

## 2019 SESSION SUMMARIES

### Introduction

The Legal Services Advocacy Project (LSAP) is pleased to present the 2019 Session Summaries. They are divided by area of substantive law. They are not intended to include every bill enacted into law last session. They attempt to reflect the law changes made by the Legislature that in whole or in significant part impact Legal Aid's clients. A complete set of the 2019 Session Laws may be found and accessed on the Minnesota Legislature's award-winning Web site at: <https://www.revisor.mn.gov/laws/>

The entries refer to the Minnesota Laws of 2019 and indicate whether the bill was passed during the Regular Session or the First Special Session. Certain entries applicable to more than one substantive area may be repeated in more than one section. References to repealed sections and deleted statutory language do not encompass all such changes; those presented indicate our belief that they have substantive, rather than merely technical significance. We hope you find these Session Summaries useful.

### Acronyms Used in These Session Summaries

ADL	=	Activities of Daily Living
ALF	=	Assisted Living Facility
ALJ	=	Administrative Law Judge
BI	=	Brain Injury
CAC	=	Community Alternative Care
CADI	=	Community Access for Disability Inclusion
CCAP	=	Child Care Assistance Program
CCBHC	=	Certified Community Behavioral Health Clinics
CCSP	=	Coordinated Service and Support Plan
CDCS	=	Consumer-Directed Community Supports
CFSS	=	Community First Services and Supports
CHIPS	=	Children in Need of Protection or Services
CMS	=	Centers for Medicaid and Medicare Services
DD	=	Developmental Disability
DEED	=	Minnesota Department of Employment and Economic Opportunity
DHS	=	Minnesota Department of Human Services
DWP	=	Diversions Work Program
DWRS	=	Disability Waiver Rate System
EW	=	Elderly Waiver
HCBS	=	Home and Community-Based Services
HMO	=	Health Maintenance Organization
ICF	=	Intermediate Care Facilities
LTCC	=	Long-Term Care Consultation
MA	=	Medical Assistance
MA-EPD	=	Medical Assistance – Employed Persons with Disabilities
MDH	=	Minnesota Department of Health
MFIP	=	Minnesota Family Investment Program
NEMT	=	Non-Emergency Medical Transportation
NQTL	=	Nonquantitative Treatment Limitations
PCA	=	Personal Care Assistant
SILS	=	Semi-Independent Living Services
TAM	=	Telephone Access Minnesota Program
TED	=	Telephone Equipment Distribution Program (under TAM)
TEFRA	=	Tax Equity and Fiscal Responsibility Act Of 1982
UI	=	Unemployment Insurance

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## CHILDCARE

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### I. CHILD CARE ASSISTANCE PROGRAM (CCAP)

*First Special Session, Chapter 9 (SF 12)*

*Article 1, Sections 1-18*

*Article 2, Sections 7-11, 50, 82, and 107-110*

*Adds and Amends Various Sections*

*Various Effective Dates*

#### A. Definition of “Transition Year Family”

Redefines “Transition Year Families” to include families who have received DWP assistance under Minn. Stat. § 256J.95 for at least one (reducing from three) of the last six months before losing eligibility for DWP or MFIP.

*Amends Minn. Stat. § 119B.011, subd. 20*

*Effective March 23, 2020*

#### B. Eligibility and Hours Pending Redetermination

##### 1. Eligibility

Maintains the CCAP eligibility of a family with one child who reaches the age of 13, or the age of 15 if the child has a disability, until the next annual redetermination

*Amends Minn. Stat. § 119B.09, subd. 1*

*Effective June 29, 2020.*

##### 2. Eligibility Based on Employment, Education, and Training Eligibility

Provides that, for families who need child care to find or keep employment or to obtain the training or education necessary to find employment, until redetermination the amount of child care authorized continue at the same number of hours or more hours authorized remains the same when a child reaches 13 years of age or a child with a disability reaches 15 years of age.

*Amends Minn. Stat. § 119B.095, subd. 2*

*Effective June 29, 2020*

##### 3. Hours

Requires the CCAP authorization for a child reaching the age of 13, or the age of 15 for children with a disability, to continue at the same or more hours until the next annual redetermination, effective June 29, 2020.

*Amends Minn. Stat. § 119B.095, subd. 2*

*Effective June 29, 2020*

**C. Changes to MFIP Child Care**

Limits retroactive payments for participants eligible for childcare assistance under the MFIP childcare program to three (from six) months.

*Amends Minn. Stat. § 119B.09, subd. 7*

*Effective July 1, 2019*

**D. Changes for Applicants Who Are Homeless**

1. Definition of “Homeless”

Defines “Homeless” in the Child Care Program chapter (Chapter 119) as: “a self-declared housing status as defined in the McKinney-Vento Homeless Assistance Act and United States Code, title 42, section 11302, paragraph (a).”

*Adds Minn. Stat. § 119B.011, subd. 13b*

*Effective September 21, 2020*

2. Applications for Assistance

Eliminates the county’s requirement to verify applications for applicants who are homeless before issuing an approval or denial. Specifies time periods within which approvals and denials must be sent for this population. Requires the county to send any notice for information necessary to determine eligibility within five working days after receipt of the application. Requires the applicant to submit proof of eligibility within three months of the date the application was received by the county, and, provided a 15-day adverse action notice is issued, allows the county end eligibility if the proof is not submitted.

*Amends Minn. Stat. § 119B.025, subd. 1*

*Effective September 21, 2020*

3. Temporary Exemption from Activity Participation Requirements

Exempts CCAP applicants who are homeless from activity participation requirements for three months and requires the applicant to verify eligibility and activity requirements for childcare assistance to continue eligibility for the program after the expiration of the exempt period. Makes applicants who are homeless eligible for 60 hours of assistance per service period for three months from the date of application. Authorizes additional hours if the applicant participates in employment, education, or an employment plan.

*Adds Minn. Stat. § 119B.095, subd. 3*

*Effective September 21, 2020*

## E. Fair Hearings for Applicants, Recipients, and Providers

### 1. Final Department Action

Establishes that without a timely request for an appeal, an action by the county or DHS is a final department action.

*Adds Minn. Stat. § 119B.16, subd. 4*

*Effective February 26, 2021*

### 2. Applicants and Recipients

#### a. *Right to Fair Hearing*

Clarifies the right of an applicant or recipient to receive a fair hearing if the county or DHS takes an adverse action against the applicant or recipient. Clarifies there is no right to a hearing for an adverse action taken against a provider.

*Amends Minn. Stat. § 119B.16, subd. 1*

*Effective February 26, 2021*

#### b. *Informal Conference*

Requires that applicants and recipients be offered an informal conference in addition to the fair hearing, and that notice of an action against a provider must be mailed to each CCAP recipient of that provider's services.

*Amends Minn. Stat. § 119B.16, subd. 1*

*Effective February 26, 2021*

#### c. *Joint Fair Hearings*

Eliminates the requirement to join the family but maintains the DHS ALJ's discretion to join a family or provider as needed.

*Amends Minn. Stat. § 119B.16, subd. 1b*

*Effective February 26, 2021*

### 3. Providers

#### a. *Notice of Adverse Action*

Requires the county or DHS, before taking an appealable action, to mail written notice of the action at least 15 calendar days before the adverse action's effective date. Requires that the notice include: (1) the basis for the department's determination; (2) the action to be taken; (3) the amount of any monetary recovery; and (4) the right to appeal.

*Adds Minn. Stat. § 119B.16, subd. 1c*

*Effective February 26, 2021*

- b. *Bases to Request Fair Hearing; Contents*  
Limits the bases on which a provider may request a fair hearing to only instances where the county or DHS: (1) denies or revokes a provider's authorization, unless the action entitles the provider to an administrative review under Minn. Stat. § 119B.161; (2) assigns responsibility for an overpayment to a provider; (3) establishes an overpayment for failure to comply provider requirements; (4) seeks monetary recovery or recoupment; (5) initiates an administrative fraud disqualification hearing; or (6) issues a payment and the provider disagrees with the amount of the payment. Specifies the content of the request.  
*Amends Minn. Stat. § 119B.16, subd. 1a*  
*Effective February 26, 2021*
  
- c. *Method to Appeal*  
Requires that a provider must request a fair hearing by submitting a written request to the Appeals Division of DHS within 30 days after notice of an adverse action is mailed.  
*Amends Minn. Stat. § 119B.16, subd. 1a*  
*Effective February 26, 2021*
  
- d. *Stay of Fair Hearing*  
Provides that a fair hearing is stayed if the provider appeals a denial or revocation of the provider's authorization based on a licensing action or decertification until DHS issues a final order.  
*Adds Minn. Stat. § 119B.16, subd. 3*  
*Effective February 26, 2021*
  
- e. *Joint Fair Hearings*  
Eliminates the requirement to join the provider but maintains the DHS ALJ's discretion to join a family or provider as needed.  
*Amends Minn. Stat. § 119B.16, subd. 1b*  
*Effective February 26, 2021*

**F. Absent Days**

*Amends Minn. Stat. § 119B.13, subd. 6*  
*Effective July 1, 2019*

- 1. Definition of "Absent Day"  
Defines "Absent Day" as "any day that the child is authorized and scheduled to be in care with a licensed provider or license-exempt center, and the child is absent from the care for the entire day."
  
- 2. Time Period  
Maintains current allowance for 25 absent days but changes the period from a fiscal year to a calendar year.

## G. Anti-Fraud (“Program Integrity”) Measures

### 1. Notice of Fraudulent Acts

Requires counties to, at the time of initial application and at redetermination, provide a written notice to the applicant or participant listing the activities that constitute childcare fraud and the consequences of committing childcare fraud. Requires applicants and participants to acknowledge in writing receipt of the notice.

*Amends Minn. Stat. § 119B.025, subd. 5*  
*Effective September 1, 2019*

### 2. Definition of Provider

Expands definition of “Provider” for fraud investigation purposes to include owners and controlling individuals of entities

*Adds Minn. Stat. § 245E.02, subd. 1a*  
*Effective August 1, 2019*

### 3. Record-Keeping; Admissibility of Records

Requires more accurate and legible record-keeping and limits admissibility of records if a provider contests an overpayment or disqualification

*Amends Minn. Stat. § 119B.125 subd. 6 (accuracy/legibility)*  
*Amends Minn. Stat. § 119B.13 subd. 6 (admissibility of records)*  
*Effective July 1, 2019*

### 4. Administrative Disqualification of Providers

#### a. *Mandatory Action*

Requires the county or DHS to pursue administrative disqualification of a childcare provider receiving CCAP that commits an “intentional program violation,” where a criminal action has not been pursued. Examples of “intentional program violations” include: (1) intentionally making false or misleading statements; (2) intentionally misrepresenting, concealing, or withholding facts; (2) and repeatedly and intentionally violating program regulations.” Provides that “intent may be proven by demonstrating a pattern of conduct that violates program rules under chapters 119B and 245E.” Requires and specifies contents of notice.

*Adds Minn. Stat. § 256.046, subd. 3*  
*Effective August 1, 2019*

- b. *Appeals; Burden of Proof*  
Allows for provider appeal to the Appeals Division of DHS if requested within 30 days of the mailing date of the notice. Specifies the contents of appeal. Provides that the issuing agency bears the burden of proof to demonstrate by a preponderance of the evidence that the provider committed an intentional program violation. Provides that the DHS determination is “final and binding” unless a timely and proper appeal is received by DHS.  
*Adds Minn. Stat. § 256.046, subd. 3*  
*Effective August 1, 2019*
  
- c. *Disqualification Period*  
Disqualifies a provider found to have committed an intentional violation from receiving any payments from any childcare program: (1) for the first offense, for three years; and (2) any subsequent offense, permanently.  
*Adds Minn. Stat. § 256.046, subd. 3*  
*Effective August 1, 2019*
  
- d. *Fraud Investigations*  
Permits tribal or county human services agencies to conduct investigations of intentional program violations or financial misconduct by childcare providers, after the county agency has verified that the provider is not currently under DHS investigation. Vests the tribal or county agency with the authority to immediately suspend a provider’s CCAP authorization if the investigation uncovers a preponderance of evidence of financial misconduct. Grants affected providers the right to administrative review.  
*Adds Minn. Stat. § 256.983, subd. 5*  
*Effective February 26, 2021*

## **II. BASIC SLIDING FEE PROGRAM**

*First Special Session, Chapter 9, Article 1, Section 7 (SF 12)*

*Amends Minn. Stat. § 119B.03, subd. 9*

*Effective December 2, 2019*

Changes the notification requirements for participants moving to a new county. Under the new provisions, a participant is only required to “notify the previous county of residence of the family’s move to a new county of residence” (emphasis added).

**Note:** *(Prior law required notification within 60 days of moving and submit information verifying eligibility for the basic sliding fee program.)*

### III. BACKGROUND STUDIES

*First Special Session, Chapter 9, Article 2, Sections 62, 68, 70, 72, 73, 79-81; and 133 (SF 12) Amends Minn. Stat. §§ 245C.02, subd. 6a; 245C.05, subd. 5a; 245C.08, subd. 3; 245C.13, subds. 2 and 3; and 245.30, subds. 1-3*

*Various Effective Dates*

#### A. Definition of “Child Care Background Study Subject”

Expands the definition of “Child Care Background Study Subject” to include, among others, the following individuals who must undergo a background study if providing child care at a licensed or certified program: (1) anyone “assisting in care” of a child (changed from anyone whose activities involved supervision of a child); (2) a person applying for certification, or enrollment, in addition to a license; and (3) in addition to a volunteer, a contractor, prospective employee, or other person with unsupervised physical access to a child and who is not under supervision; (4) when DHS has “reasonable cause” (as defined in Minn. Stat. § 245C.02, subd. 15) regarding anyone not providing direct services with unsupervised access to a child. Provides exceptions.

*Amends Minn. Stat. § 245C.02, subd. 6a*

*Effective August 1, 2019*

#### B. Background Studies on Minors

Requires background study subjects that are younger than 17 years old to submit non-fingerprint-based data if: (1) DHS has reasonable cause to require a national criminal history record check; or (2) the minor subject is employed by or supervises children served by a legal nonlicensed child care provider or a licensed family child care program.

*Amends Minn. Stat. § 245C.05, subd. 5a*

*Effective August 1, 2019*

#### C. Background Studies on Individuals Affiliated with Child Care Centers

Requires that the notice indicating that more time is needed to complete the background study for individual affiliated with a licensed or certified license exempt childcare center must also indicate that the individual must be under continuous direct supervision prior to completion of the study. Prohibits direct contact with children served by a licensed or certified license exempt childcare center prior to receipt of the DHS notice regarding background study results.

*Amends Minn. Stat. § 245C.13, subd. 2*

*Effective August 1, 2019*

#### D. Use of Arrest and Investigative Information

Permits DHS to review: (1) arrest and investigative information on file with DHS and MDH; (2) a background study subject’s FBI records more than once when specifically required by law.

*Amends Minn. Stat. § 245C.08, subd. 3*

*Effective for background studies requested on or after October 1, 2019*

**E. Data Classification of National Criminal History Record Check Information**

Establishes that national criminal history record check information used to make a disqualification determination is private data.

*Amends Minn. Stat. § 245C.08, subd. 3*

*Effective for background studies requested on or after October 1, 2019*

**F. Issuance of Background Study Results**

Allows DHS to issue a notice of background study results where the only reason preventing issuance of the notice is that the commissioner has not received certain records from other states within ten days of requesting the information.

*Amends Minn. Stat. § 245C.13, subd. 3*

*Effective August 1, 2019*

**G. Variances for License-Exempt Child Care Centers**

Permits DHS to grant a variance for license-exempt childcare centers under certain circumstances and provided that certain requirements are met.

*Amends Minn. Stat. § 245C.30, subds. 1-3*

*Effective September 30, 2019*

**H. DHS Review of Background Study/Licensing Provisions**

Directs DHS to review existing statutes and rules relating to childcare background study and licensing requirements and propose legislation for the 2020 legislative session that eliminates unnecessary and duplicative record keeping or documentation requirements for childcare providers.

*Uncodified Session Law*

*Effective August 1, 2019*

**IV. FAMILY CHILDCARE TASK FORCE**

*First Special Session, Chapter 9, Article 2, Section 132 (SF 12)*

*Uncodified Session Law*

*Effective May 31, 2019*

*Expires the later of the submission of a required report or February 21, 2021*

**A. Establishment**

Establishes a 25-member task force, consisting, among others: (1) a bipartisan group of legislators from the Senate and House of Representatives; (2) DHS; (3) family child care providers from Greater Minnesota and the Metropolitan Area; (4) professional associations; (5) parents; (6) business representatives; (7) Child Care Aware; (8) the Minnesota Initiative Foundation; (9) the Minnesota Children's Cabinet; and (10) First Children's Finance.

**B. Duties/Report**

Requires a report to the Legislature by February 1, 2021 that contains findings, recommendations, and draft legislation concerning: (1) difficulties identified that providers face regarding licensing and inspection; (2) regulatory reforms to improve licensing efficiency; (3) a review of and recommended changes to existing variance authority delegated to counties; (4) business development and technical assistance resources to promote provider recruitment and retention; (5) alternative child care delivery systems that could be more financially viable in smaller communities with unmet child care capacity needs in greater Minnesota; (6) obstacles and suggested improvements to Parent Aware program participation; (7) provider education; (8) methods to improve access to and understanding of the rules and statutes governing family child care providers.

**V. DATA SHARING AND DISCLOSURE OF DATA**

**A. Sharing Data on Program Applicants and Recipients**

*First Special Session, Chapter 9, Article 2, Section 1 (SF 12)*  
*Amends Minn. Stat. § 13.46, subd. 2*  
*Effective May 31, 2019*

Allows DHS to share information about program applicants and recipients and childcare providers with the Minnesota Department of Education.

**B. Sharing Investigative Data**

*First Special Session, Chapter 9, Article 2, Section 2 (SF 12)*  
*Amends Minn. Stat. § 13.46, subd. 3*  
*Effective May 31, 2019*

Allows disclosure of investigative data to agents of the welfare system and investigators, in addition to law enforcement, unless the disclosure may compromise an ongoing DHS investigation.

**C. Child Care Data and the Minnesota Government Data Practices Act**

1. Regarding Correction Orders and Fines

*First Special Session, Chapter 9, Article 2, Section 3 (SF 12)*  
*Amends Minn. Stat. § 13.46, subd. 4*  
*Effective August 1, 2019*

Makes a correction order or fine issued to a childcare provider for a licensing violation that is seven years old or older private or non-public data under the Minnesota Government Data Practices Act (Chapter 13).

2. Classification  
*First Special Session, Chapter 9, Article 2, Section 4 (SF 12)*  
*Amends Minn. Stat. § 13.461, subd. 28*  
*Effective May 31, 2019*

Clarifies the classification of childcare assistance program payment data under the Minnesota Government Data Practices Act (Chapter 13).

## VI. LICENSING CHANGES

*First Special Session, Chapter 9, Article 2, Sections 14-20, 24-29, 31, and 33-39 (SF 12)*  
*Amends Minn. Stat. §§ 245A.02, subds. 3, 8, 9; 12, and 14; 245A.04, subds. 1, 2, 4, 6, 7, and 10; 245A.05; and 245A.07, subds. 1, 2, 2a, and 3*  
*Adds Minn. Stat. §§ 245A.02, subds. 3b and 10c; 245A.04, subd. 7a; 245A.043; and 245A.055*  
*Various Effective Dates*

### A. Definitions

1. “Applicant”  
Adds government entities to the definition of “applicant.”  
*Amends Minn. Stat. § 245A.02, subd. 3*  
*Effective January 1, 2020*
2. “Authorized Agent”  
Defines “authorized agent” as a controlling individual designated to communicate with the commissioner of human services on licensing matters; amends the definition of “license” to mean a license issued under Minn. Stat. § 245A.04.  
*Adds Minn. Stat. § 245A.02, subd. 3b*  
*Effective January 1, 2020*
3. “License Holder”  
Adds government entities to the definition of “license holder.”  
*Amends Minn. Stat. § 245A.02, subd. 3*  
*Effective January 1, 2020*
4. “Organization”  
Defines “organization” as “a domestic or foreign corporation, nonprofit corporation, limited liability company, partnership, limited partnership, limited liability partnership, association, voluntary association, and any other legal or commercial entity. For purposes of this chapter, organization does not include a government entity.”  
*Adds Minn. Stat. § 245A.02, subd. 10c*  
*Effective July 1, 2019*

5. “Private Agency”  
Modifies the definition of “private agency” by making a technical conforming change and adding the private agency designated to perform licensing functions under section 245A.16.  
*Amends Minn. Stat. § 245A.02, subd. 12*  
*Effective July 1, 2019*

**B. License Applications**

1. Who Must be Licensed  
Modifies the list of entities required to be licensed, updates application requirements for controlling individuals, authorized agents, and government entities, and expands what information must be submitted with an application for an individual or organization.  
*Amends Minn. Stat. § 245A.04, subd. 1*  
*Effective January 1, 2020*
2. Notification of Affected Municipality  
Permits DHS to use electronic communication to notify a municipality or other political subdivision that would be affected by issuance of a new license.  
*Amends Minn. Stat. § 245A.04, subd. 2*  
*Effective January 1, 2020*
3. Notification to DHS of Changes Altering Information on File  
Requires a license holder to notify DHS upon making any change that would alter the information the license is required to contain.  
*Adds Minn. Stat. § 245A.04, subd. 7a*  
*Effective January 1, 2020*
4. License Application After Change in Ownership
  - a. *Issuance of Temporary Change in Ownership License*  
Authorizes DHS to issue a “Temporary Change in Ownership License.”  
*Amends Minn. Stat. § 245A.04, subd. 7(a)*  
*Effective January 1, 2020*
  - b. *Transfer of License*  
Prohibits transfer of a license.  
*Adds Minn. Stat. § 245A.043, subd. 1*  
*Effective January 1, 2020*

- c. *Requirements When Ownership Changes*  
Requires submission of new license application when ownership changes.  
Specifies circumstances constituting change of ownership. Establishes process for application in those circumstances.  
*Adds Minn. Stat. § 245A.043, subd. 2 (new application; circumstances)*  
*Adds Minn. Stat. § 245A.043, subd. 3 (application process)*  
*Effective January 1, 2020*
  
- 5. Consumer Evaluation  
Removes the requirement that a program must be evaluated by its consumers prior to being issued a license.  
*Amends Minn. Stat. § 245A.04(a)*  
*Effective January 1, 2020*
  
- 6. Correction Orders  
Precludes DHS from issuing a correction order or negative licensing action for violations not discussed in an exit interview.  
*Amends Minn. Stat. § 245A.04, subd. 4(c)*  
*Effective September 30, 2019*
  
- 7. Dispute of County Interpretation of Licensing Requirement  
Provides a process for a family childcare license holder to dispute a county licenser's interpretation of a licensing requirement.  
*Amends Minn. Stat. § 245A.04, subd. 4 by adding paragraph (d)*  
*Effective September 30, 2019*
  
- 8. Considerations for Licensing Decisions
  - a. *Generally*  
Requires DHS to evaluate the applicant or license holder's ability to demonstrate competent knowledge of the applicable requirements of statutes and rules for which the applicant seeks a license or the license holder is licensed.  
*Amends Minn. Stat. § 245A.04, subd. 6*  
*Effective January 1, 2010*
  
  - b. *Basis for Denial*  
Permits the commissioner to deny a license application if the applicant:  
(1) fails to demonstrate competent knowledge of applicable rules and statutes; (2) has a history of noncompliance; or (3) is prohibited from holding a license.  
*Amends Minn. Stat. § 245A.05(a)*  
*Effective January 1, 2010*

**C. Temporary Immediate Suspension**

Permits a temporary immediate suspension of a license where the holder is criminally charged for fraud or theft against a program administered by the commissioner.

