plan.

(d) The license holder must provide for adequate supervision of direct care staff to ensure implementation of the individual service plan.

Subd. 5. [STAFF ORIENTATION.] (a) Within 60 days of hiring staff who provide direct service, the license holder must provide 30 hours of staff orientation. Direct care staff must complete 15 of the 30 hours orientation before providing any unsupervised direct service to a consumer. If the staff person has received orientation training from a license holder licensed under this chapter, or provides semi-independent living services only, the 15-hour requirement may be reduced to eight hours. The total orientation of 30 hours may be reduced to 15 hours if the staff person has previously received orientation training from a license holder licensed under this chapter.

(b) The 30 hours of orientation must combine supervised on-the-job training with coverage of the following material:

- (1) review of the consumer's service plans and risk management plan to achieve an understanding of the consumer as a unique individual;
- (2) review and instruction on the license holder's policies and procedures, including their location and access;
- (3) emergency procedures;
- (4) explanation of specific job functions, including implementing objectives from the consumer's individual service plan;
- (5) explanation of responsibilities related to chapter 245C; sections 626.556 and 626.557, governing maltreatment reporting and service planning for children and vulnerable adults; and section 245.825, governing use of aversive and deprivation procedures;
- (6) medication administration as it applies to the individual consumer, from a training curriculum developed by a health services professional described in section 245B.05, subdivision 5, and when the consumer meets the criteria of having overriding health care needs, then medication administration taught by a health services professional. Once a consumer with overriding health care needs is admitted, staff will be provided with remedial training as deemed necessary by the license holder and the health professional to meet the needs of that consumer.

For purposes of this section, overriding health care needs means a health care condition that affects the service options available to the consumer because the condition requires:

- (i) specialized or intensive medical or nursing supervision; and
 - (ii) nonmedical service providers to adapt their services to accommodate the health and safety needs of the consumer;
 - (7) consumer rights; and
 - (8) other topics necessary as determined by the consumer's individual service plan or other areas identified by the license holder.
- (c) The license holder must document each employee's orientation received.

Subd. 6. [STAFF TRAINING.] (a) The license holder shall ensure that direct service staff annually complete hours of training equal to two percent of the number of hours the staff person worked or one percent for license holders providing semi-independent living services. If direct service staff has received training from a license holder licensed under a program rule identified in this chapter or completed course work regarding disability-related issues from a post-secondary educational institute, that training may also count toward training requirements for other services and for other license holders.

(b) The license holder must document the training completed by each employee.

(c) Training shall address staff competencies necessary to address the consumer needs as identified in the consumer's individual service plan and ensure consumer health, safety, and protection of rights. Training may also include other areas identified by the license holder.

(d) For consumers requiring a 24-hour plan of care, the license holder shall provide training in cardiopulmonary resuscitation, from a qualified source determined by the commissioner, if the consumer's health needs as determined by the consumer's physician indicate trained staff would be necessary to the consumer.

Subd. 7. [VOLUNTEERS.] The license holder must ensure that volunteers who provide direct services to consumers receive the training and orientation necessary to fulfill their responsibilities.

Subd. 8. [POLICIES AND PROCEDURES.] The license holder must develop and implement the policies and procedures in paragraphs (1) to (3).

- (1) policies and procedures that promote consumer health and safety by ensuring:
 - (i) consumer safety in emergency situations as identified in section 245B.05, subdivision 7;
 - (ii) consumer health through sanitary practices;
 - (iii) safe transportation, when the license holder is responsible for transportation of consumers, with provisions for handling emergency situations;
 - (iv) a system of recordkeeping for both individuals and the organization, for review of incidents and emergencies, and corrective action if needed;
 - (v) a plan for responding to and reporting all emergencies, including deaths, medical emergencies, illnesses, accidents, missing consumers, fires, severe weather and natural disasters, bomb threats, and other threats;
 - (vi) safe medication administration as identified in section 245B.05, subdivision 5;
 - (vii) psychotropic medication monitoring when the consumer is prescribed a psychotropic medication, including the use of the psychotropic medication use checklist. If the responsibility for implementing the psychotropic medication use checklist has not been assigned in the individual service plan and the consumer lives in a licensed site, the residential license holder shall be designated; and

(viii) criteria for admission or service initiation developed by the license holder;

(2) policies and procedures that protect consumer rights and privacy by ensuring:

(i) consumer data privacy, in compliance with the Minnesota Data Practices Act, chapter 13; and

(ii) that complaint procedures provide consumers with a simple process to bring grievances and consumers receive a response to the grievance within a reasonable time period. The license holder must provide a copy of the program's grievance procedure and time lines for addressing grievances. The program's grievance procedure must permit consumers served by the program and the authorized representatives to bring a grievance to the highest level of authority in the program; and

(3) policies and procedures that promote continuity and quality of consumer supports by ensuring:

(i) continuity of care and service coordination, including provisions for service termination, temporary service suspension, and efforts made by the license holder to coordinate services with other vendors who also provide support to the consumer. The policy must include the following requirements:

(A) the license holder must notify the consumer or consumer's legal representative and the consumer's case manager in writing of the intended termination or temporary service suspension and the consumer's right to seek a temporary order staying the termination or suspension of service according to the procedures in section 256.045, subdivision 4a or subdivision 6, paragraph (c);

(B) notice of the proposed termination of services must be given at least 60 days before the proposed termination is to become effective, unless services are temporarily suspended according to the license holder's written temporary service suspension procedures, in which case notice must be given as soon as possible;

(C) the license holder must provide information requested by the consumer or consumer's legal representative or case manager when services are temporarily suspended or upon notice of termination;

(D) use of temporary service suspension procedures are restricted to situations in which the consumer's behavior causes immediate and serious danger to the health and safety of the individual or others;

(E) prior to giving notice of service termination or temporary service suspension, the license holder must document actions taken to minimize or eliminate the need for service termination or temporary service suspension; and

(F) during the period of temporary service suspension, the license holder will work with the appropriate county agency to develop reasonable alternatives to protect the individual and others; and

(ii) quality services measured through a program evaluation process including regular evaluations of consumer satisfaction and sharing the results of the evaluations with the consumers and legal representatives.

Subd. 9. [AVAILABILITY OF CURRENT WRITTEN POLICIES AND PROCEDURES.]
The license holder shall:

(1) review and update, as needed, the written policies and procedures in this subdivision and inform all consumers or the consumer's legal representatives, case managers, and employees of the revised policies and procedures when they affect the service provision;

(2) inform consumers or the consumer's legal representatives of the written policies and

procedures in this subdivision upon service initiation. Copies must be available to consumers or the consumer's legal representatives, case managers, the county where services are located, and the commissioner upon request; and

(3) document and maintain relevant information related to the policies and procedures in this subdivision.

Subd. 10. [CONSUMER FUNDS.] (a) The license holder must ensure that consumers retain the use and availability of personal funds or property unless restrictions are justified in the consumer's individual service plan.

(b) The license holder must ensure separation of resident funds from funds of the license holder, the residential program, or program staff.

(c) Whenever the license holder assists a consumer with the safekeeping of funds or other property, the license holder must:

(1) document receipt and disbursement of the consumer's funds or the property, and include the signature of the consumer, conservator, or payee;

(2) provide a statement at least quarterly itemizing receipts and disbursements of resident funds or other property; and

(3) return to the consumer upon the consumer's request, funds and property in the license holder's possession subject to restrictions in the consumer's individual service plan, as soon as possible, but no later than three working days after the date of the request.

(d) License holders and program staff must not:

(1) borrow money from a consumer;

(2) purchase personal items from a consumer;

(3) sell merchandise or personal services to a consumer;

(4) require a resident to purchase items for which the license holder is eligible for reimbursement; or

(5) use resident funds in a manner that would violate section 256B.04, or any rules promulgated under that section.

Subd. 11. [TRAVEL TIME TO AND FROM A DAY TRAINING AND HABILITATION SITE.] Except in unusual circumstances, the license holder must not transport a consumer receiving services for longer than one hour per one-way trip.

Subd. 12. [SEPARATE LICENSE REQUIRED FOR SEPARATE SITES.] The license holder shall apply for separate licenses for each day training and habilitation service site owned or leased by the license holder at which persons receiving services and the provider's employees who provide training and habilitation services are present for a cumulative total of more than 30 days within any 12-month period, and for each residential service site.