*Amends Minn. Stat. § 245A.07, subd. 2*

*Effective January 1, 2020*

**D. Closing a License**

Permits DHS to close a license if the program has not served any client for at least 12 consecutive months. Establishes a process for DHS to notify the license holder of the license closure. Permits the license holder to request reconsideration of the closure.

*Amends Minn. Stat. § 245A.055*

*Effective January 1, 2020*

**E. Hearing**

Establishes that the burden of proof on the commissioner in expedited hearings is a preponderance of the evidence that a criminal action against a provider involving fraud or theft against a program administered by the commissioner was not dismissed.

*Amends Minn. Stat. § 245A.057, subd. 2a(d)*

*Effective August 1, 2019*

**VII. LICENSE-EXEMPT CERTIFIED CENTERS**

*First Special Session, Chapter 9, Article 2, Sections 88-90 (SF 12)*

*Amends Minn. Stat. §§ 245H.03, subd. 4; 245H.07; and 245.10, subd. 7*

*Effective September 30, 2019*

**A. Reconsideration of Certification Denial**

Permits applicants to request reconsideration of a certification denial within 20 days of receiving the certification denial.

*Amends Minn. Stat. § 245H.03, subd. 4*

**B. Decertification**

1. Reasons

Adds revocation of CCAP authorization to the bases for which the commissioner may decertify a certified license-exempt childcare center

*Amends Minn. Stat. § 245H.07 by adding subd. 1(a)*

2. Reconsideration

Provides procedures by which a provider may request reconsideration of the decertification. Provides that if decertification is due to maltreatment, a final decertification determination reconsideration is stayed until resolution of a maltreatment determination or CCAP revocation appeal.

*Amends Minn. Stat. § 245H.07 by adding subd. 2 (request for reconsideration)*

*Amends Minn. Stat. § 245H.07 by adding subd. 3 (stay of decertification)*

**C. Background Study Requirements**

Provides that background study requirements will follow those provided under Chapter 245C, replaces existing background study requirements specified in Chapter 245H.

*Amends Minn. Stat. § 245H.10, subd. 1*

*Effective August 1, 2019*

**VIII. FALSE CLAIMS ACT PENALTIES**

*First Special Session, Chapter 9, Article 2, Section 5 (SF 12)*

*Amends Minn. Stat. § 15C.02(a)*

*Effective August 1, 2019*

Sets the penalties for violation of the Minnesota False Claims Act at the same levels as the penalties for violations of the federal False Claims Act.

**IX. EXPERIMENTAL DESIGN**

*First Special Session, Chapter 9, Article 2, Section 6 (SF 12)*

*Amends Minn. Stat. § 16A.055, subd. 1a*

*Effective August 1, 2019*

Authorizes the Department of Management and Budget to assist state agencies with the “experimental design” or “quasi-experimental design” for results first evaluations of grants administered by DHS. Defines those terms.

**X. PLAIN LANGUAGE HANDBOOK**

*First Special Session, Chapter 9, Article 2, Section 32 (SF 12)*

*Amends Minn. Stat. § 245A.04, subd. 18*

*Effective May 31, 2019*

Directs DHS to consult with relevant childcare stakeholders to develop, publicly post, and distribute, by January 1, 2020, a plain-language handbook for family childcare providers to understand: (1) the application and licensing processes; and (2) all applicable rules and statutes.

## **CIVIL RIGHTS**

Prepared by:

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### **RESTRICTIVE COVENANTS**

*Regular Session, Chapter 45 (HF 51)*

*Amends Minn. Stat. § 507.18, subds. 1-3*

*Adds Minn. Stat. § 507.18, subds. 4-5*

*Effective August 1, 2019*

Allows an owner of real property to record with the county recorder where the real property is located, on a statutory form provided, to discharge and release a restrictive covenant related to a protected class permanently from the title. Adds “national origin” to the list of classes against which the inclusion of a restrictive covenant is void. Clarifies that restrictive covenants are void regardless of the year the written instrument containing them was executed.

## CONSUMER LAW

Prepared by:  
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### I. PROHIBITED DEBT COLLECTION PRACTICE

*Regular Session, Chapter 59, Section 7 (HF 1960)*  
*Amends Minn. Stat. § 332.37*  
*Effective August 1, 2019*

Adds as a prohibited practice under Minnesota Debt Collection Law the commencement of a legal action to collect a debt outside the statute of limitations period (six years), as set forth in Minn. Stat. § 541.053.

### II. EXEMPTION AS MORTGAGE ORIGINATORS FOR CERTAIN MANUFACTURED HOME PARK DEALERS

*Regular Session, Chapter 58 (HF 990)*  
*Amends Minn. Stat. §§ 58.04, subd. 1; and 58A.03, subd. 2*  
*Effective August 1, 2019*

Exempts from the requirements of Chapter 58 – the Mortgage Originator Licensing Law – and from licensing as a mortgage originator, manufactured home park dealers who: (1) perform only clerical or support duties in connection with assisting a consumer in filling out a residential mortgage loan application; (2) do not negotiate loan terms or hold themselves out as housing counselors; (3) receive no direct or indirect compensation or gain from a company for performing their duties; (4) discloses in writing to a borrower if a corporate affiliation with a lender exists and, if so, that the lender cannot guarantee to lowest or best loan terms; (5) discloses that the consumer has the right to choose a lender; and (6) discloses the name of at least one unaffiliated lender. Requires that the disclosure be made on a one-page document prepared by the Department of Commerce.

**Note:** *In 2018, Congress relaxed requirements under Dodd-Frank that manufactured park home dealers obtain a license as a mortgage originator. This new law does not follow Congress' action but rather provides a significantly more limited exception for employees who only assist in clerical duties in connection with a loan application and requires additional consumer disclosures to qualify for the limited exemption.*

### III. REMOVAL OF “SUBPRIME” DEFINITION

*Regular Session, Chapter (HF 1840)*

*Amends Minn. Stat. §§ 58.13, subd. 1; and 58.137, subd. 2*

*Repeals Minn. Stat. § 58.02, subd. 27*

*Effective July 1, 2019*

Repeals definition of “Subprime” in banking statutes, which was used only to demarcate which loans were protected by the statutory prohibition against charging prepayment penalties on loans that met the definitional threshold. Preserves the prohibition against charging prepayment penalties on those loans by importing the actual formula into the statute containing the prohibition.

**Note:** *The designation “subprime” on Minnesota loans made them unacceptable to the secondary market. The purpose of this new statute is to remove the market impediment while maintaining all existing consumer protections for loans that meet the repealed definition’s threshold.*

## DHS LICENSING/BACKGROUND STUDIES

Prepared by:

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### I. **CHILDCARE PROVIDERS**

*First Special Session, Chapter 9, Article 2, Section 62 (SF 12)*  
*Amends Minn. Stat. § 245C.02, subd. 6a*  
*Effective August 1, 2019*

Expands and clarifies definition of “Child Care Background Study Subject” to include, among others, the following individuals who must undergo a background study if providing child care at a licensed or certified program: (1) anyone “assisting in care” of a child (changed from anyone whose activities involved supervision of a child); (2) a person applying for certification, or enrollment, in addition to a license; and (3) in addition to a volunteer, a contractor, prospective employee, or other person with unsupervised physical access to a child and who is not under supervision; (4) when DHS has “reasonable cause” (as defined in Minn. Stat. § 245C.02, subd. 15) regarding anyone not providing direct services with unsupervised access to a child. Provides exceptions.

### II. **PROVIDERS OF CARE AT CHILDREN’S RESIDENTIAL FACILITIES**

*First Special Session, Chapter 9, Article 2, Sections 63, 65, and 67 (SF 12)*  
*Amends Minn. Stat. §§ 245C.03, subd. 1; and 245C.05, subd. 5*  
*Adds Minn. Stat. §§ 245C.02, subd. 6b; and 245C.24, subd. 5*  
*Effective August 1, 2019*

#### A. **Definition of “Children's Residential Facility**

Expands definition of "Children's Residential Facility" to include facilities licensed by DHS or the Department of Corrections.  
*Adds Minn. Stat. § 245C.02, subd. 6b*

#### B. **Persons Subject to Background Studies**

Adds any adult working in a children’s residential facility to the list of persons subject to a background study. Removes the requirements applicable to legal nonlicensed childcare and certified license-exempt childcare programs.  
*Amends Minn. Stat. § 245C.03, subd. 1*

#### C. **Fingerprinting Requirement**

Adds adults working in children’s residential facilities to the list of those study subjects required to provide fingerprints for a national criminal history record check. Establishes that the FBI will not retain background study subjects’ fingerprints.  
*Amends Minn. Stat. § 245C.05, subd. 5*

**D. Bar to Set-Aside for Certain Offenders**

Prohibits DHS from setting aside a disqualification of a person in connection with a license for a children's residential facility who was convicted of a felony within the past five years for: (1) physical assault or battery; or (2) a drug-related offense.

*Adds Minn. Stat. § 245C.24, subd. 5*

**III. BACKGROUND STUDIES ON MINORS**

*First Special Session, Chapter 9, Article 2, Section 68 (SF 12)*

*Amends Minn. Stat. § 245C.05, subd. 5a*

*Effective August 1, 2019*

Requires background study subjects that are younger than 17 years old to submit non-fingerprint-based data if: (1) DHS has reasonable cause to require a national criminal history record check; or (2) the minor subject is employed by or supervises children served by a legal nonlicensed child care provider or a licensed family child care program.

**IV. FEES FOR BACKGROUND STUDIES**

*First Special Session, Chapter 9, Article 2, Section 71 (SF 12)*

*Amends Minn. Stat. § 245C.10, subd. 14*

*Effective July 1, 2019 for studies initiated on or after that date*

Sets the fee for the subject of the background study not to exceed \$51.

**V. SET-ASIDES**

*First Special Session, Chapter 9, Article 2, Sections 75, 77, and 78 (SF 12)*

*Amends Minn. Stat. §§ 245C.22, subd. 5; and 245C.24, subds. 2 and 5*

*Effective July 1, 2019 for studies initiated on or after that date*

**A. For Employees in the Substance Abuse Disorder Treatment Field**

Provides that DHS must set aside a disqualification for a position in the substance abuse disorder treatment field for a person if: (1) DHS has previously set aside the person's disqualification for one or more programs or agencies in the substance use disorder treatment field; (2) the new program is licensed or regulated under the same provisions of law as the program for which the previous disqualification was set aside; (3) DHS has no new information to indicate the subject may pose a risk of harm; (4) the previous set-aside was not limited to a specific person receiving services; (5) the person is not otherwise disqualified.

*Amends Minn. Stat. § 245C.22, subd. 5*

**B. For Employees of Nonemergency Medical Transportation Services**

Gives DHS the discretion to set aside a disqualification for a person seeking employment for a nonemergency medical transportation service if the person: (1) was disqualified for any disqualifying conduct (listed in Minn. Stat. § 245C.15, subd. 1); and more than 40 years have passed since the discharge of the sentence imposed. Requires the application for a set aside must include a letter of recommendation from the employer. Excludes persons convicted of: (1) predatory offense; (2) murder or manslaughter; (3) kidnapping; (4) criminal sexual conduct; and (5) various criminal acts involving minors. *Amends Minn. Stat. § 245C.24, subds. 2*

**C. Bar to Set-Aside in Children’s Residential Facility for Certain Offenders**

Prohibits DHS from setting aside a disqualification of a person in connection with a license for a children's residential facility who was convicted of a felony within the past five years for: (1) physical assault or battery; or (2) a drug-related offense. *Adds Minn. Stat. § 245C.24, subd. 5*

## **DISABILITY LAW**

Prepared by:  
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*See also Health Law section*

### **Services for Persons with Developmental Disabilities**

#### **I. TEFRA**

*First Special Session, Chapter 9, Article 5, Sections 20 and 88 (SF 12)*  
*Amends Minn. Stat. § 252.27, subd. 2a*  
*Uncodified Session Law*  
*Effective August 1, 2019*

##### **A. Parental Contribution**

Reduces the parental contribution required under the MA TEFRA option (for children with disabilities) by 15%.  
*Amends Minn. Stat. § 252.27, subd. 2a*

##### **B. Information to Applicants on DHS Web Site**

Directs DHS to: (1) develop content explaining the MA-TEFRA option to online applicants; (2) develop a cover letter to accompany materials sent to applicants explaining the MA-TEFRA enrollment and renewal processes.  
*Uncodified Session Law*

##### **C. DHS Stakeholder Group to Consider TEFRA Improvements**

*Uncodified Session Law*

###### **1. Establishment**

Directs DHS to convene a stakeholder group to consider improvements to the TEFRA option enrollment and renewal processes.

###### **2. Members**

Provides that the stakeholder group must include representatives from: (1) DHS; (2) MNsure; (3) counties in Greater Minnesota and in the Metro; (4) the Arc Minnesota; (5) Gillette Children's Specialty Healthcare; (6) the Autism Society of Minnesota; (7) Proof Alliance; and the Minnesota Consortium for Citizens with Disabilities. Allows DHS to invite others.

###### **3. Stakeholder Group Report to DHS**

Directs the stakeholder group to report to DHS the recommended improvements and associated costs by December 31, 2020

**II. COUNTY SHARE FOR SEMI-INDEPENDENT LIVING SERVICES (SILS)**

*First Special Session, Chapter 9, Article 5, Section 21 (SF 12)*

*Amends Minn. Stat. § 252.275, subd. 3*

*Effective July 1, 2019*

Reduces the county share for semi-independent living services (SILS) grants from 30 percent to 15 percent.

**III. FAMILY SUPPORT GRANTS**

*First Special Session, Chapter 9, Article 5, Section 22 (SF 12)*

*Amends Minn. Stat. § 252.32, subd. 1a*

*Effective October 1, 2019*

Changes eligibility for family support grant from under age 21 to under age 25. Provides that “new grant allocations, beginning July 1, 2019, are intended to support families with dependents age 14 through 24 to support transition-related activities.”

**IV. DAY SERVICES FOR ADULTS WITH DEVELOPMENTAL DISABILITIES**

*First Special Session, Chapter 9, Article 5, Sections 23-32 (SF 12)*

*Amends Minn. Stat. §§ 252.41–252.45*

*Various Effective Dates*

Updates terminology and makes various changes to provisions governing day services for adults with developmental disabilities

**A. Expansion of Day Services**

Expands day services to include: (1) day support services; (2) prevocational services; (3) day training and habilitation services; (4) structured day services; and (5) adult day services as defined in Minnesota's federally approved disability waiver plans.

*Amends Minn. Stat. § 252.41, subd. 3*

*Effective January 1, 2021 or upon federal approval, whichever is later*

**B. County Authority to Change Authorized Days**

Removes language regarding limitations on the ability of county boards (now termed “lead agencies”) to change authorized service days

*Amends Minn. Stat. § 252.44*

*Effective January 1, 2021*

## Home and Community-Based Services

### **I. RESIDENTIAL PROGRAM DEFINITION CHANGE**

*First Special Session, Chapter 9, Article 2, Section 20 (SF 12)*

*Amends Minn. Stat. § 245A.02, subd. 14*

*Effective January 1, 2010*

Expands the definition for “residential program” providing HCBS services under a waiver to: (1) include “a single or multifamily dwelling that is under the control, either directly or indirectly, of the service provider licensed under chapter 245D and in which at least one person receives services under chapter 245D”; and (2) exclude “out-of-home respite services when a case manager has determined that an unlicensed site meets the assessed needs of the person” and “multifamily dwellings where persons receive integrated community supports, even if authorization to provide these supports is granted under chapter 245D and approved in the federal waiver.”

### **II. COMMUNITY FIRST SERVICES AND SUPPORTS (CFSS)**

#### **A. CFSS for Pregnant Women**

*First Special Session, Chapter 9, Article 5, Section 70 (SF 12)*

*Amends Minn. Stat. § 256B.85, subd. 3*

*Effective May 31, 2019*

Establishes CFSS eligibility for pregnant women without federal financial participation if meet criteria listed.

#### **B. CFSS Encumbrance**

*First Special Session, Chapter 9, Article 5, Sections 73-74 (SF 12)*

*Amends Minn. Stat. § 256B.85, subds. 11-12*

*Effective August 1, 2019*

Requires that 100% of revenue generated from rate increases for services provided by CFSS agencies must be used for support worker wages and benefits.

#### **C. CFSS Restricted Recipient Program**

*First Special Session, Chapter 9, Article 2, Sections 118 (SF 12)*

*Adds Minn. Stat. § 256B.0646*

*Effective May 31, 2019*

Permits DHS to place a recipient of CFSS services in the Minnesota restricted recipient program upon evidence of abusive or fraudulent billing. Placement in the program is subject to appeal.

**III. CONSUMER-DIRECTED COMMUNITY SUPPORTS**

*First Special Session, Chapter 9, Article 5, Section 81 (SF 12)  
Amends Laws 2017, First Special Session, Chapter 6, Article 1, Section 45  
Effective October 1, 2019 or upon federal approval, whichever is later*

Establishes shared services under CDCS. Allows increased rate for services provided at the same time by the same direct care worker for individuals who have entered into an agreement to share CDCS services (up to three individuals at one time).

**IV. INTEGRATED COMMUNITY SUPPORTS/SETTING CAPACITY REPORT**

*First Special Session, Chapter 9, Article 5, Section 19 (SF 12)  
Adds Minn. Stat. § 245D.12  
Effective upon federal approval*

Requires integrated community supports license holder to submit a capacity report to ensure the location of service delivery meets HCBS criteria. Includes requirement that only one license holder may deliver integrated community supports at the address of the multifamily housing building.

**V. PERSONAL CARE ASSISTANCE**

**A. PCA Assessments During MNCHOICES Transition**

*Laws of 2019, First Special Session, Chapter 9, Article 5, Section 35 (SF 12)  
Amends § 256B.0659, subd. 3a  
Effective August 1, 2019*

Allows a certified assessor to complete a long-term care consultation assessment for PCA services during the transition to MnCHOICES.

**B. PCA/CFSS Enhanced Rate**

*First Special Session, Chapter 9, Article 5, Sections 36-42, 48, 71-72, and 75 (SF 12)  
Amends Minn. Stat. §§ 256B.0659, subds. 11, 13, 19, 28; 256B.0915, subd. 3a; and  
256B.85, subd. 16  
Adds §§ 256B.0659, subd 17a, and 256B.85, subd. 7a  
Various Effective Dates*

**1. Enhanced PCA Rate**

Provides enhanced rate of 7.5% for PCA if person qualifies for 12 or more hours per day and PCA satisfies training requirements (included in, not in addition to, any adjustments based on collective bargaining wage increases). Requires qualified individuals to enroll with DHS and be subject to background study.  
*Amends Minn. Stat. § 256B.0659, subds. 11, and 13  
Adds Minn. Stat. § 256B.0659, subd 17a  
Effective July 1, 2019*

2. Documentation of Training  
Requires agencies to provide and keep documentation of training for PCA enhanced rate.  
*Amends Minn. Stat. § 256B.0659, subd. 28*  
*Effective July 1, 2019*
3. Documentation of Pass-through to Wages  
Requires a provider agency to document that it passed through the entire value of the enhanced rate in the form of wages and benefits to the personal care attendants who provide the services that qualify for the enhanced rate.  
*Amends Minn. Stat. § 256B.0659, subd. 24*  
*Effective July 1, 2019*
4. Labor Market Study  
Requires PCA agencies to report labor market data.  
*Amends Minn. Stat. §§ 256B.0659, subds. 19 and 24; and 256B.85, subd. 10*
5. Exception to Monthly Case Mix Budget Cap  
Requires DHS to approve an exception to the monthly case mix budget cap to account for the PCA enhanced rate. Limits the exception to no more than 107.5% of the budget. Requires the exception to be reapproved annually.  
*Amends Minn. Stat. § 256B.0915, subd. 3a*  
*Effective July 1, 2019 or upon federal approval, whichever is later*
6. Enhanced CFSS Rate  
Provides enhanced rate of 7.5% under CFSS program if person qualifies for 12 or more hours per day and support worker satisfies training requirements (included in, not in addition to, any adjustments based on collective bargaining wage increases).  
*Amends Minn. Stat. § 256B.85, subd. 16*  
*Adds Minn. Stat. § 256B.85, subd. 7a*  
*Effective July 1, 2019*

**C. PCA Restricted Recipient Program**

*First Special Session, Chapter 9, Article 2, Sections 118 (SF 12)*  
*Adds Minn. Stat. § 256B.0646*  
*Effective May 31, 2019*

Permits DHS to place a recipient of PCA services in the Minnesota restricted recipient program upon evidence of abusive or fraudulent billing. Placement in the program is subject to appeal.