Subd. 13. [VARIANCE.] The commissioner may grant a variance to any of the requirements in sections 245B.02 to 245B.07 except section 245B.07, subdivision 8(1)(vii), or provisions governing data practices and information rights of consumers if the conditions in section 245A.04, subdivision 9 are met. Upon the request of the license holder, the commissioner shall continue variances from the standards in this chapter previously granted under Minnesota Rules that are repealed as a result of this chapter. The commissioner may approve variances for a license holder on a program, geographic, or organizational basis.

Sec. 42. [245B.08] [NEW REGULATORY STRATEGIES.]

Subdivision 1. [ALTERNATIVE METHODS OF DETERMINING COMPLIANCE.] (a) In

addition to methods specified in chapter 245A, the commissioner may use alternative methods and new regulatory strategies to determine compliance with this section. The commissioner may use sampling techniques to ensure compliance with this section. Notwithstanding section 245A.09, subdivision 7, paragraph (d), the commissioner may also extend periods of licensure, not to exceed five years, for license holders who have demonstrated substantial and consistent compliance with sections 245B.02 to 245B.07 and have consistently maintained the health and safety of consumers and have demonstrated by alternative methods in paragraph (b) that they meet or exceed the requirements of this section. For purposes of this section, "substantial and consistent compliance" means that during the current licensing period:

- (1) the license holder's license has not been made conditional, suspended, or revoked;
- (2) there have been no substantiated allegations of maltreatment against the license holder;
- (3) there have been no program deficiencies that have been identified that would jeopardize the health or safety of consumers being served; and

(4) the license holder is in substantial compliance with the other requirements of chapter 245A and other applicable laws and rules.

(b) To determine the length of a license, the commissioner shall consider:

(1) information from affected consumers, and the license holder's responsiveness to consumers' concerns and recommendations;

(2) self assessments and peer reviews of the standards of this section, corrective actions taken by the license holder, and sharing the results of the inspections with consumers, the consumers' families, and others, as requested;

(3) length of accreditation by an independent accreditation body, if applicable;

(4) information from the county where the license holder is located; and

(5) information from the license holder demonstrating performance that meets or exceeds the minimum standards of this chapter.

(c) The commissioner may reduce the length of the license if the license holder fails to meet the criteria in paragraph (a) and the conditions specified in paragraph (b).

Subd. 2. [ADDITIONAL MEASURES.] The commissioner may require the license holder to implement additional measures on a time-limited basis to ensure the health and safety of consumers when the health and safety of consumers has been determined to be at risk as determined by substantiated incidents of maltreatment under sections 626.556 and 626.557. The license holder may request reconsideration of the actions taken by the commissioner under this subdivision according to section 245A.06.

Subd. 3. [SANCTIONS AVAILABLE.] Nothing in this subdivision shall be construed to limit the commissioner's authority to suspend, revoke, or make conditional at any time a license under section 245A.07; make correction orders and require fines for failure to comply with applicable laws or rules under section 245A.06; or deny an application for license under section 245A.05.

Subd. 4. [EFFICIENT APPLICATION.] The commissioner shall establish application procedures for license holders licensed under this chapter to reduce the need to submit duplicative material.

Subd. 5. [INFORMATION.] The commissioner shall make information available to consumers and interested others regarding the licensing status of a license holder.

Subd. 6. [IMPLEMENTATION.] The commissioner shall seek advice from parties affected by the implementation of this chapter.

Subd. 7. [DEEM STATUS.] The commissioner may exempt a license holder from duplicative standards if the license holder is already licensed under chapter 245A.

Sec. 43. Minnesota Statutes 1996, section 256E.115, is amended to read:

256E.115 [SAFE HOUSES AND, TRANSITIONAL HOUSING, AND INDEPENDENT LIVING ASSISTANCE SERVICES FOR HOMELESS YOUTH.]

Subdivision 1. [DEFINITIONS; COMMISSIONER DUTIES.] (a) The following definitions apply to this section:

(1) "Targeted youth" means children who are ages 16 to 21 and who are in out-of-home placement, leaving out-of-home placement, at risk of becoming homeless, or homeless.

(2) "Safe house" means a facility providing emergency housing for homeless targeted youth with the goal of reuniting the family if appropriate and possible.

(3) "Transitional housing" means congregate or cooperative housing for targeted youth who are transitioning to independent living.

(4) "Independent living assistance" means services provided to assist targeted youth who are not living in a safe house or transitional housing to make the transition to independent living.