**D. PCA Documentation**

*First Special Session, Chapter 9, Article 2, Section 120 (SF 12)*  
*Amends Minn. Stat. § 256B.0659, subd. 12*  
*Effective May 31, 2019*

Modifies the service delivery documentation requirements of PCAs.

**E. Repeal of Annual Review of PCA Program**

*First Special Session, Chapter 9, Article 7, Section 47 (SF 12)*  
*Repeals Minn. Stat. § 256B.0659, subd. 22*  
*Effective August 1, 2019*

Repeals annual review of PCA program.

**F. 21<sup>st</sup> Century Cures Act – Electronic Visit Verification**

*First Special Session, Chapter 9, Article 5, Section 82 (SF 12)*  
*Amends Laws 2017, First Special Session, Chapter 6, Article 3, Section 49*  
*Effective August 1, 2019*

1. Provider Requirements

Establishes electronic visit verification provider requirements for compliance with 21<sup>st</sup> Century Cures Act.

2. New Services

Adds home health services, durable medical equipment, and home and community-based services.

3. Restriction on DHS Enforcement

Prohibits DHS from enforcing electronic visit verification requirements until six months after DHS makes available to service providers: (1) the state-selected electronic visit verification system; (2) the data aggregator; and (3) training on the system. Prohibits reduction of reimbursement rates as a result of federal enforcement of electronic visit verification implementation requirements.

**G. Labor Agreement for Individual Providers of Direct Support Services**

*First Special Session, Chapter 9, Article 5, Sections 83-84 (SF 12)*  
*Effective July 1, 2019*

Ratifies labor agreement between state and Union for individual providers of direct support services; increases rates by 2.37%; adds enhanced rate of 7.5% (included, not in addition to).

## **VI. DISABILITY WAIVER RATE SYSTEM**

*First Special Session, Chapter 9, Article 2, Sections 55-67, and 89 (SF 12)*

*Amends Minn. Stat. § 256B.0659, subd. 12; 256.13, subd. 4a; 256B.4914, subd. 2, 3 (as amended by Laws 2019, Chapter 50, Article 2, Section 1), 4, 5, 6, 7, 8, 9, 10, 10a, 14 and 15*

*Various Effective Dates*

### **A. Definitions**

1. **“Comparable Occupations”**

Defines “Comparable Occupations” as “the occupations, excluding direct care staff, as represented by the Bureau of Labor Statistics standard occupational classification codes that have the same classification for: (1) typical education needed for entry; (2) work experience in a related occupation; and (3) typical on-the-job training competency as the most predominant classification for direct care staff.

*Amends Minn. Stat. § 256B.4914, subd. 2 by adding paragraph (c)*

*Effective August 1, 2019*

2. **“Direct Care Staff”**

Defines “Direct Care Staff” to mean “employees providing direct service to people receiving services under this section.” Expressly excludes “executive, managerial, and administrative staff.”

*Amends Minn. Stat. § 256B.4914, subd. 2 by adding paragraph (f)*

*Effective August 1, 2019*

3. **“Unit of Service”**

Modifies the definition of “unit of service” for the purposes of prevocational services, reducing a unit from one hour to 15 minutes.

*Amends Minn. Stat. § 256B.4914, subd. 2(p) (formerly paragraph (n))*

*Effective August 1, 2019*

### **B. Elimination of Seventh Year of Banding**

Removes the seventh year of banding, which the federal Centers for Medicare and Medicaid Services (CMS) did not approve.

*Amends Minn. Stat. § 256B.4913, subd. 4a*

*Effective May 31, 2019*

### **C. Base Wage Index and Component Value Changes**

Establishes new DWRS base wages for: (1) adult day services; (2) day support services; (3) prevocational services; and (4) individualized home supports with family training, and individualized home support staff. Removes base wages for: (1) independent living skills specialist staff; and (2) supported employment staff.

*Amends Minn. Stat. § 256B.4914, subds. 5(a) and (e)*

*Effective January 1, 2021, or upon federal approval*

**D. Competitive Workforce Factor**

Establishes a competitive workforce factor of 4.7 percent for each service category and integrates new services into the appropriate service categories.

*Amends Minn. Stat. § 256B.4914, subd. 5(b)*

*Effective January 1, 2020 or upon federal approval, whichever is later;*

**E. Rate Adjustments**

1. Frequency of Future Wage Index Rebasing

Increases the frequency of future wage index rebasing from every 5 years to every two years. Requires use of 30-month-old data rather than the most recently available data when performing the rebasing.

*Amends Minn. Stat. § 256B.4914, subd. 5(i) (formerly paragraph (h))*

*Effective July 1, 2022, or upon federal approval, whichever is later*

2. Frequency of Future Inflation Adjustments of Certain Component Values

Decreases the frequency of future inflation adjustments of certain component values from every five years to every two years. Requires use of 30-month old data rather than the most recently available data when performing the inflation adjustment.

*Amends Minn. Stat. § 256B.4914, subd. 5 by adding paragraph (k)*

*Effective July 1, 2022 or upon federal approval, whichever is later*

3. After Framework Adjustments

Removes all after framework adjustments from DWRS rates effective July 1, 2018.

*Amends Minn. Stat. § 256B.4914, subd. 5 by adding paragraph (l)*

*Effective retroactively from July 1, 2018*

**Note:** *Adjustments removed are those authorized under Minn. Stat. § 256B.439, subdivision 7; Laws 2013, chapter 108, article 7, section 60; and Laws 2014, chapter 312, article 27, section 75.*

4. Removal of Other Rate Adjustments

Preemptively removes any rate adjustments from DWRS rates that are not specified in Minn. Stat. § 256B.4914 each time a wage index rebasing and inflation adjustment occurs.

*Amends Minn. Stat. § 256B.4914, subd. 5 by adding paragraph (m)*

*Effective August 1, 2019*

5. DHS Report to the Legislature

Requires DHS, beginning February 1, 2021, to report every two years to the legislature with an analysis of and recommendations concerning the competitive workforce factor. Specifies the information that must be included in the report.

*Amends Minn. Stat. § 256B.4914, subd. 5 by adding paragraph (j)*

*Effective July 1, 2022 or upon federal approval, whichever is later*

## F. Payments

### 1. For Residential Support Services

#### a. *Categorization of Services*

Specifies that the services categorized as residential support services includes: (1) 24-hour customized living services; (2) community residential services; (3) customized living services; (4) family residential services; (5) foster care services; (6) integrated community supports; (7) and supportive living services daily.

*Amends Minn. Stat. § 256B.4914, subd. 6(a)*

*Effective January 1, 2020 or upon federal approval, whichever is later,*

#### b. *Competitive Workforce Factor*

Integrates the competitive workforce factor into the DWRS rate calculation for certain residential support services.

*Amends Minn. Stat. § 256B.4914, subd. 6(b)*

*Effective January 1, 2020 or upon federal approval, whichever is later,*

#### c. *Integrated Community Support Services*

Creates a new DWRS rate calculation for integrated community support services.

*Amends Minn. Stat. § 256B.4914, subd. 6 by adding paragraphs (e) and (f)*

*Effective January 1, 2021 or upon federal approval, whichever is later*

#### d. *Customized Living Tool*

Provides that the existing customized living tool must be used to set customized living rates. Requires DHS to modify the customized living tool to reflect the services and activities unique to recipients with disabilities and to include an adjustment for regional differences in the cost of providing services.

*Amends Minn. Stat. § 256B.4914, subd. 6 by adding paragraph (g)*

*Effective January 1, 2021 or upon federal approval, whichever is later*

### 2. For Day Programs

Updates the services available as day services. Integrates the competitive wage factor into the DWRS rate calculation for day services.

*Amends Minn. Stat. § 256B.4914, subd. 7*

*Effective January 1, 2020 or upon federal approval, whichever is later, except the service name changes are effective January 1, 2021 or upon federal approval, whichever is later*

3. For Unit-Based Services

a. *Services with Programming*

Updates the services available as unit-based services with programming. Integrates the competitive wage factor into the DWRS rate calculation for unit-based services with programming.

*Amends Minn. Stat. § 256B.4914, subd. 8*

*Effective January 1, 2020 or upon federal approval, whichever is later*

b. *Services Without Programming*

Updates the services available as unit-based services without programming. Integrates the competitive wage factor into the DWRS rate calculation for unit-based services without programming. Creates new calculations for shared individualized home supports and shared respite care services.

*Amends Minn. Stat. § 256B.4914, subd. 9*

*Effective January 1, 2020 or upon federal approval, whichever is later, except the service name change is effective January 1, 2021 or upon federal approval, whichever is later*

4. Payment Values

Modifies the frequency of required analysis of the regional adjustment factor to once every six years. Delays by one year the next full report on the data analysis DHS is performing related to the DWRS. Adds a new requirement that DHS and stakeholders study value-based payment methodologies for waiver services and report to the legislative committees with jurisdiction over the disability waiver rate system by October 1, 2020, with recommended strategies in the areas of” (1) new and more efficient models of care; (2) stretching individual budgets; (3) supporting person-centered planning; and (4) creating a broader range of services tending to greater Minnesota and diversity.

*Amends Minn. Stat. § 256B.4914, subd. 10*

*Effective May 31, 2019*

5. Analysis and Reporting of Cost Data

a. *Reporting for Certain Providers*

Requires the following providers to report the additional revenue attributable to the competitive workforce factor and prepare a written plan for distributing that revenue to direct care workers: (1) corporate foster care services; (2) corporate supportive living services daily; (3) community residential services; and (4) integrated community support services.

*Amends Minn. Stat. § 256B.4914, subd. 10a by adding paragraph (f)*

*Effective May 31, 2019*

- b. *Submission of Labor Market Data by Certain Providers*  
Requires enrolled providers offering HCBS services enumerated under Minn. Stat. § 4914, subd. 3, to submit labor market data to DHS. Allows DHS to temporarily suspend payments if required data is not received within 90 days of the required submission date. Exempts providers that receive payments under DWRS for less than a quarter of their clients.  
*Amends Minn. Stat. § 256B.4914, subd. 10a by adding paragraphs (g), (i), and (j)*  
*Effective November 1, 2019*
- c. *Directions to DHS*  
Requires DHS to publish an annual report based on the labor market data submitted by providers.  
*Amends Minn. Stat. § 256B.4914, subd. 10a by adding paragraph (h)*  
*Effective February November 1, 2020*

**G. Stakeholder Consultation on Rate-Setting Methodology**  
*First Special Session, Chapter 9, Article 5, Section 68 (SF 12)*  
*Adds Minn. Stat. § 256B.4914, subd. 17*  
*Effective August 1, 2019*

Directs DHS to: (1) continue stakeholder group for rate-setting methodology; (2) offer training to county personnel; and (3) maintain online manual. Prohibits counties from setting different rates.

**VI. POSITIVE SUPPORTS - PERSONNEL QUALIFICATIONS**  
*First Special Session, Chapter 9, Article 5, Sections 16–18 (SF 12)*  
*Amends Minn. Stat. § 245D.091, subds. 2-4*  
*Effective August 1, 2019*

- A. Positive Support Professional**  
Allows person with masters or higher or PhD in behavioral sciences or related fields and demonstrated expertise in positive support services. Changes “behavior” support to “positive” support throughout. Adds CAC and DD waivers.  
*Amends Minn. Stat. § 245D.091, subd. 2*
- B. Positive Support Analyst**  
Adds new qualifications for a positive support analyst. Allows the following persons to qualify as a positive support analyst: (1) a board-certified behavior analyst or assistant behavior analyst; (2) a person who meets the other positive support analyst qualifications; (3) a person who receives the required training within 90 days; and (4) without meeting training requirements, a person who qualifies as a positive support professional. Adds CAC and DD waivers.  
*Amends Minn. Stat. § 245D.091, subd. 3*

**C. Positive Support Specialist**

Adds new training requirements, including eight hours of training on person-centered thinking principles.

*Amends Minn. Stat. § 245D.091, subd. 4*

**VII. HCBS SERVICE PLANNING REVIEW AND EVALUATION**

*First Special Session, Chapter 9, Article 5, Section 13 (SF 12)*

*Amends Minn. Stat. § 245D.071, subd. 5*

*Effective August 1, 2019*

Adds requirement to CSSP of annual discussion of how assistive technology may be used to support person's outcomes. Makes technical changes clarifying requirement that service plan review meeting must occur at least once per year or within 30 days of a written request by the person, the person's legal representative, or the case manager.

**VIII. TRAINING FOR HCBS STAFF**

*First Special Session, Chapter 9, Article 5, Sections 14-15 (SF 12)*

*Amends Minn. Stat. § 245D.09, subds. 5 and 5a*

*Effective August 1, 2019*

**A. Annual Training**

Removes the minimum required hours of annual training for direct care staff providing licensed home and community-based services and removes the option for relevant training received from a source other than the license holder to count toward the annual training requires. Retains the requirement for annual training.

*Amends Minn. Stat. § 245D.09, subd. 5*

**B. Alternative Sources of Training**

Removes the discretion of the commissioner to approve online training and competency-based assessments as an alternative to orientation training provided by individual license holders.

*Amends Minn. Stat. § 245D.09, subd. 5a*

**IX. INDIVIDUALIZED HOME SUPPORTS SERVICES**

*First Special Session, Chapter 9, Article 5, Section 11 (SF 12)*

*Amends Minn. Stat. § 245D.03, subd. 1*

*Effective January 1, 2021 or upon federal approval*

**A. Basic Support Services**

Adds individualized home supports services as a basic service for BI, CAC, CADI, and DD waivers.

**B. Intensive Support Services**

Renames behavior supports to positive supports. Adds individualized home support with training services and individualized home support with family training services to BI, CAC, CADI, and DD waivers. Adds community residential, family residential, and day services to BI, CAC, CADI, DD waivers. Adds integrated community supports to BI and CADI waivers beginning 2021 and CAC and DD waivers beginning 2023.

**X. BI AND CADI WAIVER FOR PERSONS LIVING IN HENNEPIN COUNTY**

*First Special Session, Chapter 9, Article 5, Section 91 (SF 12)*

*Uncodified Session Law*

*Effective August 1, 2019*

Allows a housing with services establishment in Minneapolis that met service capacity of 66 clients to transfer up to 66 clients to no more than three new housing with services establishments located in Hennepin County. Requires new housing to meet the size limitation exception.

**XI. DAY TRAINING AND HABILITATION WAIVER RATE SYSTEM TRANSITION GRANTS**

*First Special Session, Chapter 9, Article 5, Section 90 (SF 12)*

*Uncodified Session Law*

*Effective August 1, 2019*

Establishes a four-year grant program for day training and habilitation providers who serve at least 100 waiver recipients and who will experience reductions in revenue under full implementation of DWRS of at least 15% and \$300,000. Requires grant recipients to: (1) develop and implement a sustainability plan to close their funding gaps; and (2) demonstrate progress in closing the funding gap to qualify for a grant renewal.

**XII. DISABILITY WAIVER RECONFIGURATION**

*First Special Session, Chapter 9, Article 5, Section 86 (SF 12)*

*Uncodified Session Law*

*Effective May 31, 2019*

Requires: (1) report and proposal from DHS by January 15, 2021 to reconfigure the disability waivers to two waivers; and (2) time for interested persons to offer additional feedback.

**XIII. HCBS “INNOVATION POOL”**

*First Special Session, Chapter 9, Article 5, Section 51 (SF 12)*

*Amends Minn. Stat. § 256B.0921*

*Effective August 1, 2019*

Changes HCBS “Incentive” Pool to HCBS “Innovation” Pool

**XIV. HCBS DOCUMENTATION**

*First Special Session, Chapter 9, Article 5, Sections 122-126 (SF12)*  
*Adds Minn. Stat. § 256B.4912, subds. 11-15*  
*Effective August 1, 2019*

Expands the service delivery documentation requirements for HCBS, including: (1) transportation; (2) equipment and supply; and (3) adult day services.

**XV. INCONTINENCE PURCHASING**

*First Special Session, Chapter 9, Article 7, Section 14, 47 (SF 12)*  
*Amends Minn. Stat. § 256B.04, subd. 14*  
*Repeals Minn. Stat. § 256B.0625, subd. 31c*  
*Effective May 31, 2019*

Prohibits DHS from utilizing volume purchasing through competitive bidding for incontinence products and related supplies. Repeals the Preferred Incontinence Product Program.

**XVI. ANNUAL LABOR MARKET HCBS DATA**

*First Special Session, Chapter 9, Article 5, Section 54 (SF12)*  
*Adds Minn. Stat. § 256B.4912, subd. 1a*  
*Effective January 1, 2020*

Establishes new labor market data reporting requirements for HCBS providers to include, for direct-care staff: (1) number of staff; (2) wages; (3) hours worked; (4) overtime wages; (5) overtime hours worked; (6) benefits paid and accrued; and (7) retention rates.

**XVII. MN TECHNOLOGY ADVISORY TASK FORCE**

*First Special Session, Chapter 9, Article 5, Section 92 (SF 12)*  
*Uncodified Session Law*  
*Effective May 31, 2019*

Establishes a task force to advise DHS on strategies to increase the use of supportive technology in services and programs (home, employment, and community settings). Includes representatives from DHS, counties, ARC, DLC, STAR, and others.

## Housing Supports

### **HOUSING SUPPORTS**

*First Special Session, Chapter 9, Article 5, Sections 76-79 (SF 12)*

*Amends Minn. Stat. §§ 256I.03, subd. 8; and 256I.04, subd. 2b*

*Adds § 256I.04, subds. 2h and 5*

*Effective August 1, 2019*

#### **A. Supplementary Services**

Amends the definition of supplementary services to include prospective budgeting. Adds requirements that providers of supplementary services ensure that recipients have assistance with services as identified in the recipient's professional statement of need and that they maintain case notes with the date and description of services provided to individual recipients.

*Amends Minn. Stat. § 256I.03, subd. 8*

#### **B. Employment**

Adds prohibition that providers may not limit the number of hours an applicant or recipient is employed.

*Adds Minn. Stat. § 256I.04, subd. 5*

## Medical Assistance

### **I. EXCESS INCOME STANDARD (MA SPENDDOWN)**

*First Special Session, Chapter 9, Article 7, Section 21 (SF 12)*

*Amends Minn. Stat. § 256B.056, subd. 5c*

*Effective July 1, 2022*

Effective July 1, 2022, the excess income standard for a person whose eligibility is based on blindness, disability, or age of 65 or more years moves to 100% of federal poverty guidelines.

### **II. COMMUNITY FIRST SERVICES AND SUPPORTS (CFSS)**

#### **A. CFSS for Pregnant Women**

*First Special Session, Chapter 9, Article 5, Section 70 (SF 12)*

*Amends Minn. Stat. § 256B.85, subd. 3*

*Effective May 31, 2019*

Establishes CFSS eligibility for pregnant women without federal financial participation if meet criteria listed.

**B. CFSS Encumbrance**

*First Special Session, Chapter 9, Article 5, Sections 73-74 (SF 12)*  
*Amends Minn. Stat. § 256B.85, subds. 11-12*  
*Effective August 1, 2019*

Requires that 100% of revenue generated from rate increases for services provided by CFSS agencies must be used for support worker wages and benefits.

**C. CFSS Restricted Recipient Program**

*First Special Session, Chapter 9, Article 2, Sections 118 (SF 12)*  
*Adds Minn. Stat. § 256B.0646*  
*Effective May 31, 2019*

Permits DHS to place a recipient of CFSS services in the Minnesota restricted recipient program upon evidence of abusive or fraudulent billing. Placement in the program is subject to appeal.

**III. LONG-TERM CARE CONSULTATION SERVICES (MnCHOICES)**

*First Special Session, Chapter 9, Article 5, Sections 43-47, 49, 50, 52, and 53 (SF 12)*  
*Amends Minn. Stat. §§ 256B.0911, subds. 1a, 3a, 3f, and 5; 256B.0915, subd. 6; 256B.092, subd. 1b; and 256B.49, subds. 13 and 14*  
*Adds Minn. Stat. § 256B.0911, subd. 3g*  
*Effective August 1, 2019*

**A. Definitions**

Clarifies language related to assessments for developmental disabilities waiver services. Removes from the MnCHOICES assessment process service eligibility determinations for: (1) home care nursing; (2) home care targeted case management; (3) adult targeted case management; and (4) Rule 185 case management services. Removes MnCHOICES assessment as the required process for determining whether the family of a minor with a disability is eligible for a support grant.  
*Amends Minn. Stat. § 256B.0911, subd. 1a*

**B. Assessments and Support Planning**

1. Nature of Assessment

Requires MnCHOICES assessment to be “conversation-based” (in addition to existing requirements that it be comprehensive and person-centered).  
*Amends Minn. Stat. § 256B.0911, subd. 3a(c)*

2. Rights of Legal Representative

Allows person’s legal representative to provide input during the assessment process remotely.  
*Amends Minn. Stat. § 256B.0911, subd. 3a(d)*

3. Provider Reporting

Permits providers to submit written report “the person” completed in consultation with someone who “is known to the person and has interaction with the person on a regular basis.” (Prior law mandated that the employee had to have at least 20 hours of services to the person). Requires the report to be submitted 60 days before the end of the current services agreement and requires the certified assessor to consider the content of the report.

*Amends Minn. Stat. § 256B.0911, subd. 3a(d)*

4. Certified Assessor Obligations

a. *Completion of CSP and CSSP*

Requires the certified assessor to complete the CSP and the CSSP no more than 60 days from the assessment visit. Permits DHS to establish timelines for providing the written CSP to the person or the person’s legal representative (previously within 40 days of the assessment).

*Amends Minn. Stat. § 256B.0911, subd. 3a(e)*

b. *Communication to Person of Right to Appeal*

Requires the certified assessor verbally communicate person’s right to appeal eligibility determinations and point out where in the document the right to appeal is stated.

*Amends Minn. Stat. § 256B.0911, subd. 3a(j)(9)*

c. *Review of Most Recent Assessment*

Requires the certified assessor to review the person’s most recent assessment, the CSP, and CSSP.