(b) The commissioner shall issue a request for proposals from organizations that are knowledgeable about the needs of homeless targeted youth for the purpose of providing establishing a system of safe houses and, transitional housing, and independent living assistance for homeless such youth. The commissioner shall appoint a review committee of up to eight members to evaluate the proposals. The review panel must include representation from communities of color, youth, and other community providers and agency representatives who understand the needs and problems of homeless targeted youth. The commissioner shall also assist in coordinating funding from federal and state grant programs and funding available from a variety of sources for efforts to promote a continuum of services for targeted youth through a consolidated grant application. The commissioner shall analyze the needs of homeless targeted youth and gaps in services throughout the state and determine how to best serve those needs within the available funding.

Subd. 2. [SAFE HOUSES AND TRANSITIONAL HOUSING PROGRAM SERVICE REQUIREMENTS; PARTICIPATION REQUIREMENTS; LICENSURE OF INDEPENDENT LIVING ASSISTANCE PROVIDERS.] A safe house provides emergency housing for homeless youth ranging in age from 13 to 22 with the goal of reuniting the family, if appropriate, whenever possible. Transitional housing provides housing for homeless youth ages 16 to 22 who are transitioning into independent living.

In developing both types of housing, the commissioner and the review committee shall try to create a family atmosphere in a neighborhood or community and, if possible, provide separate but cooperative homes for males and females. It may be necessary, due to licensing restrictions, to provide separate housing for different age groups. (a) The following services, or adequate access to referrals for the following services, must be made available to the homeless targeted youth participating in the programs described in subdivision 1:

(1) counseling services for the youth, and their families, if appropriate, on site, to help with problems that resulted in contributed to the homelessness or could impede making the transition to independent living;

(2) job services to help youth find employment in addition to creating jobs on site, including food service, maintenance, child care, and tutoring;

(3) health services that are confidential and provide preventive care services, crisis referrals, and other necessary health care services;

(4) living skills training to help youth learn how to care for themselves; and

(5) education services that help youth enroll in academic programs, if they are currently not in a program. Enrollment in an academic program is required for residency in transitional housing.

(b)(1) Targeted youth who have current drug or alcohol problems, a recent history of violent behaviors, or a mental health disorder or issue that is not being resolved through counseling or treatment are not eligible to receive the services described in subdivision 1.

(2) Targeted youth who are not employed, participating in employment training, or enrolled in an academic program are not eligible to receive transitional housing or independent living assistance.

(c) Providers of independent living assistance services must be licensed under section 245A.22.

Sec. 44. Minnesota Statutes 1996, section 364.09, is amended to read:

364.09 [EXCEPTIONS.]

(a) This chapter does not apply to the licensing process for peace officers; to law enforcement agencies as defined in section 626.84, subdivision 1, paragraph (h); to fire protection agencies; to eligibility for a private detective or protective agent license; to ~~eligibility for a family day care license, a family foster care license, or a home care provider license~~ the licensing and background study process under chapter 245A; to eligibility for school bus driver endorsements; or to eligibility for special transportation service endorsements. This chapter also shall not apply to eligibility for juvenile corrections employment, where the offense involved child physical or sexual abuse or criminal sexual conduct.

(b) This chapter does not apply to a school district or to eligibility for a license issued or renewed by the board of teaching or the state board of education.

(c) Nothing in this section precludes the Minnesota police and peace officers training board or the state fire marshal from recommending policies set forth in this chapter to the attorney general for adoption in the attorney general's discretion to apply to law enforcement or fire protection agencies.

(d) This chapter does not apply to a license to practice medicine that has been denied or revoked by the board of medical practice pursuant to section 147.091, subdivision 1a.

Sec. 45. Laws 1995, chapter 158, section 7, is amended to read:

Sec. 7. [RECOMMENDATIONS ON REGULATING CHILD CARE PROGRAMS.]

The commissioner of human services shall review and make recommendations to the legislature regarding what programs should be regulated that provide child care for children, and the manner in which these programs should be regulated.

The commissioner shall also examine and make recommendations regarding the feasibility of permitting worksite-based nonresidential child care programs serving 14 or fewer children to be licensed under the family and group family day care standards. In developing these recommendations, the commissioner shall consult with representatives of organizations with an interest in child care services including, but not limited to, the following: large and small employers, including employers who provide child care on site; foundations; the state commissioners of economic security and children, families, and learning; not-for-profit and county agencies; and consumers of child care services.

The commissioner shall submit the recommendations by December 15, 1997, to the chairs of the house health and human services committee and the health and human services finance division, and of the senate health and family services security committee and the ~~health care and family services finance~~ security budget division.

Sec. 46. [UNLICENSED CHILD CARE PROVIDERS; INTERIM EXPANSION.]

(a) Notwithstanding Minnesota Statutes, section 245A.03, subdivision 2, clause (2), until June 30, 1999, nonresidential child care programs or services that are provided by an unrelated individual to persons from two or three other unrelated families are excluded from the licensure provisions of Minnesota Statutes, chapter 245A, provided that:

(1) the individual provides services at any one time to no more than four children who are unrelated to the individual;

(2) no more than two of the children are under two years of age; and

(3) the total number of children being cared for at any one time does not exceed five.

(b) Paragraph (a), clauses (1) and (2), do not apply to nonresidential programs that are provided by an unrelated individual to persons from a single related family.

Sec. 47. [FAMILY DAY CARE LICENSURE; INTERIM EXPANSION.]

Subdivision 1. [INTERIM AGE GROUPINGS; FAMILY DAY CARE.] Notwithstanding Minnesota Rules, part 9502.0315, subparts 22, 28 and 30, until June 30, 1998, for the purposes of family day care and group family day care licensure the following definitions apply:

(1) "Preschooler" means a child who is at least 24 months old up to the age of being eligible to enter kindergarten within the next four months.

(2) "Toddler" means a child who is at least 12 months old but less than 24 months old, except that for purposes of specialized infant and toddler family and group family day care, "toddler" means a child who is at least 12 months old but less than 30 months old.

(3) "School age" means a child who is at least of sufficient age to have attended the first day of kindergarten, or is eligible to enter kindergarten within the next four months, but is younger than 11 years of age.

Subd. 2. [COMMISSIONER'S AUTHORITY.] The commissioner may grant a variance to any of the provisions in subdivision 1, as long as the health and safety of the children served by the program are not affected. The request for a variance shall comply with the provisions of Minnesota Statutes, section 245A.04, subdivision 9.

Sec. 48. [COMMISSIONER OF HEALTH; BACKGROUND STUDIES REPORT.]

By January 15, 1998, the commissioner of health shall report to the chairs of the health and human services fiscal committees of the house and the senate on the background study costs required by Minnesota Statutes, sections 245A.04, subdivision 3, paragraphs (b) and (e) and 144.057, subdivision 1, clause (2), with recommendations for providing funding to cover the costs of these studies.

Sec. 49. [REPORT ON RULE CONSOLIDATION.]

The commissioner of human services shall report no later than March 15, 1998, to the chairs of the senate committee on health and family security, the house committee on health and human services, the senate health and family security budget division, and the house health and human services finance division on the implementation of rule consolidation authorized by Minnesota Statutes, section 245B.01. In addition, the report shall include recommendations as needed to improve the consolidated rule's effectiveness in providing safeguards for clients while streamlining the regulatory process. The commissioner shall appoint an advisory task force to assist in developing the report. The task force membership shall include, but not be limited to, representatives from provider, advocacy, and other interested groups. Department of human services staff shall not be members of the task force but shall provide technical assistance as needed.

Sec. 50. [LEGISLATIVE TASK FORCE TO REVIEW THE BACKGROUND STUDY PROCESS.]

The task force must consist of at least six legislators and other members appointed by the commissioner of human services, which may include representatives from the departments of human services, health, corrections, and public safety, the ombudsman for older Minnesotans, the ombudsman for mental health and mental retardation, representatives from the attorney general's

office, and county agencies, persons receiving services in licensed facilities, families of persons receiving services in licensed facilities, representatives from consumer and advocacy groups, representatives of agencies that provide services, representatives of individuals and professionals who provide services within the agencies, and representatives of employee bargaining units.

The speaker of the house and the rules and administration subcommittee on committees in the senate shall appoint at least three members from each body to constitute a legislative task force to review the background study process for individuals providing services in facilities and programs licensed by either the department of human services or the department of health. At least one of the members from each body shall be from the minority party. Members shall be appointed before July 1, 1997, and shall convene as soon as possible during the 1997 interim at the call of the chairs.