*Amends Minn. Stat. § 256B.0911, subd. 3f(a)*

d. *To Ensure Continuity of Care*

Requires the certified assessor to ensure continuity of care and complete CSP and CSSP within 60 days from reassessment visit.

*Amends Minn. Stat. § 256B.0911, subd. 3f(a)*

5. Eligibility for Waiver Services

a. *Establishment of Eligibility*

Allows the results of a MnCHOICES assessment to establish service eligibility for developmental disability waiver services for up to 60 days from the time of the assessment.

*Amends Minn. Stat. § 256B.0911, subd. 3f(a)*

b. *Update*

Changes interaction with existing statute to permit a service eligibility update for developmental disability waiver services to extend the validity of a MnCHOICES assessment for an additional 30 days, aligning these changes with the service eligibility timelines for developmental disability waiver services with the timelines for the other home and community-based waiver and alternative care services.

*Amends Minn. Stat. 256B.0911, subd. 3a(k)*

6. Face-to-Face Assessment

Adds DD waiver to list of services where face-to-face assessment is valid to establish service eligibility for no more than 60 days.

*Amends Minn. Stat. § 256B.0911, subd. 3a(k)*

7. Information Sharing Among Providers and Case Managers

Requires DHS to develop mechanisms for providers and case managers to share information with the assessor to facilitate a reassessment and support planning process tailored to the person's needs and preferences.

*Amends Minn. Stat. § 256B.0911 by adding subd. 3f(b)*

8. Rule 185 Case Management Assessments

Gives county agencies the option not to conduct or arrange for an annual needs reassessment by a certified assessor. Requires the case manager to: (1) identify the person's needs; and (2) develop a person-centered service plan based on the person's assessed needs and preferences to "minimize the impact of the disability on the person's life." Permits a person receiving only Rule 185 case management services to decline annual MNCHOICES assessments.

*Adds Minn. Stat. § 256B.0911, subd. 3g*

**C. Data and Efficiency**

Requires DHS, in cooperation with lead agencies, to: (1) develop and collect data on a set of measures of increasing efficiency in the MnCHOICES assessment process; (2) report an analysis of that data to lead agencies and to the Legislature; and (3) demonstrate that the process is becoming more efficient.

*Amends Minn. Stat. § 256B.0911, subd. 5*

**D. Timelines**

Removes the current ten-day deadline for case managers to complete coordinated service and support plans for people receiving any home and community-based waiver services or alternative care (including elderly waiver). Requires DHS to determine a new deadline for completing coordinated service and support plans, but the total time for a MnCHOICES assessor to complete the community support plan and the case manager to complete the coordinated service and support plan must not exceed 60 days.

*Amends Minn. Stat. §§ 256B.0915, subd. 6; 256B.092, subd. 1b; and 256B.49, subd. 13*

#### **IV. HEALTH CARE AND LONG-TERM CARE PROGRAM INTEGRITY**

*First Special Session, Chapter 9, Article 2, Sections 111, and 113-118 (SF 12)*

*Amends Minn. Stat. §§ 256B.02, subd. 7; and 256B.064, subds. 1b and 2*

*Adds Minn. Stat. §§ 256B.064, subds. 3, 4, and 5; and 256B.0646*

*Effective August 1, 2019*

##### **A. Expansion of “Vendor of Medical Care”**

Modifies the definition of “vendor of medical care” to include all licensed service providers, thereby clarifying DHS’ authority to exclude and sanction these providers for violations of medical assistance requirements.

*Amends Minn. Stat. § 256B.02, subd. 7*

##### **B. Sanctions and Forfeiture**

Specifies the length of exclusion for MA for a provider sanctioned by a court for a violation of medical assistance requirements at a minimum of five years. Establishes that funds that are the subject of MA fraud are forfeited to DHS, either as a result of a criminal conviction or a repeat violation.

*Amends Minn. Stat. § 256B.064, subds. 1b and 2*

##### **C. Exclusion List**

Requires DHS to maintain and post a list of each excluded individual and entity that was convicted of a crime related to MA fraud. Prohibits MA payments for items or services provided directly or indirectly by an excluded individual or entity. Requires vendors to: (1) check the exclusion list; (2) immediately terminate any payments to excluded individuals or entities; and (3) refund any payment issued for items or services provided by an excluded individual or entity. Subjects vendors issuing payment to excluded individuals or entities to administrative sanctions or a civil penalty of up to \$25,000.

*Adds Minn. Stat. § 256B.064, subd. 3*

##### **D. Notice to Vendor**

Requires that: (1) notice to the affected vendor to be sent by certified mail; (2) notice to a recipient placed on the restricted recipient program to be sent by first class mail.

Permits recipients to contest placement on the restricted recipient program by submitting a written request for a hearing to DHS within 90 days.

*Adds Minn. Stat. § 256B.064, subd. 4*

##### **E. Civil and Criminal Immunity**

Provides civil and criminal immunity for individuals making good faith reports of fraud or abuse in public assistance programs, as well as investigators, and requires the reporter’s identity to be kept confidential, unless a court finds that evidence that the report was false and made in bad faith, or the identity of the reporter is relevant to a criminal prosecution.

*Adds Minn. Stat. § 256B.064, subd. 5*

**V. HEALTH HOMES**

*First Special Session, Chapter 9, Article 6, Sections 58-66 (SF 12)*

*Amends Minn. Stat. § 256B.0757, subds. 1, 2, and 4*

*Adds Minn. Stat. § 256B.0757, subds. 2a, 4a, 4b, 4c, 4d, and 4e*

*Effective upon federal approval*

**A. Health Homes for Persons with Mental Illness or Emotional Disturbance**

Gives DHS the authority to develop health home models for persons with a mental illness or an emotional disturbance, in accordance with federal law.

*Amends Minn. Stat. § 256B.0757, subd. 2*

**B. Behavioral Health Homes**

1. Discharge

Establishes that a person may be discharged if: (1) the provider cannot locate the person for more than three months; or (2) the person refuses services. Requires the provider, prior to discharge, to offer an in-person meeting with the person and the “person’s identified supports” to discuss the options, including remaining in the home.

*Adds Minn. Stat. § 256B.0757, subd. 2a*

2. Other Requirements

Makes changes to the statute governing Behavioral Health Homes, including listing: (1) training and other requirements for behavioral health home services providers to follow; and (2) staff qualifications; (3) service delivery standards.

*Adds Minn. Stat. § 256B.0757, subds. 4b, 4c, and 4d*

**VI. MA COVERAGE FOR MENTAL HEALTH SERVICES IN CHILDREN’S RESIDENTIAL FACILITIES**

*First Special Session, Chapter 9, Article 6, Sections 74 - 75 (SF 12)*

*Amends Laws 2017, First Special Session chapter 6, article 8, sections 71 and 72*

*Effective July 1, 2019*

Removes the sunset and thus extends indefinitely provisions funding MA coverage for mental health services provided by children’s residential facilities that qualify as institutions for mental diseases under federal law.

**VII. HOUSING ACCESS GRANTS**

*First Special Session, Chapter 9, Article 5, Section 34 (SF 12)*

*Amends Minn. Stat. § 256B.0658*

*Effective August 1, 2019*

Changes the population eligible for MA housing grants to individuals “with a disability as defined in section 256B.051, subd.2(e).” (Prior law referred to individuals “eligible for publicly funded home and community-based services, including state plan home care.”)

**VII. IMMEDIATE ACCESS TO MEDICAL RECORDS**

*First Special Session, Chapter 9, Article 2, Sections 121 (SF 12)*  
*Amends Minn. Stat. § 256B.27, subd. 3*  
*Effective August 1, 2019*

Permits DHS to demand immediate access to medical records from a vendor suspected of a Medicaid overpayment, without prior notice and during regular business hours, provided that DHS has documented the need for immediate access to the records. Adds denial of access to records as a cause for immediate suspension of payment or termination of the vendor's eligibility.

**VIII. LABOR MARKET DATA FOR ICFs**

*First Special Session, Chapter 9, Article 5, Section 69 (SF 12)*  
*Amends Minn. Stat. § 256B.5014*  
*Effective August 1, 2019*

Inserts a cross-reference notifying ICFs of their obligations to submit labor market data.

**IX. PROVIDER TRAVEL TIME**

*First Special Session, Chapter 9, Article 6, Section 55 (SF 12)*  
*Amends Minn. Stat. § 256B.0625, subd. 43*  
*Effective August 1, 2019*

Establishes MA coverage for mental health provider travel time when providing MA-covered services outside the provider's usual place of business and sets provider documentation requirements.

**Mental Health**

**I. HEALTH HOMES**

*First Special Session, Chapter 9, Article 6, Sections 58-66 (SF 12)*  
*Amends Minn. Stat. § 256B.0757, subds. 1, 2, and 4*  
*Adds Minn. Stat. § 256B.0757, subds. 2a, 4a, 4b, 4c, 4d, and 4e*  
*Effective upon federal approval*

**A. Health Homes for Persons with Mental Illness or Emotional Disturbance**

Gives DHS the authority to develop health home models for persons with a mental illness or an emotional disturbance, in accordance with federal law.  
*Amends Minn. Stat. § 256B.0757, subd. 2*

## **B. Behavioral Health Homes**

### **1. Discharge**

Establishes that a person may be discharged if: (1) the provider cannot locate the person for more than three months; or (2) the person refuses services. Requires the provider, prior to discharge, to offer an in-person meeting with the person and the “person’s identified supports” to discuss the options, including remaining in the home.

*Adds Minn. Stat. § 256B.0757, subd. 2a*

### **2. Other Requirements**

Makes changes to the statute governing Behavioral Health Homes, including listing: (1) training and other requirements for behavioral health home services providers to follow; and (2) staff qualifications; (3) service delivery standards.

*Adds Minn. Stat. § 256B.0757, subds. 4b, 4c, and 4d*

## **C. MA Coverage for Mental Health Services in Children’s Residential Facilities**

*Laws of 2019, First Special Session, Chapter 9, Article 6, Sections 74 - 75 (SF 12)*

*Amends Laws 2017, First Special Session chapter 6, article 8, sections 71 and 72*

*Effective July 1, 2019*

Removes the sunset and thus extends indefinitely provisions funding MA coverage for mental health services provided by children’s residential facilities that qualify as institutions for mental diseases under federal law.

## **II. PSYCHIATRIC RESIDENTIAL FACILITY SERVICES FOR CHILDREN**

*First Special Session, Chapter 9, Article 6, Section 56 (SF 12)*

*Amends Minn. Stat. § 256B.0625, subd. 45*

*Effective July 1, 2019*

Allows an additional 80 certified psychiatric residential treatment facility services beds beginning July 1, 2020, and an additional 70 certified psychiatric residential treatment facility services beds beginning July 1, 2023, through an RFP process which is open to providers of state-operated services. Prioritizes programs that demonstrate the capacity to serve children and youth with aggressive and risky behaviors toward themselves or others, multiple diagnoses, neurodevelopmental disorders, or complex trauma related issues.

### **III. DATA ON PEOPLE WITH MENTAL ILLNESS WHO ARE IN JAIL**

*First Special Session, Chapter 9, Article 6, Sections 1 and 73*

*Amends Minn. Stat. § 641.15, subd. 3a*

*Adds Minn. Stat. § 13.851, subd. 12*

*Effective August 1, 2019*

Permits local corrections departments to share data regarding inmates who have or may have a mental illness with the local county services agency and refer individuals for services where necessary.

### **IV. SCHOOL-LINKED MENTAL HEALTH**

*First Special Session, Chapter 9, Article 6, Sections 2, 3, and 78 (SF 12)*

*Amends Minn. Stat. § 245.4889, subd. 1*

*Adds Minn. Stat. § 245.4901*

*Uncodified Session Law*

*Effective May 31, 2019*

#### **A. Grant Program Established**

Directs DHS to establish a school-linked mental health grant program to: (1) provide early identification and intervention for students with mental health needs; and (2) build the capacity of schools to support students with mental health needs in the classroom.

*Adds Minn. Stat. § 245.4901, subd. 1*

#### **B. Eligible Applicants**

Lists eligible applicants: (1) mental health centers and clinics; (2) community mental health centers; (3) Indian health service facilities; (4) providers of children's therapeutic services and supports; and (5) MA-enrolled mental health or substance use disorder provider agencies. Requires grant recipients to obtain all available third-party reimbursement sources, if applicable, as a condition of receiving grant funds.

*Adds Minn. Stat. § 245.4901, subd. 2 (list of eligible applicants)*

*Amends Minn. Stat. § 245.4889, subd. 1 (conditions on recipients)*

#### **C. Purpose of Grant**

Enumerates allowable activities under a grant: (1) identifying and diagnosing mental health conditions; (2) providing treatment and services to students and families, including via telemedicine; (3) supporting families in navigating the health care, social service, and juvenile justice systems; (4) providing transportation for children when school is out of session; (5) increasing the capacity of school staff to meet the needs of students with mental health needs; and (6) making equipment purchases, connection charges, on-site coordination, set-up fees, and site fees in order to deliver services via telemedicine.

*Adds Minn. Stat. § 245.4901, subd. 3*

**D. Assessment of Program and Report to the Legislature**

Directs DHS – in collaboration with the Department of Education, providers and advocates – to: (1) assess the school-linked mental health grant program (including impact on outcomes); (2) develop recommendations for improvements; and (3) report to the Legislature by January 15, 2020.

*Uncodified Session law*

**V. CERTIFIED COMMUNITY MENTAL HEALTH CLINICS**

*First Special Session, Chapter 9, Article 6, Sections 4, 52, 57, and 79 (SF 12)*

*Amends Minn. Stat. §§ 245.735, subd. 3; and 256.0625, subd. 57*

*Adds Minn. Stat. § 256B.0625, subd. 5m*

*Uncodified Session Law*

*Various Effective Dates*

**A. Licensing and Other Changes**

Adds licensed alcohol and drug counselors to CCBHC staff, adds substance use to CCBHC services. Removes the requirement for a CCBHC to be certified to provide integrated treatment for co-occurring mental illness and substance use disorders. Requires CCBHCs providing peer services to comply with statutory peer services statutes. Permits DHS to grant a variance for a CCBHC that has been certified but not approved for prospective payment, so long as the variance does not increase the state share of costs.

*Amends Minn. Stat. § 245.735, subd. 3*

*Effective July 1, 2019 contingent upon federal approval*

**B. Medical Assistance Coverage and Payment System**

Establishes MA coverage and a payment system for CCBHC services.

*Amends Minn. Stat. § 256.0625, subd. 57*

*Adds Minn. Stat. § 256B.0625, subd. 5m*

*Effective July 1, 2019 contingent upon federal approval*

**C. Rate Methodology**

Directs DHS to: (1) consult with CCBHC providers to develop, by February 15, 2020, a uniform statewide rate methodology for the reasonable cost of CCBHC services; and (2) develop a rate methodology that eliminates duplication of payment for CCBHC providers that receive a separate prospective system rate. *Uncodified Session Law*

*Uncodified Session Law*

*Effective August 1, 2019*

**VI. SPECIALIZED MENTAL HEALTH COMMUNITY SUPERVISION PILOT PROJECT**

*First Special Session, Chapter 9, Article 6, Section 80 (SF 12)*

*Uncodified Session Law*

*Effective August 1, 2019*

Authorizes DHS to award a grant to Anoka County to conduct a pilot project for offenders in the county with mental illness on: (1) probation; (2) parole; (3) supervised release; or (4) pretrial status. Specifies the services the pilot will provide to include: (1) enhanced assessment; (2) case management; (3) treatment services; and (4) community supervision.

**VII. RENTAL ASSISTANCE FOR PERSONS WITH MENTAL ILLNESS**

*First Special Session, Chapter 1, Article 5, Section 2, Subdivision 8 (SF 1)*

*Appropriations Article*

*Effective July 1, 2019*

Appropriates \$8.6 million for the biennium to the Minnesota Housing Finance Agency for the rental housing assistance program for persons with a mental illness or families with an adult member with a mental illness. Requires MHFA to prioritize proposals that target, in part, eligible persons who desire to move to more integrated, community-based settings.

**VIII. COMMUNITY COMPETENCY RESTORATION TASK FORCE**

*First Special Session, Chapter 9, Article 6, Section 77 (SF 12)*

*Uncodified Session Law*

*Effective May 31, 2019*

Establishes a task force to evaluate and research community competency restoration programs individuals deemed incompetent to stand trial. Charges the task force with proposing recommendations to the Legislature to improve the services, resources, and diversionary programs. Requires that the task force provide to the Legislature: (1) by February 1, 2020, a progress report; and (2) by February 1, 2021, a final report.

**IX. SOCIAL WORKERS AND MENTAL HEALTH PROFESSIONALS' DUTY TO WARN**

*Regular Session, Chapter 28 (S.F. 955)*

*Amends Minn. Stat. §§ 148B.593; and 148F.13, subd. 2*

*Effective August 1, 2019*

**A. When Duty to Warn Arises**

Provides that a duty to warn of violent behavior arises only when a client or other person has communicated to the provider a specific, serious threat of physical violence to self or a specific, clearly identified or identifiable potential victim.

*Amends Minn. Stat. § 148B.593 by adding paragraph (c)*

**B. Permission to Disclose Private Information When Duty of Warn Arises**

Allows licensed mental health workers to disclose private information without the consent of the client when a duty to warn arises.

*Amends Minn. Stat. § 148B.593 by adding paragraph (c)*

**C. Discharge of Duty to Warn**

Provides that a duty to warn is discharged if the provider makes reasonable efforts to communicate the threat to law enforcement agencies, the potential victim, the family of the client, or appropriate third parties who are in a position to prevent or avert the harm. Includes good faith immunity clause. Includes interns and students in duty to warn provisions. Defines "reasonable efforts" as: (1) communicating the serious, specific threat to the potential victim; and (2) if unable to make contact with the potential victim, communicating threat to the law enforcement agency closest to the potential victim of the client.

*Amends Minn. Stat. § 148B.593 by adding:*

*paragraph (c) (discharge); and*

*paragraph (d) (definition of "reasonable efforts")*

**X. PARITY REGARDING MENTAL HEALTH, ALCOHOLISM, AND CHEMICAL DEPENDENCY TREATMENT LIMITATIONS**

*First Special Session, Chapter 9, Article 8, Section 14 (SF 12)*

*Amends Minn. Stat. § 62Q.47*

*Effective August 1, 2019*

Prohibits health plans from imposing an NQTL with respect to mental health and substance abuse disorders unless comparable to those applied to medical and surgical benefits in the same classification. Authorizes the Department of Commerce to require information from health plans to confirm that mental health parity is being implemented by the company. Specifies that mental health therapy and medication maintenance visits are considered primary care visits for the purpose of applying enrollee cost sharing requirements. Requires the Department of Commerce to report annually to the Legislature on compliance with and oversight of the federal regulations regarding mental health parity, this section, and section 62Q.53.

**XI. CHEMICAL DEPENDENCY AND SUBSTANTIVE ABUSE DISORDER SERVICES**

*First Special Session, Chapter 9, Article 6, Sections 6-51, 53-54, and 67-70 (SF 12)*  
*Amends Minn. Stat. §§ 245G.01, subds. 8 and 21; 245G.04; 245G.05; 245G.06, subd. 1, 2, and 4; 245G.07; 245G.08, subd. 3; 245G.10, subd. 4; 245G.11, subds. 7 and 8; 245G.12; 245G.13, subd. 1; 245G.15, subds. 1 and 2; 245G.18, subds. 3 and 5; 245G.22, subds. 1, 2, 3, 4, 6, 7, 15, 16, 17, 19; 254A.03, subd. 3; 254B.02, subd. 1; 254B.03, subds. 2 and 4; 254B.04, subd. 1; 254B.05, subds. 1, 1a, 5; 254B.06, subds. 1 and 2; 256B.0625, subd. 24; 256I.04, subd. 1; 256I.04, subd. 2f; and 256I.06, subd. 8;*  
*Adds Minn. Stat. §§ 245G.01, subds. 10a, 13a, 20a, 20b, 28, and 29; 254A.19, subd. 5; 254B.04, subd. 2c; 256B.0625, subd. 24a; and 256B.0759*  
*Repeals Minn. Stat. §254B.03, subd. 4a*  
*Various Effective Dates*

These provisions update, clarify, and modernize the statutes governing chemical dependency licensed treatment facilities. They Aligns the billing and payment for substance use disorder services with mental health services in the MA benefit set and eliminate the county share for MA-covered chemical dependency services and for chemical dependency housing room and board. Two key provisions include:

**A. Initial Services Allowed Under Certain Circumstances**

Allows initial substance abuse disorder services upon a positive screen for alcohol or substance misuse.

*Amends Minn. Stat. § 254A.03, subd. 3 by adding paragraph (c)*  
*Effective July 1, 2019, contingent upon federal approval*

**B. Chemical Use Assessments Via Telemedicine**

Permits chemical use assessments to be conducted by telemedicine.

*Adds Minn. Stat. § 254A.19, subd. 5*  
*Effective August 1, 2019*

**XII. ELIMINATION OF COUNTY SHARE**

*First Special Session, Chapter 9, Article 6, Section 81 (SF 12)*  
*Repeals Minn. Stat. § 254B.03, subd. 4a*  
*Effective August 1, 2019*

Repeals the statute requiring the counties to pay for 30% of MA-covered substance use disorder services.

**XIII. SUBSTANCE USE DISORDER DEMONSTRATION PROJECT**

*First Special Session, Chapter 9, Article 6, Section 67 (SF 12)  
Adds Minn. Stat. § 256B.0759  
Effective August 1, 2019*

Codifies the provider standards necessary for Minnesota to implement the substance use disorder demonstration waiver upon CMS approval, and increases the rates for participating providers by 15% for the treatment portion of the residential rate, effective July 1, 2020, and by 10% for outpatient individual and group services and comprehensive assessments, effective January 1, 2021. Requires DHS to seek federal approval to: (1) implement the demonstration project; and (2) receive federal financial participation.

**XIV. BACKGROUND SET ASIDES FOR CHILDREN’S RESIDENTIAL FACILITIES**

*First Special Session, Chapter 9, Article 2, Section 78 (SF 12)  
Adds Minn. Stat. § 245C.24, subd. 5  
Effective for background studies initiated on or after July 1, 2019*

Prohibits granting a set aside for an individual affiliated with a children’s residential facility who was convicted of a felony for physical assault or battery, or a drug-related offense, within the past five years.

**State-Operated Services**

**STATE OPERATED SERVICES DISCHARGE DELAY**

*First Special Session, Chapter 9, Article 3, Sections 1 and 3 (SF 12)  
Amends Minn. Stat. § 246.54, subd. 3  
Uncodified Session Law  
Effective August 1, 2019*

**A. County Cost Dispute for Delayed Discharge**

Establishes an administrative review process for a county to dispute the cost of care for clients in state-operated facilities when a discharge is delayed due to lack of notice that the client no longer qualifies for the facility’s services due to either: (1) the facility’s disagreement with the county’s recommended discharge plan; or (2) incomplete paperwork. Precludes the DHS from recovering from the client any remaining cost following the administrative review.

*Amends Minn. Stat. § 246.54, subd. 3*

**B. Delayed Discharge Reduction**

Directs DHS to report to the Legislature by January 1, 2023 regarding: (1) efforts to reduce the number of days that clients spend in state-operated facilities after discharge is determined to be appropriate; and (2) the fiscal impact of these discharge delays.

*Uncodified Session Law*

## Telecommunications Access Minnesota

### **PROGRAM IMPROVEMENTS**

*First Special Session, Chapter 9, Article 5, Sections 1 - 10 (SF 10)*

*Amends Minn. Stat. §§ 237.50, subds. 4a, 6a, 10a, and 11; 237.51, subds. 1 and 5a; 237.52, subd. 5; and 237.53, subd. 1, 2, 3, 6, and 7*

*Adds Minn. Stat. §§ 237.50, subds. 4c and 6b; and 237.53, subds. 2a and 9*

*Effective July 1, 2019 and must be implemented by October 1, 2019*

Pursuant to Chapter 237 of Minnesota Statutes, the Department of Commerce administers the statutory Telecommunications Access Minnesota Program that provides equipment and services to assist persons with “communications disabilities” to connect to and utilize telecommunications systems. These programs include the: (1) Telecommunications Relay Services; and (2) Telephone Equipment Distribution Program. The Department of Human Services (DHS) is also assigned duties under this program.

**A. Updating Definition of “Deaf”**

Redefines “Deaf” for the purposes of the TED Program by substituting “person” for “individual.”

*Amends Minn. Stat. § 237.50, subd. 4a*

**B. New Equipment Available Through TED**

Expands to the type of devices that may be distributed under the program to include “interconnectivity devices,” such as cell phone amplifiers, hearing aid streamers, and Bluetooth-enabled devices that connect to “telecommunications devices,” including smartphones.

*Amends Minn. Stat. § 237.51, subd. 1 (authority to add “interconnectivity product”*

*Adds Minn. Stat. § 237.50, subd. 6b (definition of “interconnectivity product”)*

**C. New Service Available Under TAM**

Expands the types of services that are provided under the program to include assisting persons to apply for “discounted telecommunications services or Internet services,” which are defined to mean “private, nonprofit, and public programs intended to subsidize or reduce the monthly costs of telecommunications or Internet services” for an eligible consumer.

*Amends Minn. Stat. § 237.51, subd. 5a (authority to add assistance with applications)*

*Adds Minn. Stat. § 237.50, subds. 4c (definition of telecom/Internet services”)*

**D. New DHS Duties**

1. Assessment of TED Participants' Telecommunications Needs

Requires DHS, after a person is determined to be eligible for TED program, DHS to assess the person's telecommunications needs to determine: (1) the type of telecommunications device that provides “functionally equivalent access to telecommunications services”; and (2) appropriate interconnectivity products for the person.

*Adds Minn. Stat. § 237.53, subd. 2a*

2. Assistance with Applications for Discounted Service

Requires DHS to assist applicants for discounted telecommunications services.

*Adds Minn. Stat. § 237.53, subd. 9*

**E. New Duty of the Department of Commerce to Provide Information**

Requires the Department of Commerce to provide information about – and where to obtain or purchase -- assistive communications devices and products.

*Amends Minn. Stat. § 237.53, subd. 4*

**Laws Repealed**

*First Special Session, Chapter 9, Article 5, Section 94 (SF 12)*

**I. Room and Board Rate Reimbursement**

Repeals Minn. Stat. § 256I.05, subdivision 3, providing that room and board rate reimbursement may not exceed private pay.

*Effective July 1, 2019*

**II. Interagency Support Employment Efforts**

Repeals Minn. Stat. § 252.431

*Effective September 1, 2019*

**III. Business Arrangements for DD Days Services**

Repeals Minn. Stat. § 252.451

*Effective September 1, 2019*

**IV. PCA Service Verification**

Repeals Minn. Stat. § 256B.0705.

*Effective January 1, 2020*

**V. Day Training and Habilitation Supported Employment Definition**

Repeals Minn. Stat. § 252.41, subd. 8

*Effective January 1, 2020*

**VI. Waiver Rate Stabilization Provision**

Repeals Minn. Stat. § 256B.4913, subds. 4a, 5, 6, and 7

*Effective January 1, 2020*

## Miscellaneous

### I. STATUTORY CHANGES

#### A. **Accessibility Standards for the Legislature's Information Technology**

*First Special Session, Chapter 10, Article 5, Section 1 (SF 10)*

*Adds Minn. Stat. § 3.199*

*Effective October 24, 2024*

Requires the Senate, the House of Representatives, and all joint legislative offices and commissions to comply with statutory accessibility standards adopted for state agencies by the chief information officer for technology, software, and hardware procurement. Provides for an exception if approved by designated positions in the Senate, House, offices, and commissions.

#### B. **Vehicles**

*Regular Session, Chapter 3 (HF 211)*

*Amends Minn. Stat. § 169.345, subd. 2*

*Adds Minn. Stat. § 299A.13, subds. 3 and 4*

*Effective August 1, 2019*

##### 1. License Plates for Persons with Physical Disabilities

Adds "licensed physical therapists" to the list of "health professionals" who are authorized to certify that an applicant has a qualifying physical disability to obtain license plates designating the driver as having parking privileges.

*Amends Minn. Stat. § 169.345, subd. 2*

##### 2. Vehicles with Wheelchair Securement Devices

###### a. *Accessibility*

Provides that vehicles equipped with wheelchair securement devices must have lift or ramp that complies federal rules and that lifts must also comply with National Highway Traffic Safety Administration's Federal Motor Vehicle Safety Standards contained in the federal rules.

*Adds Minn. Stat. § 299A.13, subd. 3*

###### b. *Drivers*

Provides that drivers of vehicles equipped with wheelchair securement devices must ensure that : (1) an occupied wheelchair is properly secured before the driver sets the vehicle in motion; (2) under specified circumstances, the seat belt assembly is properly adjusted and fastened around the person consistent with the manufacturer's recommendations; and (3) the devices are retracted, removed, or otherwise stored when not in use to prevent tripping of persons and damage to devices.

*Adds Minn. Stat. § 299A.13, subd. 4*

**C. HIV Health Care Coverage**

*First Special Session, Chapter 9, Article 5, Section 33 (SF 12)*

*Amends Minn. Stat. § 256.9365*

*Effective August 1, 2019*

Conforms the program that provides health care coverage for individuals living with HIV to include: (1) the cost of health plan premiums; and (2) cost sharing for prescriptions including co-payments, deductibles, and co-insurance, with the exception of those portions of a premium paid for by the individual's employer. Makes other conforming eligibility requirements for the program.

**D. Family and Community Intervenor in DeafBlind Services**

*Regular Session, Chapter 23 (HF 1983)*

*Amends Minn. Stat. § 256C.261*

*Adds 256C.23, subd. 7*

*Effective August 1, 2019*

Defines "Family and Community Intervenor" and includes family and community intervenor services in deafblind services funded through DHS.

**E. Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections (PANDAS) and Pediatric Acute-Onset Neuropsychiatric Syndrome (PANS) Treatment and Coverage**

*First Special Session, Chapter 9, Article 8, Sections 2, 18, and 21 (SF 12)*

*Adds Minn. Stat. §§ 62A.3097; and 256B.0625, subd. 66 and Uncodified Session Laws Various Effective Dates*

1. Insurance Coverage

Requires health plans to provide coverage for (and defines) Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections (PANDAS) and Pediatric Acute-Onset Neuropsychiatric Syndrome (PANS), including: (1) antibiotics; (3) medication; (3) behavioral therapies; (4) plasma exchange; and (5) immunoglobulin.

*Adds Minn. Stat. § 62A.3097, subs. 1 (definitions) and 3 (required coverage)*

*Effective January 1, 2020, and applies to health plans offered, sold, issued, or renewed on or after that date.*

2. 2019 Coverage

Requires health carriers to use a health plan's coverage as of January 1, 2019 to determine whether the carrier would not have provided coverage for PANDAS or PANS. Provides that treatments and services covered by a health plan as of January 1, 2019, are not eligible for reimbursement.

*Uncodified Session law*

*Effective August 1, 2019*

3. Medical Assistance Coverage  
Requires MA to cover treatments for PANDAS or PANS according to protocols developed by the Health Services Policy Committee.  
*Amends Minn. Stat. § 256B.0625, subd. 66*  
*Effective August 1, 2019*

## II. TASK FORCES AND WORKGROUPS

### A. **Legislative Employee Working Group on Legislative Accessibility Measures**

*First Special Session, Chapter 10, Article 5, Section 5 (SF 10)*

*Uncodified Session Law*

*Effective June 1, 2021*

*Expires January 15, 2023, or a later date selected by agreement of the appointing authorities, but not later than January 15, 2028.*

1. Establishment  
Establishes a 12-member working group of state employees who serve the legislature (appointed by the Senate and House of Representatives) and various legislative offices (appointed by the Legislative Coordinating Commission).
2. Duties/Report  
Requires a report to the Legislature by January 15, 2023 that: (1) identifies ways the legislature's accessibility measures do not meet existing statutory accessibility standards applicable to state agencies; (2) identifies issues and technologies that may present barriers to compliance; (3) suggests a compliance exception process; (4) describes a plan to update the legislature's accessibility measures to be comparable to those required of state agencies; and (5) estimates the costs or updates to the legislature's accessibility measures. Authorizes the working group to consult with, among others: (1) the Commission of Deaf, Deafblind and Hard of Hearing; (2) the Minnesota Council on Disability; (3) State Services for the Blind; and (4) other groups that may be of assistance.

- B. Advisory Task Force on State Employment/Retention of Employees with Disabilities**  
*First Special Session, Chapter 10, Article 2, Section 24 (SF 10)*  
*Effective August 1, 2019*  
*Expires the later of February 16, 2021 or when the Advisory Task Force submits its report*

Establishes a ten-member advisory task force, consisting mainly of state agency and council employees and representatives, appointed by the heads of the various named agencies and councils. Directs the task force to submit a report to the legislature by January 15, 2021 on strategies for attracting and retaining state employees with disabilities, including a proposal for any legislation necessary to implement recommendations of the task force.

**Appropriations: Disability Grants**

*First Special Session, Chapter 9, Article 14, Section 29 (SF 12)*

The Legislature appropriated a total in grant dollars of: (1) \$22.4 million for FY 2020; and (2) \$23.1 million for FY 2021. Among the programs funded are:

**A. Training of Direct Support Services Providers**

Appropriates \$375,000 in FY 2020 and \$375,000 in FY 2021 for stipends to pay for training of individual providers of direct support services (as defined in Minn. Stat. § 256B.0711, subd. 1). Provides that the training is available to individual providers who have completed designated voluntary trainings made available through the State Service Employees International Union Healthcare Minnesota Committee.

**Note:** *This appropriation is available only if the labor agreement between the state of Minnesota and the Service Employees International Union Healthcare Minnesota is approved.*

**B. Training for New Worker Orientation**

Appropriates \$125,000 in FY 2020 and \$125,000 in FY 2021 to the Minnesota State Service Employees International Union Healthcare Minnesota Committee for new worker orientation training and is allocated.

**Note:** *This appropriation is available only if the labor agreement between the state of Minnesota and the Service Employees International Union Healthcare Minnesota is approved.*

**C. Disability Hub**

**1. Benefits Planning Grants for Disability**

Appropriates \$600,000 in FY 2020 and \$600,000 in FY 2021 are to provide grant funding to the Disability Hub for benefits planning to people with disabilities.

2. Disability Hub for Families Grants

Appropriates \$100,000 in FY 2020 and \$200,000 in FY 2021 for grants to connect families supporting a child or family member with a disability via: (1) innovation grants; (2) life planning tools; and website information.

**D. Regional Support for Person-Centered Practices Grants**

Appropriates \$374,000 in FY 2020 and \$486,000 in FY 2021 to regional cohorts to extend and expand regional capacity for person-centered planning. Specifies that the funding must be used training, coaching, and mentoring for: (1) person-centered and collaborative safety practices benefiting people with disabilities; and (2) employees, organizations, and communities serving people with disabilities.

**E. Electronic Visit Verification**

Appropriates \$500,000 in FY 2021 is for grants to providers who use a different vendor than the contract with the State of Minnesota for electronic visit verification.

**F. Day Training and Habilitation Disability Waiver Rate System Transition Grants**

Appropriates \$200,000 in FY 2020 and \$200,000 in FY 2021 for day training and habilitation disability waiver rate system transition grants

## EDUCATION LAW

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### I. TRANSPORTATION

*First Special Session, Chapter 11, Article 1, Sections 1 and 5 (HF 1)*  
*Amends Minn. Stat. §§ 120A.20, subd. 2; and 123B.92, subd. 1*  
*Effective July 1, 2019*

#### A. Homeless Students

Requires a school district to continue to provide transportation services for a homeless student with an individualized education program who changes school districts during the school year. Allows the initial and new school district to mutually agree to an alternative transportation arrangement.

*Amends Minn. Stat. § 120A.20, subd. 2*

#### B. Pregnant and Parenting Teens

Expands the definition of regular transportation aid to include the transportation of pregnant teens and teen moms to and from a school program that provides: (1) academic instruction, (2) at least four hours of parenting training a week, and (3) high-quality childcare on site. Requires the program to have been established prior to January 1, 2018, or to be in operation on or after July 1, 2021.

*Amends Minn. Stat. § 123B.92, subd. 1*

### II. DYSLEXIA SCREENING

*First Special Session, Chapter 11, Article 2, Section 2 (HF 1)*  
*Amends Minn. Stat. § 120B.12, subd. 2*  
*Effective July 1, 2020*

Requires a school district to screen for characteristics of dyslexia where students are identified as not reading at grade level by the end of kindergarten, grade 1, and grade 2. Requires a district to screen students in grade 3 or higher where the student demonstrates reading difficulty, unless a different reason for the reading difficulty has been identified.

### **III. ALTERNATIVE DISPUTE RESOLUTION AND DUE PROCESS HEARINGS**

*First Special Session, Chapter 11, Article 4, Sections 2 and 3 (HF 1)*

*Amends Minn. Stat. § 125A.091, subs. 3a and 7*

*Effective August 1, 2019*

#### **A. Prior Written Notice**

Requires the prior written notice to state that a parent who objects to a proposal or refusal in the notice may identify the specific part of the proposal or refusal the parent objects to and request a meeting with appropriate members of the IEP team.

*Amends Minn. Stat. § 125A.091, subd. 3a*

#### **B. Conciliation Conference**

Requires a district to have a meeting of appropriate members of the IEP team when a parent who objects to a proposal requests the meeting. Requires a district to hold a conciliation conference within ten calendar days of when the district receives the parent's request, rather than from when the district receives the parent's objection to a proposal or refusal in the prior written notice.

*Amends Minn. Stat. § 125A.091, subd. 7*

### **IV. IEP RULE AMENDMENT**

*First Special Session, Chapter 11, Article 4, Section 10 (HF 1)*

*Uncodified Session Law*

*Effective August 1, 2019*

Requires the Department of Education to amend rule to allow but not require an IEP to report a student's performance on general state or districtwide assessments.

## ELDER LAW AND ELDER CARE

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# ELDER CARE AND VULNERABLE ADULT PROTECTION ACT

*Regular Session, Chapter 60 (HF 90)*

*Various Effective Dates*

Establishes consumer protections for and requires licensing of Assisted Living Facilities (ALFs) serving all residents, including older and vulnerable adults and residents living with dementia, under, effective August 1, 2021.

Repeals existing Housing with Services chapter (144D) and existing Assisted Living Services sections in Chapter 144G, effective August 1, 2021.

**Note:** *The new licensing and consumer protections for Assisted Living Facilities will be codified under Chapter 144G of Minnesota Statutes. For the purposes of the Session Law, they are temporarily cited as various sections of a new Chapter 144I.*

### Definitions

*Adds Minn. Stat. § 144I.01 (Temporary Cite)*

*Effective August 1, 2021*

Creates 74 new definitions. They include:

**A. “Assisted Living Facility”**

Defines “Assisted Living Facility” as “a licensed facility that provides sleeping accommodations and “assisted living services” (see below) to one or more adults. Includes “Assisted Living Facility with Dementia Care.” Excludes 13 types of facilities, including: (1) hospitals; (2) nursing homes; (2) homeless shelters; (3) supervised living facilities; (4) lodging establishments (board and lodges); and (5) DHS-licensed facilities. *Adds Minn. Stat. § 144I.01, subd. 7 (Temporary Cite)*

**B. “Assisted Living Facility with Dementia Care”**

Defines “Assisted Living Facility with Dementia Care” as “a licensed assisted living facility that is advertised, marketed, or otherwise promoted as providing specialized care for individuals with Alzheimer's disease or other dementias. Requires an Assisted Living Facility with a secured dementia care unit to be licensed as an Assisted Living Facility with Dementia Care.

*Adds Minn. Stat. § 144I.01, subd. 8 (Temporary Cite)*

**C. “Assisted Living Services”**

Defines "Assisted Living Services" to include one or more of the following: (1) assisting with specified ADL's; (2) providing standby assistance; (3) providing verbal or visual reminders to take regularly scheduled medication and perform regularly scheduled treatments and exercises; (4) preparing modified diets; (5) services of enumerated licensed health care professionals; (6) medication management; (7) hands-on assistance with transfers and mobility; (8) treatment and therapies; (9) providing complex or specialty health care services; (10) "supportive services" (see below).

*Adds Minn. Stat. § 144I.01, subd. 9 (Temporary Cite)*

**D. “Controlling Individual”**

Defines “Controlling Individual” of a licensee to include: (1) officers; (2) managers; and (3) any entity with at least a 5% security interest in the facility. Excludes banks, savings banks, trust companies, savings associations, credit unions, industrial loan and thrift companies, investment banking firms, or insurance companies, unless the entity operates a program directly or through a subsidiary.

*Adds Minn. Stat. § 144I.01, subd. 15 (Temporary Cite)*

**E. “Dementia”**

Defines "Dementia" as “the loss of cognitive function, including the ability to think, remember, problem solve, or reason, of sufficient severity to interfere with an individual's daily functioning.”

*Adds Minn. Stat. § 144I.01, subd. 16 (Temporary Cite)*

**F. “Dementia Care Services”**

Defines "Dementia Care Services" as “ongoing care for behavioral and psychological symptoms of dementia, including planned group and individual programming and person-centered care practices to support activities of daily living for people living with dementia.”

*Adds Minn. Stat. § 144I.01, subd. 17 (Temporary Cite)*

**G. “Designated Representative”**

Defines “Designated Representative” as a person designated by the resident in the assisted living contract.

*Adds Minn. Stat. § 144I.01, subd. 19 (Temporary Cite)*

**H. “Legal Representative”**

Defines “Legal Representative” as the following persons, in the order of priority listed, to the extent the person may reasonably be identified and located: (1) a court-appointed guardian acting in accordance with the powers granted to the guardian under chapter 524; (2) a conservator acting in accordance with the powers granted to the conservator under chapter 524; (3) a health care agent acting in accordance with the powers granted to the health care agent under chapter 145C; or (4) an attorney-in-fact acting in accordance with the powers granted to the attorney-in-fact by a written power of attorney under chapter 523.

*Adds Minn. Stat. § 144I.01, subd. 28 (Temporary Cite)*

**I. “Resident”**

Defines "Resident" as “a person living in an Assisted Living Facility who has executed an assisted living contract.”

*Adds Minn. Stat. § 144I.01, subd. 59 (Temporary Cite)*

**J. Secured Dementia Care Unit”**

Defines "Secured Dementia Care Unit" as “a designated area or setting designed for individuals with dementia that is locked or secured to prevent a resident from exiting, or to limit a resident's ability to exit, the secured area or setting. Excludes the individual’s private living area.

*Adds Minn. Stat. § 144I.01, subd. 62 (Temporary Cite)*

**K. “Supportive Services”**

Defines "Supportive Services" to includes any one of the following: (1) assistance with laundry, shopping, and household chores; (2) housekeeping services; (3) provision or assistance with meals or food preparation; (4) help with arranging for, or arranging transportation to, medical, social, recreational, personal, or social services appointments; (5) provision of social or recreational services; or (6) "I'm Okay" Check Services.

*Adds Minn. Stat. § 144I.01, subd. 68 (Temporary Cite)*

**Note:** “I’m Okay Check Services” is defined as “having, maintaining documenting a system to, by any means, check on the safety of a resident a minimum of once daily or more frequently according to the assisted living contract.” *Adds Minn. Stat. § 144I.01, subd. 26*

## Resident Protections

### I. **PROTECTION AGAINST RETALIATION**

*Regular Session, Chapter 60, Article 1, Section 42 and Article 3, Sections 2 and 3 (HF 90)*

*Adds Minn. Stat. §§ 144.6502; 144.6512; and 144G.07*

*Adds Minn. Stat. § 144I. 50 (Temporary Cite)*

*Various Effective Dates*

#### A. **Retaliation in Nursing Homes**

*Regular Session, Chapter 60, Article 3, Section 2 (HF 90)*

*Adds Minn. Stat. § 144.6512*

*Effective August 1, 2019*

##### 1. Retaliation Prohibited for Certain Resident Actions

Prohibits a nursing home (or its agent) from retaliating against a resident or employee if the resident, employee, or any person acting on behalf of the resident: (1) files or indicates an intention to file a good faith complaint; (2) files or indicates an intention to file a maltreatment report; (3) makes a good faith inquiry; (4) asserts any right; (5) seeks legal assistance or assistance from the facility, the Office of Ombudsman for Long-Term Care, or any government agency; (6) advocates or seeks advocacy assistance for better care or enforcement of rights; (7) takes or indicates an intention to take civil action; (7) participates or indicates an intention to participate in an investigation or administrative or judicial proceeding; (8) contracts or indicates an intention to contract with another service provider; or (9) places or indicates an intention to install an electronic monitoring device.