Members shall evaluate the current systems for background studies completed under Minnesota Statutes, section 144.057, and chapter 245A, specific to, but not limited to, the appropriateness of the authority to disqualify individuals based on a commissioner's determination that, absent a criminal conviction, there is a preponderance of evidence that the individual committed an act that meets the definition of a disqualifying crime under Minnesota Statutes, section 245A.04, the appropriateness and effectiveness of the due process available to disqualified individuals, and the appropriateness of standardizing disqualifying characteristics across all services licensed by the department of human services and the department of health.

The deliberations of the task force shall include consideration of the privacy issues related to background studies, specifically the efficient and effective dissemination of information while protecting individual privacy rights, and issues related to rehabilitation and present fitness to perform the duties of employment, and be based upon the recognition that the background study process exists to protect vulnerable children and adults receiving services in licensed programs and facilities and that the safety of these persons shall be given preeminent weight over the interests of persons subject to the background study process.

The task force shall present a report containing any recommendations for change, with draft legislation, to the legislature by February 1, 1998. The task force expires June 30, 1998.

Sec. 51. [REPEALER.]

Subdivision 1. Minnesota Rules, parts 9555.8000; 9555.8100; 9555.8200; 9555.8300; 9555.8400; and 9555.8500, are repealed.

Subd. 2. (a) Laws 1996, chapter 408, article 10, section 13, is repealed.

(b) Minnesota Rules, parts 4668.0020 and 9543.3070, are repealed.

Subd. 3. (a) Minnesota Statutes 1996, sections 245A.091; 245A.20; 245A.21; and 252.53, are repealed.

(b) Minnesota Rules, parts 9503.0170, subpart 7; 9525.0215; 9525.0225; 9525.0235; 9525.0243; 9525.0245; 9525.0255; 9525.0265; 9525.0275; 9525.0285; 9525.0295; 9525.0305; 9525.0315; 9525.0325; 9525.0335; 9525.0345; 9525.0355; 9525.0500; 9525.0510; 9525.0520; 9525.0530; 9525.0540; 9525.0550; 9525.0560; 9525.0570; 9525.0580; 9525.0590; 9525.0600; 9525.0610; 9525.0620; 9525.0630; 9525.0640; 9525.0650; 9525.0660; 9525.1240, subpart 1, item E, subitem (6); 9525.1500; 9525.1510; 9525.1520; 9525.1530; 9525.1540; 9525.1550; 9525.1560; 9525.1570, subparts 1, 2, 3, 4, 5, and 6; 9525.1590; 9525.1610; 9525.1620; 9525.1630; 9525.1640; 9525.1650; 9525.1660; 9525.1670; 9525.1680; 9525.1690; 9525.2000; 9525.2010; 9525.2020; 9525.2025; 9525.2030; 9525.2040; 9525.2050; 9525.2060; 9525.2070; 9525.2080; 9525.2090; 9525.2100; 9525.2110; 9525.2120; 9525.2130; and 9525.2140, are repealed.

Sec. 52. [EFFECTIVE DATE.]

Sections 1, 3 to 9, 12, 13, 15 to 34, 43 to 50, and 51, subdivision 1, are effective the day following final enactment. Sections 2, 10, 11, 14, and 51, subdivision 2, are effective August 1, 1997. Sections 35 to 42 and 51, subdivision 3, are effective January 1, 1998."

Delete the title and insert:

"A bill for an act relating to human services; adding provisions for licensing programs; imposing and modifying civil penalties; requiring reports on nonresidential child care programs; providing interim expansion of unlicensed child care providers; requiring reports from the commissioner of health and the commissioner of human services; creating a legislative task force to review the background study process; amending Minnesota Statutes 1996, sections 144.057, subdivision 1; 144A.46, subdivision 5; 245A.02, subdivisions 15, 16, 17, and by adding subdivisions; 245A.03, subdivision 2; 245A.04, subdivisions 3, 3a, 3b, 3c, 4, 5, 6, 7, and by adding a subdivision; 245A.06, subdivisions 1, 3, 4, 5, 5a, 6, and 7; 245A.07, subdivisions 1 and 3; 245A.08, subdivisions 1 and 2; 245A.09, subdivision 7; 245A.11, subdivision 2; 245A.16, subdivision 2; 256E.115; and 364.09; Laws 1995, chapter 158, section 7; proposing coding for new law in Minnesota Statutes, chapter 245A; proposing coding for new law as Minnesota Statutes, chapter 245B; repealing Minnesota Statutes 1996, sections 245A.091; 245A.20; 245A.21; and 252.53; Laws 1996, chapter 408, article 10, section 13; Minnesota Rules, parts 4668.0020; 9503.0170, subpart 7; 9525.0215; 9525.0225; 9525.0235; 9525.0243; 9525.0245; 9525.0255; 9525.0265; 9525.0275; 9525.0285; 9525.0295; 9525.0305; 9525.0315; 9525.0325; 9525.0335; 9525.0345; 9525.0355; 9525.0500; 9525.0510; 9525.0520; 9525.0530; 9525.0540; 9525.0550; 9525.0560; 9525.0570; 9525.0580; 9525.0590; 9525.0600; 9525.0610; 9525.0620; 9525.0630; 9525.0640; 9525.0650; 9525.0660; 9525.1240, subpart 1, item E, subitem (6); 9525.1500; 9525.1510; 9525.1520; 9525.1530; 9525.1540; 9525.1550; 9525.1560; 9525.1570, subparts 1, 2, 3, 4, 5, and 6; 9525.1590; 9525.1610; 9525.1620; 9525.1630; 9525.1640; 9525.1650; 9525.1660; 9525.1670; 9525.1680; 9525.1690; 9525.2000; 9525.2010; 9525.2020; 9525.2025; 9525.2030; 9525.2040; 9525.2050; 9525.2060; 9525.2070; 9525.2080; 9525.2090; 9525.2100; 9525.2110; 9525.2120; 9525.2130; 9525.2140; 9543.3070; 9555.8000; 9555.8100; 9555.8200; 9555.8300; 9555.8400; and 9555.8500."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Steven Morse, Sheila M. Kiscaden, Don Betzold

House Conferees: (Signed) Linda Wejcman, Ruth Johnson, Fran Bradley

Mr. Morse moved that the foregoing recommendations and Conference Committee Report on S.F. No. 234 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 234 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Krentz	Oliver	Scheevel
Beckman	Higgins	Laidig	Olson	Scheid
Belanger	Hottinger	Larson	Ourada	Spear
Berg	Janezich	Lesewski	Pappas	Stevens
Berglin	Johnson, D.E.	Lessard	Pariseau	Stumpf
Betzold	Johnson, D.H.	Limmer	Piper	Ten Eyck
Cohen	Johnson, D.J.	Lourey	Pogemiller	Terwilliger
Day	Johnson, J.B.	Marty	Price	Vickerman
Dille	Junge	Metzen	Robertson	Wiener
Fischbach	Kelley, S.P.	Morse	Robling	Wiger
Flynn	Kiscaden	Murphy	Runbeck	
Foley	Kleis	Neuville	Sams	
Frederickson	Knutson	Novak	Samuelson	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 590 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 590

A bill for an act relating to public utilities; adding a high voltage transmission line that crosses the state boundary to the definition of a large energy facility; amending Minnesota Statutes 1996, section 216B.2421, subdivision 2.

May 19, 1997

The Honorable Allan H. Spear
President of the Senate

The Honorable Phil Carruthers
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 590, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Janet B. Johnson, Jane Krentz, Linda Runbeck

House Conferees: (Signed) Loren Jennings, Bill Hilty, Barb Vickerman

Ms. Johnson, J.B. moved that the foregoing recommendations and Conference Committee Report on S.F. No. 590 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 590 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Krentz	Olson	Scheid
Beckman	Higgins	Laidig	Ourada	Spear
Belanger	Hottinger	Langseth	Pappas	Stevens
Berg	Janezich	Larson	Pariseau	Stumpf
Berglin	Johnson, D.E.	Lesewski	Piper	Ten Eyck
Betzold	Johnson, D.H.	Lessard	Pogemiller	Terwilliger
Cohen	Johnson, D.J.	Limmer	Price	Vickerman
Day	Johnson, J.B.	Lourey	Robertson	Wiener
Dille	Junge	Marty	Robling	Wiger
Fischbach	Kelley, S.P.	Metzen	Runbeck	
Flynn	Kiscaden	Morse	Sams	
Foley	Kleis	Murphy	Samuelson	
Frederickson	Knutson	Neuville	Scheevel	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Mrs. Scheid moved that the name of Mr. Terwilliger be added as a co-author to S.F. No. 1988. The motion prevailed.