*Adds Minn. Stat. § 144.6512, subd. 2*

##### 2. Acts Constituting Retaliation Against a Resident

Provides that retaliation against a resident includes, but is not limited to, the following actions taken or threatened by a nursing home (or its agent) against a resident, “or any person with a familial, personal, legal, or professional relationship with the resident”: (1) a discharge or transfer; (2) any form of discrimination; (3) restriction or prohibition of access of the resident to the nursing home or by a visitor with a previous relationship to the resident; (4) involuntary seclusion or the withholding of food, care, or services; (5) restriction of any rights; (6) restriction or reduction of access to or use of amenities, care, services, privileges, or living arrangements; or (7) unauthorized removal, tampering with, or deprivation of technology, communication, or electronic monitoring devices.

*Adds Minn. Stat. § 144.6512, subd. 3*

**Note:** *See also Electronic Monitoring section, which also prohibits retaliation against a resident for installing an electronic monitoring device.*

*Adds Minn. Stat. § 144.6502, subd. 14(a)(2) (effective January 1, 2020)*

3. Acts Constituting Retaliation Against Employees

Enumerates the acts taken by the nursing home (or an agent of the nursing home) against an employee to be unwarranted: (1) discharge or transfer; (2) demotion or refusal to promote; (3) reduction in compensation, benefits, or privileges; (4) discipline, punishment, or a sanction or penalty; or (5) discrimination.

*Adds Minn. Stat. § 144.6512, subd. 4*

4. Presumption of Retaliation

Establishes that – where a resident seeks an MDH determination as to whether retaliation occurred – the burden is on the nursing home to present evidence of a nonretaliatory reason for an enumerated retaliatory action taken by a nursing home within 30 days of an action taken by a resident, employee, or any person acting on behalf of the resident that is an act for which retaliation is prohibited.

*Adds Minn. Stat. § 144.6512, subd. 5*

**B. Retaliation in Existing Housing with Services/Assisted Living Title Protected**

*Regular Session, Chapter 60, Article 3, Section 3 (HF 90)*

*Adds Minn. Stat. § 144G.07*

*Effective August 1, 2019 and Expires July 30, 2021*

1. Applicability

Applies to Housing with Services Establishments registered under Chapter 144D that possess Assisted Living Title Protection under Chapter 144G.

*Adds Minn. Stat. § 144G.07, subd. 1*

2. Retaliation Prohibited for Certain Resident Actions

Prohibits an Assisted Living Title Protected Housing with Services Establishment (or agent of the Establishment) from retaliating against a resident or employee if the resident, employee, or any person acting on behalf of the resident: (1) files or indicates an intention to file a good faith complaint; (2) files or indicates an intention to file a maltreatment report; (3) makes a good faith inquiry; (4) asserts any right; (5) seeks legal assistance or assistance from the nursing home, the Office of Ombudsman for Long-Term Care, or any government agency; (6) advocates or seeks advocacy assistance for better care or enforcement of rights; (7) takes or indicates an intention to take civil action; (7) participates or indicates an intention to participate in any investigation or administrative or judicial proceeding; (8) contracts or indicates an intention to contract to receive services from another service provider; or (9) places or indicates an intention to place a camera or electronic monitoring device in the resident's private space.

*Adds Minn. Stat. § 144G.07, subd. 2*

3. Acts Constituting Retaliation Against a Resident  
Provides that retaliation against a resident includes, but is not limited to, the following actions taken or threatened by Assisted Living Title Protected Housing with Services Establishment (or agent of the Establishment) against a resident, “or any person with a familial, personal, legal, or professional relationship with the resident”: (1) a discharge or transfer; (2) any form of discrimination; (3) restriction or prohibition of access of the resident to the nursing home or by a visitor with a previous relationship to the resident; (4) involuntary seclusion or the withholding of food, care, or services; (5) restriction of any rights; (6) restriction or reduction of access to or use of amenities, care, services, privileges, or living arrangements; or (7) unauthorized removal, tampering with, or deprivation of technology, communication, or electronic monitoring devices.  
*Adds Minn. Stat. § 144G.07, subd. 3*
  
4. Acts Constituting Retaliation Against Employees  
Enumerates the acts taken by the Assisted Living Title Protected Housing with Services Establishment (or agent of the Establishment) against an employee to be unwarranted: (1) discharge or transfer; (2) demotion or refusal to promote; (3) reduction in compensation, benefits, or privileges; (4) discipline, punishment, or a sanction or penalty; or (5) discrimination.  
*Adds Minn. Stat. § 144G.07, subd. 4*
  
5. Presumption of Retaliation  
Establishes that – where a resident seeks an MDH determination as to whether retaliation occurred – the burden is on the Assisted Living Title Protected Housing with Services Establishment to present evidence of a nonretaliatory reason for an enumerated retaliatory action taken by a nursing home within 30 days of an action taken by a resident, employee, or any person acting on behalf of the resident that is an act for which retaliation is prohibited.  
*Adds Minn. Stat. § 144G.07, subd. 5*

**C. Retaliation in Assisted Living Facilities (ALF)**

*Laws of 2019, Regular Session, Chapter 60, Article 1, Section 42 (HF 90)*

*Adds Minn. Stat. § 144I.50 (Temporary Cite)*

*Effective August 1, 2021*

1. Retaliation Prohibited for Certain Resident Actions  
Prohibits an ALF (or agent of the ALF) from retaliating against a resident or employee if the resident, employee, or any person acting on behalf of the resident: (1) files or indicates an intention to file a good faith complaint; (2) files or indicates an intention to file a maltreatment report; (3) makes a good faith inquiry; (4) asserts any right; (5) seeks legal assistance or assistance from the nursing home, the Office of Ombudsman for Long-Term Care, or any government agency; (6) advocates or seeks advocacy assistance for better care or

enforcement of rights; (7) takes or indicates an intention to take civil action; (7) participates or indicates an intention to participate in any investigation or administrative or judicial proceeding; (8) contracts or indicates an intention to contract to receive services from another service provider; or (9) places or indicates an intention to place a camera or electronic monitoring device in the resident's private space.

*Adds Minn. Stat. § 144I.50, subd. 1 (Temporary Cite)*

2. Acts Constituting Retaliation Against a Resident

Provides that retaliation against a resident includes, but is not limited to, the following actions taken or threatened by an ALF (or agent of the ALF) against a resident, "or any person with a familial, personal, legal, or professional relationship with the resident": (1) a discharge or transfer; (2) any form of discrimination; (3) restriction or prohibition of access of the resident to the nursing home or by a visitor with a previous relationship to the resident; (4) involuntary seclusion or the withholding of food, care, or services; (5) restriction of any rights; (6) restriction or reduction of access to or use of amenities, care, services, privileges, or living arrangements; or (7) unauthorized removal, tampering with, or deprivation of technology, communication, or electronic monitoring devices.

*Adds Minn. Stat. § 144I.50, subd. 2 (Temporary Cite)*

3. Acts Constituting Retaliation Against Employees

Enumerates the acts taken by an ALF (or agent of the ALF) against an employee to be unwarranted: (1) discharge or transfer; (2) demotion or refusal to promote; (3) reduction in compensation, benefits, or privileges; (4) discipline, punishment, or a sanction or penalty; or (5) discrimination.

*Adds Minn. Stat. § 144I.50, subd. 3 (Temporary Cite)*

4. Presumption of Retaliation

Establishes that – where a resident seeks an MDH determination as to whether retaliation occurred – the burden is on the nursing home to present evidence of a nonretaliatory reason for an enumerated retaliatory action taken by a nursing home within 30 days of an action taken by a resident, employee, or any person acting on behalf of the resident that is an act for which retaliation is prohibited.

*Adds Minn. Stat. § 144I.50, subd. 4 (Temporary Cite)*

5. Preservation of Other Rights

Specifies that the protections against retaliation in ALFs provided in this section have no effect on resident rights and protections found in the Vulnerable Adult Act regarding maltreatment reports and findings.

*Adds Minn. Stat. § 144I.50, subd. 5 (Temporary Cite)*

## II. PROTECTIONS AGAINST ARBITRARY HOUSING AND SERVICE TERMINATIONS

*Regular Session, Chapter 60, Article 1, Section 27 (HF 90)*

*Adds Minn. Stat. §§ 144I.16, subd. 8; 144I.26; and 144I.52 (Temporary Cites)*

*Effective August 1, 2021*

### A. Definition of “Termination”

Defines “Termination” as: (1) a facility-initiated termination of housing provided to the resident under the assisted living contract; or (2) a facility-initiated termination or nonrenewal of all assisted living services the resident receives from the facility under the contract.

*Adds Minn. Stat. § 144I.26, subd. 1 (Temporary Cite)*

### B. Prerequisite to Contract Termination

Requires ALFs, at least seven (7) days before issuing a notice of termination of an assisted living contract, to “schedule and participate” in a meeting with the resident and the resident's legal representative and designated representative to: (1) explain in detail the reasons for the proposed termination; and (2) identify and offer reasonable accommodations or modifications, interventions, or alternatives to avoid the termination or enable the resident to remain in the facility. Requires the ALF to notify the resident that others (e.g., family members, Office of Ombudsman for Long-Term Care) may attend and participate in the meeting.

*Adds Minn. Stat. § 144I.26, subd. 2 (Temporary Cite)*

### C. Reasons to Terminate

Prohibits ALFs from terminating housing or services except in cases: (1) of nonpayment; (2) involving a violation a lawful contract provision, provided the resident does not timely cure after the facility provides notice of right to cure; (3) where resident has engaged in conduct that substantially interferes with the rights, health, or safety of other residents or the safety or physical health of facility staff; (4) where the resident has violated the covenants listed under Minn. Stat. § 504B.171 that substantially interferes with the rights, health, or safety of other residents; (5) where the resident's assessed needs exceed the scope of services agreed upon in the assisted living contract; and are not otherwise offered by the ALF; or (6) where extraordinary circumstances exist, causing the facility to be unable to provide the resident with the services otherwise offered that are necessary to meet the resident's needs.

*Adds Minn. Stat. § 144I.26, subd. 3 (Temporary Cite) (nonpayment)*

*Adds Minn. Stat. § 144I.26, subd. 4 (Temporary Cite) (contract violation)*

*Adds Minn. Stat. § 144I.26, subd. 5 (Temporary Cite) (other reasons)*

### D. Termination Notice

Requires ALFs to provide a termination notice to the resident, legal representative, and designated representative: (1) in cases of nonpayment or contract violation, at least 30 days prior to the effective date of the termination; or (2) in all other cases, at least 15 days prior to the effective date of the termination. Specifies content of notice.

*Adds Minn. Stat. § 144I.26, subd. 7 (Temporary Cite) (notice period)*

*Adds Minn. Stat. § 144I.26, subd. 8 (Temporary Cite) (content of notice)*

**E. Emergency Relocation**

1. Emergency Relocation Allowed

Allows an ALF to remove a resident from the facility in an emergency if necessary because the resident: (1) has an urgent medical need; or (2) poses an imminent risk the herself or himself or to the health or safety of another facility resident or facility staff member. Provides that an emergency relocation is not a termination.

*Adds Minn. Stat. § 144I.26, subd. 9(a) (Temporary Cite)*

2. Notice Required

Requires an ALF, in the event of an emergency relocation, to provide a written notice that contains, at a minimum: (1) the reason for the relocation; (2) the name and contact information for the location to which the resident has been relocated and any new service provider; (3) contact information for the Office of Ombudsman for Long-Term Care; (4) if known and applicable, the approximate date the resident will return; and (5) the right to appeal if the resident is denied the right to return.

*Adds Minn. Stat. § 144I.26, subd. 9(b) (Temporary Cite)*

**F. Right to Return**

Specifies that an ALF must not refuse to allow a resident to return including after an emergency relocation unless a termination has been effectuated.

*Adds Minn. Stat. § 144I.26, subd. 10 (Temporary Cite)*

**G. Applicability of Landlord-Tenant Law (Chapter 504B)**

Expressly provides that ALFs are subject to and must comply with Chapter 504B.

*Adds Minn. Stat. §§ 144I.16, subd. 8, and 144I.52 (Temporary Cites)*

**III. PROTECTION OF RESIDENT IN THE EVENT OF NONRENEWALS**

*Regular Session, Chapter 60, Article 1, Section 28 (HF 90)*

*Adds Minn. Stat. § 144I.261 (Temporary Cite)*

*Effective August 1, 2021*

**A. Procedure**

An ALF must either: (1) provide the resident with 60 calendar days' notice of the nonrenewal and assistance with relocation planning; or (2) follow the termination procedure and notice requirements, which, among other things, requires a pre-termination meeting, limited reasons for termination, and appeals.

**B. Coordinated Move-Out**

Requires ALFs to “ensure a coordinated move to a safe location.”

**Note:** *The new law also provides a new section governing moves generally, whether as a result of termination or nonrenewal. In that section, a “safe location” is defined as “not a private home where the occupant is unwilling or unable to care for the resident, a homeless shelter, a hotel, or a motel.”*

*Adds Minn. Stat. § 144I.263, subd. 2 (Temporary Cite). See below.*

**C. Consultation with Resident’s Representatives**

Requires ALFs, as part of the process of moving the resident, to develop a written moving plan and to consult and cooperate with the following persons to make moving arrangements to a safe and appropriate location: (1) the resident; (2) the resident’s legal representative; (3) the resident’s designated representative; (4) the resident’s case manager if the resident receives home and community-based waiver services; (5) relevant health professionals; and (6) and any other persons of the resident's choosing.

**IV. APPEALS OF HOUSING AND SERVICE TERMINATIONS**

*Regular Session, Chapter 60, Article 1, Section 29 (HF 90)*

*Adds Minn. Stat. § 144I.262 (Temporary Cite)*

*Effective August 1, 2021*

**A. Right to Appeal**

Establishes the right to appeal termination of an assisted living contract under certain grounds to the Office of Administrative Hearings.

*Adds Minn. Stat. § 144I.262, subd. 1 (Temporary Cite)*

**B. Grounds for Appeal**

Allows a resident to appeal a termination on the ground that: (1) there is a factual dispute as to whether the facility had a permissible basis to initiate the termination; (2) the termination would result in great harm or the potential for great harm to the resident under a “totality of the circumstances” test; (3) the resident has cured or demonstrated the ability to cure the reasons for the termination, or has identified a reasonable accommodation or modification, intervention, or alternative to the termination; or (4) the facility has terminated the contract in violation of state or federal law.

*Adds Minn. Stat. § 144I.262, subd. 2 (Temporary Cite)*

**C. Appeals Process**

Establishes the appeal process. Provides that the hearing is not a formal contested case proceeding, except when determined necessary by the chief administrative law judge. Allows but does not require parties to be represented by counsel and clarifies that the appearance of a party without counsel does not constitute the unauthorized practice of law. Bars a resident from bringing an action under Chapter 504B to challenge a termination that has occurred and been upheld under an appeal.

*Adds Minn. Stat. § 144I.262, subds. 3 and 7 (Temporary Cite)*

**D. Burden of Proof**

Provides that: (1) the ALF bears the burden of proof to establish by a preponderance of the evidence that the termination was permissible if the appeal is brought on the ground that the facility violated the law; and (2) resident bears the burden of proof to establish by a preponderance of the evidence that the termination was permissible if the appeal is brought on the ground great harm or the potential for great harm would result or the resident asserts the violation has been cured.

*Adds Minn. Stat. § 144I.262, subd. 4 (Temporary Cite)*

**E. Continuity of Service During Pendency of Appeal**

Prohibits termination of housing or services while an appeal is pending but provides that the resident is responsible for contracting and paying for any additional services needed to meet the health or safety needs of the resident while an appeal is pending.

*Adds Minn. Stat. § 144I.262, subd. 6 (Temporary Cite)*

**V. ENSURING SMOOTH PROCESS AND SAFE LANDINGS WHEN RESIDENTS MUST MOVE**

*Regular Session, Chapter 60, Article 1, Sections 30 and 33 (HF 90)*

*Adds Minn. Stat. §§ 144I.263 and 144I.27 (Temporary Cites)*

*Effective August 1, 2021*

Requires adherence to procedures for safe relocation in cases involving: (1) a housing or service termination; (2) a nonrenewal; (2) a reduction or elimination of services makes a resident move necessary; and (4) planned and emergency closures of ALFs.

**A. Safe Location**

Requires ALFs, when a resident must move to another location or provider for any reason, to effectuate “a coordinated move to a safe location that is appropriate for the resident and that is identified by the facility prior to any [appeal] hearing.” Specifies the following locations as not being safe: (1) a homeless shelter; (2) a hotel or a motel; and (3) a private home where the occupant is unwilling or unable to care for the resident. Prohibits an ALF from terminating a resident's housing or services if an adequate and safe location has not been provided.

*Adds Minn. Stat. § 144I.263, subds. 1(a)(1) and 2 (Temporary Cite) (other than planned closures)*

*Adds Minn. Stat. § 144I.27 (Temporary Cite) (planned closures)*

**B. Appropriate Provider**

Requires ALFs, when a resident must be transferred to another service provider for any reason, to effectuate “coordinated move of the resident to an appropriate service provider identified by the facility prior to any [appeal] hearing.” Prohibits an ALFs from terminating a resident's housing or services if an adequate service provider has not been provided.

*Adds Minn. Stat. § 144I.263, subd. 1(a)(1) and 2 (Temporary Cite) (other than planned closures)*

*Adds Minn. Stat. § 144I.27 (Temporary Cite) (planned closures)*

**C. Consultation and Cooperation with Resident and Resident Team**

Requires ALFs to consult and cooperate with the resident, legal representative, designated representative, case manager for a resident who receives home and community-based waiver services, relevant health professionals, and any other persons of the resident's choosing to make arrangements to move the resident.

*Adds Minn. Stat. § 144I.263, subd. 1(a)(3) (Temporary Cite) (other than planned closures)*

*Adds Minn. Stat. § 144I.27 (Temporary Cite) (planned closures)*

**D. Relocation Plan Required**

Requires ALF's to prepare a relocation plan to prepare for the move.

*Adds Minn. Stat. § 144I.263, subd. 3 (Temporary Cite) (other than planned closures)*

*Adds Minn. Stat. § 144I.27 (Temporary Cite) (planned closures)*

**E. No Waiver**

Prohibits the rights to a coordinated move may not be waived at any time for any reason and do not limit other resident rights.

*Adds Minn. Stat. § 144I.263, subd. 5 (Temporary Cite) (other than planned closures)*

*Adds Minn. Stat. § 144I.27 (Temporary Cite) (planned closures)*

**VI. ASSISTED LIVING CONTRACT**

*Regular Session, Chapter 60 Article 1, Sections 13 and 26 and Article 3, Section 1 (HF 90)*

*Adds Minn. Stat. §§ 144.6502; 144I.11 (Temporary Cite); and 144I.25 (Temporary Cite)*

*Effective August 1, 2021*

**A. Requirement of a Single Contract**

Prohibits ALFs from offering or providing housing or assisted living services to a resident unless it has executed a written contract with the resident for both housing and all services provided either by a facility or an affiliated service provider. Specifies content of contract.

*Adds Minn. Stat. § 144I.25, subd. 1 (Temporary Cite) (requirement of contract)*

*Adds Minn. Stat. § 144I.25, subd. 2 (Temporary Cite) (content of contract)*

**B. Accountability to Residents Under the Contract**

Provides that, under the one contract system, only the ALF (i.e., the licensee) is directly responsible to the resident for all housing and service-related matters including, but not limited to the: (1) handling of complaints; (2) provision of notices; and (3) initiation of any adverse action against the resident involving housing or services provided by the facility.

*Adds Minn. Stat. § 144I.11, subd. 1 (Temporary Cite)*

**Note:** *Under the current system, there are two contracts: one for housing, offered by the Assisted Living Facility; and one for services, offered by either the facility or an affiliated home care provider. Depending on whether the termination is for housing or services, the termination notice may be generated by either and the resident may have two entities with which to deal.*

**C. Opportunity to Name a Designated Representative**

Requires, before or at the time of execution of the contract, an ALF to offer the resident a verbatim notice, on a document separate from the contract, informing the resident of the right and opportunity to name a designated representative.

*Adds Minn. Stat. § 144I.25, subd. 3 (Temporary Cite)*

**D. No Liability Waivers Allowed; No Deceptive Provisions**

Prohibits an ALF from including in the contract: (1) a waiver of facility liability for the health and safety or personal property of a resident; or any provision the ALF knows or should know to be deceptive, unlawful, or unenforceable under state or federal law, nor include any provision that requires or implies a lesser standard of care or responsibility than is required by law.

*Adds Minn. Stat. § 144I.25, subd. 5 (Temporary Cite)*

**E. Provision Outlawing Electronic Monitoring Void**

Makes any contractual provision prohibiting, limiting, or otherwise modifying the rights and obligations regarding electronic monitoring devices contrary to public policy and void and unenforceable.

*Adds Minn. Stat. § 144.6502, subd. 14(c)*

## VII. ELECTRONIC MONITORING

*Regular Session, Chapter 60, Article 3, Section 1 (HF 90)*

*Adds Minn. Stat. § 144.6502*

*Effective January 1, 2020 and applies to all agreements in effect, entered into, or renewed on or after that date.*

### A. Key Definitions

1. “Electronic Monitoring Device”  
Defines “Electronic Monitoring Device” as: a camera or other device that captures, records, or broadcasts audio, video, or both, that is placed in a resident's room or private living unit and is used to monitor the resident or activities in the room or private living unit.”  
*Adds Minn. Stat. § 144.6502, subd. 1(e)*
2. “Resident Representative”  
Defines “Resident Representative” as, in the order of priority listed, to the extent the person may reasonably be identified and located: (1) a court-appointed guardian; (2) a health care agent; or (3) a person who is not an agent of a facility or of a home care provider designated in writing by the resident and maintained in the resident's records on file with the facility.  
*Adds Minn. Stat. § 144.6502, subd. 1(h)*

### B. Right to Place an Electronic Monitoring Device

1. Right to Place Device  
Clarifies that a resident or a “resident representative” may conduct electronic monitoring of the resident's room or private living unit through the use of “electronic monitoring devices” placed in the resident's room or private living unit in specified facilities.  
*Adds Minn. Stat. § 144.6502, subd. 2*
2. Interaction with General Right to Privacy  
Provides that “the mere presence of an electronic monitoring device in a resident's room or private living unit” from is not a violation of the resident's right to privacy.  
*Adds Minn. Stat. § 144.6502, subd. 12*

3. Resident Protections

Prohibits a facility from: (1) refusing to admit a potential resident or remove a resident because the facility disagrees with the resident decision to install an electronic monitoring device; (2) retaliating or discriminating against any resident for consenting or refusing to consent to electronic monitoring; and (3) preventing the placement or use of an electronic monitoring device by a resident who has provided the facility or the Office of Ombudsman for Long-Term Care with notice and consent.

*Adds Minn. Stat. § 144.6502, subd. 14*

**C. Applicability**

Allows electronic monitoring devices placed by the resident or representative in: (1) a nursing home; (2) a boarding care home; (3) until August 1, 2021, a housing with services establishment that registered under chapter 144D that either possesses assisted living title protection under chapter 144G or that holds itself out as providing dementia or special care per the required disclosure under Minn. Stat. § 325F.72; or (4) on or after August 1, 2021, an assisted living facility.

*Adds Minn. Stat. § 144.6502, subd. 1(f)*

**D. Consent of Resident or Roommate**

1. Resident Consent

Requires a resident to consent to electronic monitoring in writing on a notification and consent form to be developed by MDH. Allows a resident representative (after asking a set of required questions of the resident) to consent on behalf of the resident if: (1) the resident has not affirmatively objected to electronic monitoring; and (2) the resident's medical professional determines that the resident currently lacks the ability to understand and appreciate the nature and consequences of electronic monitoring.

*Adds Minn. Stat. § 144.6502, subd. 3(a) and (b)*

2. Roommate Consent

a. *Existing Roommate*

Requires the resident or resident representative to obtain the written consent on the notification and consent form of any other resident residing in the shared room or shared private living unit prior to deploying the electronic monitoring device. Provides that a roommate can withdraw consent at any time.

*Adds Minn. Stat. § 144.6502, subd. 3(d)*

- b. New Roommate  
Requires a resident to immediately remove or disable the electronic monitoring device if a new roommate moves in unless and until the new roommate signs the consent form.  
*Adds Minn. Stat. § 144.6502, subd. 3(e)*

- 3. Resident Accommodation if Roommate Refuses to Consent  
Requires facilities to make a reasonable attempt to accommodate the resident who wants to conduct electronic monitoring if a roommate refuses to consent by offering to move the resident to another shared room or shared living unit that is available at the time of the request. Requires a facility unable to immediately accommodate a resident's request, to reevaluate the request every two weeks until the request is fulfilled. Provides that a resident choosing to reside in a private room or private living unit in a facility in order to accommodate the use of an electronic monitoring device must pay either the private room rate or rent.  
*Adds Minn. Stat. § 144.6502, subd. 4*

**E. Notice to Facility**

- 1. Notice Required  
Requires residents or resident representatives to complete and submit to the facility the notification and consent form.  
*Adds Minn. Stat. § 144.6502, subd. 5(a)*
- 2. Exception  
Permits a resident or resident representative to the facility for up to 14 days if: (1) the resident or the resident representative reasonably fears retaliation and timely submits maltreatment or police report, or both, upon evidence from the electronic monitoring device that suspected maltreatment has occurred; (2) the facility has not provided a timely written response to a resident or resident representative's written communication expressing a concern prompting the desire for placement of an electronic monitoring device; or (3) if the resident or resident representative has already submitted a maltreatment or police report or police report regarding the resident's concerns prompting the desire for placement. Requires, in each instance, that the resident or resident representative also timely submits a completed notification and consent form to the Office of Ombudsman for Long-Term Care.  
*Adds Minn. Stat. § 144.6502, subd. 5(b)*

**F. Who Bears Cost of Installation of Electronic Monitoring Device**

1. Private Pay Residents

Provides that a resident or resident representative is responsible for: (1) paying for purchase, installation, maintenance, and removal costs of the electronic monitoring device; and (2) contracting with an Internet service provider if Internet service is necessary. Requires facilities to make a reasonable attempt to accommodate the resident's installation needs, including allowing access to the facility's public-use Internet or Wi-Fi systems and places the burden on the facility of proving that a requested accommodation is not reasonable.

*Adds Minn. Stat. § 144.6502, subd. 7*

2. Home and Community-Based Waiver Recipients

Specifies that electronic monitoring is not a covered service under HCBS waivers. Exempts monitoring technology authorized as HCBS service under an HCBS waiver from the requirements for “electronic monitoring” under the new law.

*Adds Minn. Stat. § 144.6502, subd. 2(c) and (d)*

**G. Obstruction Prohibited**

Prohibits anyone from knowingly hampering, obstructing, tampering with, or destroying an electronic monitoring device without the permission of the resident or resident representative.

*Adds Minn. Stat. § 144.6502, subd. 8*

**H. Dissemination of Recordings**

Prohibits any person from accessing any video or audio recording created through authorized electronic monitoring without the written consent of the resident or resident representative. Allows dissemination only for the purpose of addressing health, safety, or welfare concerns of one or more residents. Creates possible civil or criminal liability for a person who disseminates a recording without authorization.

*Adds Minn. Stat. § 144.6502, subd. 10*

**I. Admissibility of Evidence**

Provides that any video or audio recording created through electronic monitoring is admissible as evidence in a civil, criminal, or administrative proceeding, subject to applicable rules of evidence and procedure.

*Adds Minn. Stat. § 144.6502, subd. 11*

**VIII. MANDATORY ARBITRATION**

*Regular Session, Chapter 60, Article 1, Section 31 (HF 90)*

*Adds Minn. Stat. § 144I.264 (Temporary Cite)*

*Effective August 1, 2021*

**A. Required Disclosure of Existence of Mandatory Arbitration Clause**

Requires ALFs to “clearly and conspicuously disclose, in writing in an assisted living contract, any arbitration provision in the contract that precludes, limits, or delays the ability of a resident from taking a civil action.”

**B. No Choice of Law, Choice of Venue Provisions**

Prohibits a choice of law or choice of venue provision in an assisted living contract. Provides that assisted living contracts must adhere to Minnesota law and any other applicable federal or local law.

**IX. FACILITY RESTRICTIONS**

*Regular Session, Chapter 60, Article 1, Section 15 (HF 90)*

*Adds Minn. Stat. § 144I.13 (Temporary Cite)*

*Effective August 1, 2021*

**A. Acting as Designees**

Prohibits ALFs from: (1) acting as a power-of-attorney for any purpose; (2) accepting appointments as guardians or conservators; (3) borrowing a resident's funds or personal or real property; (4) converting a resident's property to the possession of the facility or staff person; or (5) serving as a resident's legal, designated, or other representative. Provides that these restrictions do not apply to licensees that are Minnesota counties or other units of government.

*Adds Minn. Stat. § 144I.13, subd. 3 (Temporary Cite)*

**B. Handling of Residents' Funds**

*Adds Minn. Stat. § 144I.13, subd. 4 (Temporary Cite)*

1. Assistance with Budgeting Allowed

Allows ALFs to assist residents with household budgeting, including paying bills and purchasing household goods.

2. Managing Resident's Property Prohibited

Prohibits ALFs from otherwise managing a resident's property.

3. Facility Responsibilities When Resident Funds Deposited with Facility  
Provides that, where funds are deposited with the facility by the resident, the ALF: (1) retains fiduciary and custodial responsibility for the funds; (2) is directly accountable to the resident for the funds; (3) must maintain records of and provide a resident with receipts for all transactions and purchases made with the resident's funds; and (4) ensure that the party responsible for the funds is bonded or obtain sufficient insurance.

**X. TRANSFERS WITHIN FACILITY**

*Regular Session, Chapter 60, Article 1, Section 14 (HF 90)*

*Adds Minn. Stat. § 144I.12 (Temporary Cite)*

*Effective August 1, 2021*

**A. Standard**

Requires “safe, orderly, coordinated, and appropriate transfers” of residents within a facility.

*Adds Minn. Stat. § 144I.12, subd. 2 (Temporary Cite)*

**B. Notice**

Requires at least 30 days’ advance written notice to the resident and resident’s legal and designated representative. Specifies content of notice. Provides for less than 30 days’ advance notice where: (1) conditions render the resident's room or private living unit uninhabitable; (2) the resident has urgent medical needs; or (3) there is a risk to the health or safety of another resident of the facility.

*Adds Minn. Stat. § 144I.12, subd. 3 (Temporary Cite)*

**C. Consent Required**

Provides that a facility may not transfer a resident without first obtaining the resident's consent to the transfer unless: (1) there are conditions that render the resident's room or private living unit uninhabitable; or (2) there is a change in facility operations.

*Adds Minn. Stat. § 144I.12, subd. 4 (Temporary Cite)*

## Resident Rights

### I. **ASSISTED LIVING BILL OF RIGHTS**

*Regular Session, Chapter 60, Article 1, Section 12 (HF 90)*

*Adds Minn. Stat. § 144I.101 (Temporary Cite)*

*Effective August 1, 2021*

Establishes more than 35 rights of Assisted Living Facility residents. They include:

#### A. **Legislative Intent**

Declares that the rights established under this section for the benefit of residents do not limit any other rights available under law. Prohibits facilities from requesting or requiring waiver of any of these rights at any time for any reason, including as a condition of admission to the facility.

*Adds Minn. Stat. § 144I.101, subd. 2 (Temporary Cite)*

#### B. **Notice of Rights**

Requires ALFs to: (1) provide notice of rights in plain language prior to initiating services; and (2) make reasonable accommodations for residents who have communication disabilities and those who speak a language other than English.

*Adds Minn. Stat. § 144I.101, subd. 3 (Temporary Cite)*

#### C. **Right to Appropriate Care and Services**

Establishes the right of residents to appropriate care and assisted living services that: (1) are based on residents' needs; (2) are provided according to an up-to-date service plan; (3) meet accepted health care standards; (4) are continuous; and (5) are provided by trained and competent staff sufficient in numbers to adequately provided contracted services.

*Adds Minn. Stat. § 144I.101, subd. 4 (Temporary Cite)*

#### D. **Freedom from Maltreatment**

Establishes the right of residents to be free from physical, sexual, and emotional abuse; neglect; financial exploitation; and all forms of maltreatment covered under the Vulnerable Adults Act.

*Adds Minn. Stat. § 144I.101, subd. 8 (Temporary Cite)*

#### E. **Right to Visitors and Social Participation**

Establishes the right of residents to meet with or receive visits at any time (which This right may be restricted in certain circumstances if necessary for the resident's health and safety and if documented in the resident's service plan. and participate in commercial, religious, social, community, and political activities This right may be restricted in certain circumstances if necessary for the resident's health and safety and if documented in the resident's service plan.

*Adds Minn. Stat. § 144I.101, subd. 12 (Temporary Cite)*

*Adds Minn. Stat. § 144I.10, subd. 1(b) (Temporary Cite)*

**F. Right to File Grievances**

Establishes the right of residents to: (1) make a complaint or inquiry, without limitation; (2) receive a timely response; and (3) know (and requires every ALF to provide) the name and contact information of the person representing the ALF who is designated to handle and resolve complaints and inquiries.

*Adds Minn. Stat. § 144I.101, subd. 20 (Temporary Cite)*

**G. Right to Access to Counsel and Advocacy Services**

1. Right to Access

Establishes the right of residents have to the immediate access by: (1) the resident's legal counsel; (2) any representative of the Protection and Advocacy agency (i.e., the Minnesota Disability Law Center); or (3) any representative of the Office of Ombudsman for Long-Term Care.

*Adds Minn. Stat. § 144I.101, subd. 21 (Temporary Cite)*

2. Facility Responsibilities to Provide Contact Information

Requires ALFs to ensure access by: (1) providing names and contact information, including telephone numbers and e-mail addresses of at least three organizations that provide advocacy or legal services to residents, including the Protection and Advocacy entity (Minnesota Disability Law Center); and (2) providing the name and contact information for the Office of Ombudsman for Long-Term Care and the Office of the Ombudsman for Mental Health and Developmental Disabilities.

*Adds Minn. Stat. § 144I.101, subd. 21 (Temporary Cite)*

*Adds Minn. Stat. § 144I.51 (Temporary Cite)*

3. Information Regarding Medicare and Medical Assistance

Requires ALFs to assist residents in obtaining information on whether Medicare or medical assistance will pay for services.

*Adds Minn. Stat. § 144I.10, subd. 8 (Temporary Cite)*

4. Language Accommodations

Requires ALFs to make reasonable accommodations for people who have communication disabilities and those who speak a language other than English.

*Adds Minn. Stat. § 144I.10, subd. 8 (Temporary Cite)*

5. Information in Plain Language

Requires ALFs to provide all information and notices in plain language and in terms the residents can understand.

*Adds Minn. Stat. § 144I.10, subd. 8 (Temporary Cite)*

## II. HOME CARE BILL OF RIGHTS

*Regular Session, Chapter 60, Article 4, Section 16 (HF 90)*

*Amends Minn. Stat. § 144A.44*

*Adds paragraphs and clauses to Minn. Stat. § 144A.44*

*Effective August 1, 2019*

### A. Notice of Service Termination

Modifies the notice period by: (1) increasing advance notice of a service termination provided by a home care provider from 10 days to at least 30 calendar days' to residents of Assisted Living Facilities; and (2) clarifying that the existing 10 days' advance notice of a home care service termination for persons not residing an Assisted Living Facility is 10 calendar days.

*Replaces and adds to Minn. Stat. § 144A.44(17) with Minn. Stat. § 144A.44(a)(17)*

### B. Freedom from Retaliation

Adds to the existing right to complain, the right to make recommendations for changes to policies and services, both without fear of retaliation, including the threat of service termination.

*Replaces and adds to Minn. Stat. § 144A.44(19) with Minn. Stat. § 144A.44(a)(19)*

### C. Right to Place an Electronic Monitoring Device

Adds the right of a home care recipient to place an electronic monitoring device in the person's space in compliance with state law.

*Adds Minn. Stat. § 144A.44(a)(23)*

### D. Fines for Violations

Clarifies that violations of the Home Care Bill of Rights subject violating home care providers to MDH fines.

*Adds Minn. Stat. § 144A.44(b)*

### E. New Rights

#### 1. Right to Information in Plain Language

Adds that written information about rights home care recipients are entitled to receive before services begin, including what to do if rights are violated, must be in plain language. Requires providers to give all information and notices in plain language and in terms recipients can understand.

*Replaces Minn. Stat. § 144A.44(1) with Minn. Stat. § 144A.44(a)(1) (right to plain language)*

*Adds Minn. Stat. § 144A.44(c)(5) (provider requirements)*

#### 2. Right to Person-Centered Care

Adds that a recipient of home care services has the right to person-centered care.

*Replaces Minn. Stat. § 144A.44(2) with Minn. Stat. § 144A.44(a)(2)*

3. New Home Care Provider Requirements

Requires home care providers to: (1) encourage and assist in the fullest possible exercise of the Home Care Bill of Rights; (2) provide the names and telephone numbers of individuals and organizations that provide advocacy and legal services for clients and residents seeking to assert their rights; (3) make every effort to assist clients or residents in obtaining information regarding whether Medicare, medical assistance, other health programs, or public programs will pay for services; (4) make reasonable accommodations for people who have communication disabilities, or those who speak a language other than English.  
*Adds Minn. Stat. § 144A.44(c)(1-4)*

**F. No Waivers**

Prohibits home care providers from requiring or requesting a recipient of home care services to waive any of the Home Care Bill of Rights at any time or for any reasons, including as a condition of initiating services or entering into an assisted living contract.  
*Adds Minn. Stat. § 144A.44(d)*

**Notices and Disclosures**

**I. UNIFORM CHECKLIST DISCLOSURE OF SERVICES**

*Regular Session, Chapter 60, Article 1, Section 13 (HF 90)*  
*Adds Minn. Stat. § 144I.11, subd. 2 (Temporary Cite)*  
*Effective August 1, 2021*

To address concerns about oral deceptive marketing, requires every ALF to provide to prospective residents, prior to the execution of the assisted living contract: (1) a disclosure of the categories of assisted living licenses available and the category of license held by the facility; (2) a written checklist listing all services permitted under the facility's license, identifying all services the facility offers to provide under the assisted living facility contract, and identifying all services allowed under the license that the facility does not provide; and (2) an oral explanation of the services offered under the contract.

**II. DISCLOSURE REQUIREMENTS FOR ASSISTED LIVING FACILITIES WITH DEMENTIA CARE**

*Regular Session, Chapter 60, Article 4, Sections 31 and 32 (HF 90)*

*Amends Minn. Stat. § 325F.72, subds. 1 and 2*

*Effective August 1, 2021*

**A. Applicability**

Changes the applicability of the disclosure requirements from Housing with Services Establishments to Assisted Living Facilities with Dementia Care.

*Amends Minn. Stat. § 325F.72, subd. 1*

**B. Marketing Restriction**

Limits the right to advertise, market, or otherwise promote the facility as providing specialized care for dementia and dementia-related conditions to only licensed ALFs with Dementia Care.

*Amends Minn. Stat. § 325F.72, subd. 1*

**C. Expansion of Recipients of Disclosure**

Adds legal and designated representatives of residents to those to whom the ALF must provide the disclosure.

*Amends Minn. Stat. § 325F.72, subd. 1*

**III. NOTICE OF ASSISTED LIVING BILL OF RIGHTS**

*Regular Session, Chapter 60, Article 1, Section 17 (HF 90)*

*Adds Minn. Stat. § 144I.15, subd. 1 (Temporary Cite)*

*Effective August 1, 2021*

Requires ALFs to provide the resident a written notice of Assisted Living Bill of Rights before the initiation of services.

**IV. NOTICE OF HOW TO FILE A MALTREATMENT OR OTHER COMPLAINT**

*Regular Session, Chapter 60, Article 1, Section 17 (HF 90)*

*Adds Minn. Stat. § 144I.15, subd. 1 (Temporary Cite)*

*Effective August 1, 2021*

Requires ALFs to provide a verbatim notice including the name of and contact information for the agency to: (1) file a complaint or report suspected abuse, neglect, or financial exploitation (Minnesota Adult Abuse Reporting Center [MAARC]); and (2) file a complaint about the facility or person providing your services (Office of Health Facility Complaints, Minnesota Department of Health). Provides that the notice must also contain the name of and contact information for the Office of Ombudsman for Long-Term Care or the Office of Ombudsman for Mental Health and Developmental Disabilities.

**V. NOTICE OF REDUCTION IN SERVICES**

*Regular Session, Chapter 60, Article 1, Section 30 (HF 90)*  
*Adds Minn. Stat. § 144I.263, subd. 1(d) (Temporary Cite)*  
*Effective August 1, 2021*

Requires sixty days' advance written notice to a resident before the reduction or elimination of a service for that resident, the facility must provide written notice of the reduction, which must include: (1) a detailed explanation of the reasons; (2) the date of the reduction or elimination will occur; (3) a statement that the resident may remain in the ALF if the resident can secure the services reduced or eliminated; (4) a statement of the ALF's responsibility for a coordinated move if a move is necessary; and (5) contact information for Office of Ombudsman for Long-Term Care and the person at the ALF to whom the resident can speak about the reduction or elimination of the service.

**VI. NOTICE TO RESIDENTS OF REVOCATION, SUSPENSION, OR NONRENEWAL OF ALF LICENSE**

*Regular Session, Chapter 60, Article 1, Section 38 (HF 90)*  
*Adds Minn. Stat. § 144I.33, subd. 6 (Temporary Cite)*  
*Effective August 1, 2021*

Requires MDH, within ten business days after the initiating a proceeding to revoke, suspend, or not renew a facility license, to send a written notice of the action and the process involved to: (1) the residents; (2) the legal representatives and designated representatives; and (3) at MDH's discretion, additional resident contacts.

**VII. NOTICE OF PLANNED AND EMERGENCY CLOSURES**

*Regular Session, Chapter 60, Article 1, Section 33 (HF 90)*  
*Adds Minn. Stat. § 144I.27 (Temporary Cite)*  
*Effective August 1, 2021*

**A. Planned Closures**

Requires ALFs to, at least 60 calendar days before closing, notify the following persons of a planned closure of the facility: (1) residents; (2) the residents' designated representatives; (3) the residents' legal representatives; and (4) for residents who receive home and community-based waiver services, the residents' case managers. Requires the notice to include: (1) the proposed date of closure; (2) the contact information of the Office of the Ombudsman for Long-Term Care; and (3) a statement that the facility will follow the safe transfer requirements under the new law (Minn. Stat. § 144I.263).  
*Adds Minn. Stat. § 144I.28, subd. 5 (Temporary Cite)*

**B. Emergency Closures**

Requires, in the event of an emergency closure, the same notice as required in the event of a planned closure but allows notice of as soon as practicable or as directed by MDH if a closure must occur with less than 60 calendar days' notice.

*Adds Minn. Stat. § 144I.28, subd. 6 (Temporary Cite)*

**VIII. OTHER NOTICES**

*Regular Session, Chapter 60, Article 1, Section 17 (HF 90)*

*Adds Minn. Stat. § 144I.15, subds. 3, 4, and 5 (Temporary Cite)*

*Effective August 1, 2021*

Requires ALFs to provide: (1) notice to residents describing the dementia training provided to staff; (2) notice to residents of persons who can assist with health care or supportive services being provided; and (3) notice to residents, and their legal representatives or designated representatives, of any change in ownership.