Mr. Neville introduced--

Senate Resolution No. 63: A Senate resolution proclaiming May 21, 1997, as Wally Miller Day in New Prague, Minnesota.

Referred to the Committee on Rules and Administration.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1208, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1208: A bill for an act relating to MinnesotaCare; eliminating the health care commission; modifying the regional coordinating boards; eliminating integrated service networks; modifying the health technology advisory committee; expanding the eligibility of the MinnesotaCare program; modifying general assistance medical care; modifying the enforcement mechanisms for the provider tax pass-through; modifying mandatory Medicare assignment; making technical, policy, and administrative changes and connections to MinnesotaCare taxes; providing grants for MinnesotaCare outreach; regulating community purchasing arrangements; requiring certain studies; appropriating money; amending Minnesota Statutes 1996, sections 60A.15, subdivision 1; 60A.951, subdivision 5; 62A.61; 62J.017; 62J.06; 62J.07, subdivisions 1 and 3; 62J.09, subdivision 1; 62J.15, subdivision 1; 62J.152, subdivisions 1, 2, 4, 5, and by adding a subdivision; 62J.17, subdivision 6a; 62J.22; 62J.25; 62J.2914, subdivision 1; 62J.2915; 62J.2916, subdivision 1; 62J.2917, subdivision 2; 62J.2921, subdivision 2; 62J.451, subdivision 6b; 62M.02, subdivision 21; 62N.01, subdivision 1; 62N.22; 62N.23; 62N.25, subdivision 5; 62N.26; 62N.40; 62Q.01, subdivisions 3, 4, and 5; 62Q.03, subdivision 5a; 62Q.106; 62Q.19, subdivision 1; 62Q.33, subdivision 2; 62Q.45, subdivision 2; 136A.1355; 144.147, subdivisions 1, 2, 3, and 4; 144.1484, subdivision 1; 256.01, subdivision 2; 256.045, subdivision 3a; 256.9352, subdivision 3; 256.9353, subdivisions 1, 3, and 7; 256.9354, subdivisions 4, 5, 6, 7, and by adding a subdivision; 256.9355, subdivisions 1, 4, and by adding a subdivision; 256.9357, subdivision 3; 256.9358, subdivision 4; 256.9359, subdivision 2; 256.9363, subdivisions 1 and 5; 256.9657, subdivision 3; 256B.0625, subdivision 13; 256D.03, subdivision 3; 295.50, subdivisions 3, 4, 6, 7, 9b, 13, 14, and by adding a subdivision; 295.51, subdivision 1; 295.52, subdivisions 1, 1a, 2, 4, and by adding subdivisions; 295.53, subdivisions 1, 3, and 4; 295.54, subdivisions 1 and 2; 295.55, subdivision 2; and 295.582; proposing coding for new law in Minnesota Statutes, chapters 16A; 144; and 256; proposing coding for new law as Minnesota Statutes, chapter 62S; repealing Minnesota Statutes 1996, sections 62E.11, subdivision 12; 62J.04, subdivisions 4 and 7; 62J.05; 62J.051; 62J.09, subdivision 3a; 62J.37; 62N.01, subdivision 2; 62N.02, subdivisions 2, 3, 4b, 4c, 6, 7, 8, 9, 10, and 12; 62N.03; 62N.04; 62N.05; 62N.06; 62N.065; 62N.071; 62N.072; 62N.073; 62N.074; 62N.076; 62N.077; 62N.078; 62N.10; 62N.11; 62N.12; 62N.13; 62N.14; 62N.15; 62N.17; 62N.18; 62N.24; 62N.38; 62Q.165, subdivision 3; 62Q.25; 62Q.29; 62Q.41; 147.01, subdivision 6; 295.52, subdivision 1b; and 295.53, subdivision 5; Laws 1993, chapter 247, article 4, section 8; Laws 1994, chapter 625, article 5, section 5, as amended; Laws 1995, chapter 96, section 2; and Laws 1995, First Special Session chapter 3, article 13, section 2.

Senate File No. 1208 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1997