**IX. PLAIN LANGUAGE REQUIREMENT**

*Regular Session, Chapter 60, Article 1, Section 17 (HF 90)*

*Adds Minn. Stat. § 144I.15, subd. 2 (Temporary Cite)*

*Effective August 1, 2021*

Requires ALFs to provide all notices in plain language that residents can understand.

**X. ACCOMMODATIONS FOR LANGUAGE AND COMMUNICATION DIFFICULTIES**

*Regular Session, Chapter 60, Article 1, Section 17 (HF 90)*

*Adds Minn. Stat. § 144I.15, subd. 2 (Temporary Cite)*

*Effective August 1, 2021*

Requires ALFs to make reasonable accommodations for residents: (1) who have communication disabilities; and (2) whose primary language is a language other than English.

## New Licensing System/Regulatory Oversight

### I. ESTABLISHMENT OF LICENSING

*Regular Session, Chapter 60, Article 1, Sections 1-9 (HF 90)*

*Adds Minn. Stat. §§ 144I.02 – 144I.08 (Temporary Cites)*

*Amends Minn. Stat. § 144.122*

*Effective August 1, 2021*

#### A. License Required

Requires, beginning August 1, 2021, no new or existing ALF may operate in Minnesota unless it is licensed by the Minnesota Department of Health (MDH).

*Adds Minn. Stat. § 144I.02, subd. 1 (Temporary Cite)*

#### B. Provisional License

Requires MDH, beginning August 1, 2021, to issue a provisional license for new Assisted Living Facility license applicants in one of the two license categories, good for one year (but may be extended under certain circumstances). Sets the requirements for a provisional license and oversight responsibilities for MDH. Requires MDH to conduct a survey during the provisional license period. Provides for reconsideration of a denial of a provisional license.

*Adds Minn. Stat. § 144I.03 (Temporary Cite)*

#### C. Licensing Categories

##### 1. Assisted Living Facility

Specifies that Assisted Living Facilities provide only assisted living services.

*Adds Minn. Stat. § 144I.02, subd. 2 (Temporary Cite)*

**Note:** *See new definition of “Assisted Living Services” above.*

*Adds Minn. Stat. § 144I.01, subd. 9 (Temporary Cite)*

##### 2. Assisted Living Facility with Dementia Care

Specifies that Assisted Living Facilities with Dementia Care provide both: (1) assisted living services; and (2) dementia care services. Allows an Assisted Living Facility with Dementia Care to provide dementia care services in a secured dementia care unit. Requires an Assisted Living Facility with a secured dementia care unit to be licensed as an Assisted Living Facility with Dementia Care.

*Adds Minn. Stat. § 144I.02, subd. 2 (Temporary Cite)*

**Note:** *The requirement for a facility with a secured unit to be licensed in the Assisted Living Facility with Dementia Care category is found in the definition of Assisted Living Facility with Dementia Care.*

*Adds Minn. Stat. § 144I.01, subd. 8 (Temporary Cite)*

**D. Penalty for Operating Without a License**

Makes operating an ALF without a license a misdemeanor. Authorizes MDH to also impose a fine. Makes a controlling individual of the facility who in violation guilty of a misdemeanor unless the controlling individual had no legal authority to affect or change decisions related to the operation of the facility.

*Adds Minn. Stat. § 144I.02, subd. 4 (Temporary Cite)*

**E. Fees**

*Amends Minn. Stat. § 144.122*

1. Basic Amounts

Establishes fees for: (1) Assisted Living Facilities (\$2,000 plus \$75 per resident); and (2) Assisted Living Facilities with Dementia Care (of \$3,000 plus \$100).

2. Incentive to Accept Home and Community-Based (HCBS) Residents

Grants discretion to DHS to adjust fees (in a revenue-neutral manner) for either an Assisted Living Facility or an Assisted Living Facilities with Dementia Care to: (1) reduce the fee by up to 10% if more than 50% of residents receive HCBS; and (2) increase the fee by 10% if less than 50% of residents receive HCBS.

**F. Mechanics**

1. Applications

Specifies the content of the license application, including information of prior convictions for crimes committed by the applicant, owner, controlling individual, managerial official, or assisted living director and whether the applicant has had a previous license revoked or suspended in any state. Requires an applicant for licensure as an ALF with Dementia Care to demonstrate the capacity and ability to provide services to persons with dementia.

*Adds Minn. Stat. § 144I.04 (general requirements) (Temporary Cite)*

*Adds Minn. Stat. § 144I.37, subd. 2 (Temporary Cite) (ALF with Dementia Care)*

2. Renewals

Requires renewal of nonprovisional licenses annually.

*Adds Minn. Stat. § 144I.07 (Temporary Cite)*

## II. DEPARTMENT OF HEALTH REGULATORY POWERS AND DUTIES

*Regular Session, Chapter 60, Article 1, Sections 7, 10, 29, 34, 35, 36, and 41 (HF 90)*

*Adds Minn. Stat. §§ 144I.06; 144I.09; 144I.29; 144I.30; 144I.31; and 144I.36 (Temporary Cites)  
Effective August 1, 2021*

### A. Licensing and Regulatory Authority

#### 1. Power to License

Vests MDH with the authority to regulate ALFs. Specifies that the regulations must include provisions to assure, to the extent possible, the health, safety, well-being, and appropriate treatment of residents while respecting individual autonomy and choice.

*Adds Minn. Stat. § 144I.29, subd. 1 (Temporary Cite)*

#### 2. Exclusive Power to Regulate

Declares that MDH is the exclusive state agency charged with the responsibility and duty of surveying and investigating all ALFs.

*Adds Minn. Stat. § 144I.30, subd. 1 (Temporary Cite)*

#### 3. Denial, Suspension, Revocation, or Nonrenewal of Licenses

##### a. *Power and Reasons to Deny, Suspend, Revoke, or Nonrenew*

Grants MDH the power to deny, revoke, suspend, restrict, or refuse to renew the license or impose conditions if MDH finds the applicant: (1) failed to provide complete and accurate information; (2) knowingly made a false statement of a material fact; (3) refused to allow MDH to inspect books or premises; (4) willfully prevented, interfered with, or attempted to impede the work or duties of state or city government personnel, local law enforcement, or city or county attorneys.

*Adds Minn. Stat. § 144I.09(c) (Temporary Cite)*

##### b. *Considerations in Making Determination*

Requires MDH – before issuing regular license or renewal or a provisional ALF license to “consider an applicant's compliance history in providing care in a facility that provides care to children, the elderly, ill individuals, or individuals with disabilities.”

*Adds Minn. Stat. § 144I.09(a) (Temporary Cite)*

## B. Duties

### 1. Background Studies

#### a. *Owners, Controlling Individuals, Managerial Officials*

Requires MDH to conduct a background study of the owner, controlling individuals, and managerial officials of the ALF prior to granting a license or if ownership of the facility changes hands. Prohibits any person from being involved in the management, operation, or control of an ALF if the person has been previously disqualified from any other position as a result of a background study.

*Adds Minn. Stat. § 144I.06, subd. 1(a) (Temporary Cite)*

#### b. *Employees, Contractors, and Regularly Scheduled Volunteers*

Requires a background study of employees, contractors, and regularly scheduled volunteers who have direct contact with residents.

*Adds Minn. Stat. § 144I.06, subd. 1(c) (Temporary Cite)*

#### c. *Reconsideration*

Provides a process for reconsideration for any disqualified individual.

*Adds Minn. Stat. § 144I.06, subd. 2 (Temporary Cite)*

### 2. Setting Standards

Enumerates areas of regulation that include standards for: (1) training; (2) supervision; (3) the provision of assisted living services; (4) medication management; (5) resident evaluation or assessment; (6) treatments and therapies; and (7) maintenance of accurate, current resident records.

*Adds Minn. Stat. § 144I.29, subd. 1 (Temporary Cite)*

### 3. Enforcement

Directs MDH to enforce licensing and regulatory requirements of ALFs.

#### a. *Complaint Investigation*

Directs MDH to investigate complaints against ALFs.

*Adds Minn. Stat. § 144I.29, subd. 2 (Temporary Cite)*

#### b. *Surveys*

Mandates that MDH must survey ALFs once every two years. Provides that surveys are to be conducted without advance notice.

*Adds Minn. Stat. § 144I.30, subds. 2 and 4 (Temporary Cite)*

#### c. *Correction Orders*

Gives MDH discretion to issue a correction order and monitor compliance with the order if MDH finds after a survey or investigation an employee or manager has not complied with requirements.

*Adds Minn. Stat. § 144I.30, subd. 7 (Temporary Cite)*

- d. *Fines*  
Establishes fine amounts for the four levels of infractions, based on the severity and scope of the violation. Grants MDH the power to issue an immediate fine. Grants MDH the authority to impose fines of: (1) \$1,000 for maltreatment violations for which the licensee was determined to be responsible; and (2) \$5,000 if MDH determines the licensee is responsible for maltreatment consisting of sexual assault, death, or abuse resulting in serious injury.  
*Adds Minn. Stat. § 144I.31, subs. 1 and 4 (Temporary Cite)*

## C. Rulemaking

1. General Charge  
Directs MDH to adopt rules for all ALFs that: (1) promote person-centered planning, service delivery, and optimal quality of life; and (2) ensure resident rights, resident choice, and public health and safety.  
*Adds Minn. Stat. § 144I.36(a) (Temporary Cite)*
2. Timeline  
Directs MDH to: (1) begin a rulemaking process on July 1, 2019; (2) publish proposed rules by December 31, 2019; and (3) publish final rules by December 31, 2020.  
*Adds Minn. Stat. § 144I.36(b) and (d) (Temporary Cite)*
3. Subjects of Rulemaking  
Provides that the rules adopted must cover, among other things: (1) staffing; (2) training, including for dementia care; (3) relocation planning and appeal rights; (4) assessments and the development of a uniform assessment tool; (5) a uniform checklist disclosure of services; and (6) procedures to efficiently transfer existing housing with services registrants and home care licensees to the new assisted living facility licensure structure.  
*Adds Minn. Stat. § 144I.36(c) (Temporary Cite)*

### III. LAWS REPEALED WHEN LICENSING BECOMES EFFECTIVE

*Regular Session, Chapter 60, Article 1, Section 48, and Article 4, Section 35 (HF 90)*

*Repeals Various Sections*

*Effective August 1, 2021*

#### A. **Housing with Services Establishments Chapter**

*Repeals Minn. Stat. §§ 144D.01; 144D.015; 144D.02; 144D.025; 144D.03; 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09; 144D.10; and 144D.11*

Repeals all sections governing Housing with Services Establishments under Chapter 144D on the day that the new requirement that all Assisted Living Facilities must be licensed becomes effective.

#### B. **Assisted Living Services (Assisted Living Title Protection) Chapter**

*Repeals Minn. Stat. §§ 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; and 144G.06.*

Repeals all sections governing Housing with Services Establishments that have obtained Assisted Living Title Protection under Chapter 144G on the day that the new requirement that all Assisted Living Facilities must be licensed becomes effective.

#### C. **Assisted Living Addendum to Home Care Bill of Rights**

*Repeals Minn. Stat. §§ 144A.441 and 144A.442*

Repeals the Assisted Living Addendum to the Home Care Bill of Rights on the day that the new requirement that all Assisted Living Facilities must be licensed becomes effective because the new Assisted Living Bill of Rights, providing those rights and others becomes effective on that day.

## Operation and Management of Assisted Living Facilities

### **I. REQUIREMENTS AND POLICIES**

*Regular Session, Chapter 60, Article 1, Sections 1 and 11, and Article 2, Section 2 (HF 90)*

*Adds Minn. Stat. §§ 144I.02; 144I.10; and 144I.38 (Temporary Cites)*

*Effective August 1, 2021*

#### **A. Licensee Responsibility**

1. Assisted Living Facilities Generally

Makes all licensees “legally responsible” for the management, control, and operation of the ALF.

*Adds Minn. Stat. § 144I.02, subd. 1 (Temporary Cite)*

2. Assisted Living Facilities with Dementia Care

Makes ALF with Dementia Care licensees responsible for the provision of person-centered care that promotes each resident's dignity, independence, and comfort.

*Adds Minn. Stat. § 144I.38, subd. 1 (Temporary Cite)*

#### **B. Requirements**

Establishes a series of minimum requirements for all ALFs which include, among other things: (1) utilization of a person-centered planning and service delivery process; (2) ensuring sufficient staffing at all times to meet the scheduled and reasonably foreseeable unscheduled needs of each resident; (3) ensures one or more awake staff persons are available 24 hours a day/seven days a week to respond to resident requests for assistance with health or safety needs; and (4) the provision, upon resident request, of assistance with arranging transportation to appointments and accessing community resources.

*Adds Minn. Stat. § 144I.10, subd. 1 (Temporary Cite)*

#### **C. Policies**

1. Assisted Living Facilities Generally

Requires each ALF to maintain up-to-date policies regarding, among other things: (1) reporting of maltreatment; (2) evaluation of resident needs; (3) medication and treatment management; and (4) supervision of staff.

*Adds Minn. Stat. § 144I.10, subd. 2 (Temporary Cite)*

2. Assisted Living Facilities with Dementia Care  
Requires additional policies and procedures for ALFs with Dementia Care that address, among other things: (1) the philosophy service provision; (2) evaluation of symptoms of dementia; (3) prevention of wandering and unauthorized elopement from the facility; (4) programming; (5) training; and (6) family engagement.  
*Adds Minn. Stat. § 144I.38, subd. 3 (Temporary Cite)*

## II. **STAFFING, SUPERVISION, AND TRAINING**

*Regular Session, Chapter 60, Article 1, Sections 16, 18, 22-23, and Article 2, Sections 2 and 3 (HF 90)  
Adds Minn. Stat. §§ 144I.04; 144I.14; 144I.16; 144I.20; 144I.21; 144I.38; and 144I.39  
(Temporary Cites)  
Effective August 1, 2021*

### A. **Staffing and Supervision**

1. Assisted Living Facilities Generally  
Requires persons in any ALF providing assisted living services must: (1) be trained and competent in the provision of services consistent with current practice standards appropriate to the resident's needs; and (2) promote and be trained to support the assisted living bill of rights. Requires health care professionals providing services to be licensed or registered. Establishes standards for training and supervision of staff.  
*Adds Minn. Stat. § 144I.14 (Temporary Cite)*
2. Assisted Living Facilities with Dementia Care  
Requires ALFs with Dementia Care to have: (1) staff who are trained in dementia care; (2) direct care staff who are specially trained to work with residents with Alzheimer's disease and other dementias; and (3) staff who provide support to  
Requires staffing levels to demonstrate a basic understanding and ability to apply dementia training to the residents' emotional and unique health care needs using person-centered planning delivery. Requires staffing be sufficient to meet the scheduled and unscheduled needs of residents.  
*Adds Minn. Stat. § 144I.39, subds. 1 and 2 (Temporary Cite)*

## **B. Training**

### **1. Assisted Living Facilities Generally**

Requires all staff providing and supervising direct services in ALFs to: (1) complete an orientation to ALF licensing requirements; (2) receive ongoing, annual training; and (3) receive training in specified dementia-related topics.  
*Adds Minn. Stat. §§ 144I.20 and 144I.21 (Temporary Cites)*

### **2. Assisted Living Facilities with Dementia Care**

Requires all administrators of, and all staff providing and supervising direct services in, ALFs with Dementia Care to undergo more intensive dementia care training and continuing education.  
*Adds Minn. Stat. §§ 144I.20; 144I.38; and 144I.39 (Temporary Cites)*

## **C. Assisted Living Director Licenses**

Requires that Assisted Living Facility directors obtain a license and requires applicants to meet the qualifications and requirements for licensure, including initial and ongoing training. Renames the Board of Examiners for Nursing Home Administrators as the Board of Executives for Long Term Services and Supports.

*Amends Minn. Stat. § 144A.04, subd. 5 (renaming) (effective August 1, 2019)*

*Adds Minn. Stat. § 144A.20, subd. 4 (assisted living director licensing) (effective July 1, 2020)*

## **D. Sufficiency and Competency of Staff**

Prohibits ALFs from accepting a person as a resident unless the facility has staff, sufficient in qualifications, competency, and numbers, to adequately provide the services agreed to in the assisted living contract.

*Adds Minn. Stat. § 144I.16, subd. 1 (Temporary Cite)*

## **III. ASSESSMENTS AND REASSESSMENTS**

*Laws of 2019, Regular Session, Chapter 60, Article 1, Section 18 (HF 90)*

*Adds Minn. Stat. § 144I.16 (Temporary Cite)*

*Effective August 1, 2021*

### **A. Initial Assessments**

Requires ALFs to conduct a nursing assessment by a registered nurse of the physical and cognitive needs of the prospective resident prior to the date on which a prospective resident executes a contract with a facility or the date on which a prospective resident moves in, whichever is earlier. Provides that residents who are not receiving any services are not required to undergo an initial nursing assessment.

*Adds Minn. Stat. § 144I.16, subd. 2 (Temporary Cite)*

**B. Reassessments**

Requires ALFs to conduct reassessments no more than 14 calendar days after initiation of services, and the finalization at that time of a written service plan. Requires ongoing reassessments and monitoring as needed based on changes in the needs of the resident, but in no case may they exceed 90 calendar days from the last date of the assessment.  
*Adds Minn. Stat. § 144I.16, subd. 2 (Temporary Cite)*

**C Service Plans**

1. Temporary Service Plans

Requires ALFs to complete a temporary service plan where a facility initiates services but the initial assessment not been completed. Limits the effectiveness of a temporary service plan to no more than 72 hours.  
*Adds Minn. Stat. § 144I.16, subd. 3 (Temporary Cite)*

2. Finalized Service Plans

Requires ALF to, finalize a written service no later than 14 calendar days after the date that services are first provided. Specifies content of plans. Requires signatures of both facility and resident  
*Adds Minn. Stat. § 144I.16, subd. 4 (Temporary Cite)*

3. Revised Service Plans

Requires revisions to the service plan, if necessary, of the written service plan based on resident reassessments.  
*Adds Minn. Stat. § 144I.16, subd. 4 (Temporary Cite)*

**IV. MEDICATION MANAGEMENT**

*Regular Session, Chapter 60, Article 1, Section 19 (HF 90)*  
*Adds Minn. Stat. § 144I.17 (Temporary Cite)*  
*Effective August 1, 2021*

Requires ALF that provides medication management services to develop (under the supervision of a registered nurse, licensed health professional, or pharmacist), implement, and maintain current written medication management policies and procedures and individualized medication management plans, including managing controlled substances.

**V. TREATMENT AND THERAPY MANAGEMENT SERVICES**

*Regular Session, Chapter 60, Article 1, Section 20 (HF 90)*

*Adds Minn. Stat. § 144I.18 (Temporary Cite)*

*Effective August 1, 2021*

Requires ALF that provides treatment and therapy management services to develop (under the supervision and direction of a registered nurse or appropriate licensed health professional), implement, and maintain up-to-date written treatment or therapy management policies and procedures and individualized treatment or therapy plans.

**VI. SERVICES FOR RESIDENTS IN ASSISTED LIVING FACILITIES WITH DEMENTIA CARE**

*Regular Session, Chapter 60, Article 3, Section 4 (HF 90)*

*Adds Minn. Stat. § 144I.40 (Temporary Cite)*

*Effective August 1, 2021*

Requires ALFs with Dementia Care to provide, in addition to the other minimum services required, the following services, among others: (1) assistance with activities of daily living that address the needs of each resident with dementia due to cognitive or physical limitations; (2) preparation and education of residents and their legal and designated representatives about transitions in care; and (3) meaningful engagement with other facility residents and the broader community. Requires evaluation of each resident for activities based on enumerated factors, including, among others, the resident's: (1) past and current interests; (2) current abilities, skills, and limitations; and (3) emotional and social needs and patterns. Requires development of individualized activity plans that include, among other things; (1) planned events; (2) one-to-one and spiritual, creative, and intellectual activities; (3) sensory stimulation activities; (4) physical activities; and (5) outdoor activities. Requires ALFs with Dementia Care to provide support to families of residents with dementia residing in the facility.

**VII. KEEPING RESIDENT RECORDS**

*Regular Session, Chapter 60, Article 1, Section 21 (HF 90)*

*Adds Minn. Stat. § 144I.19 (Temporary Cite)*

*Effective August 1, 2021*

Requires ALF to maintain and protect legible, dated, and authenticated records for each resident for whom it is providing services. Prohibits disclosure of personal, financial, or medical records, except: (1) as may be required by law; (2) to employees or contractors of the facility, another facility, other health care practitioner or provider, or inpatient facility needing information in order to provide services to the resident, but only the information that is necessary for the provision of services; (3) to persons authorized in writing by the resident, including third-party payers; and (4) to DHS personnel authorized to survey or investigate facilities.

**Note:** See also Assisted Living Bill of Rights, providing that residents have the right to: (1) confidentiality of personal, financial, health, and medical information; (2) approve or refuse release of information to any outside party; (3) be advised of facility's policies and procedures regarding disclosure of the information; (4) be notified when personal records are requested by any outside party; and (5) access their own records. Minn. Stat. § 144I.101, subd. 15  
Effective August 1, 2021

## **VIII. PHYSICAL PLANT REQUIREMENTS**

*Regular Session, Chapter 60, Article 1, Section 25 (HF 90)*  
*Adds Minn. Stat. § 144I.24 (Temporary Cite)*  
*Effective August 1, 2021*

Establishes minimum requirements for the design, construction, site, physical environment, and fire safety of ALFs, with additional and specific requirements for ALFs with Dementia Care and secured dementia units.

### **Interim Provisions and Protections** **(Before Licensing Becomes Effective)**

#### **I. INCENTIVE TO ACCEPT RESIDENTS ON ELDERLY WAIVER**

*First Special Session, Chapter 9, Article 4, Section 28 (SF 12)*  
*Uncodified Session Law*  
*Effective August 1, 2019*

Directs DHS to develop incentive grants – available only until the June 30, 2021 – targeted to EW customized living service providers for achieving acceptance outcomes specified in a contract. Requires DHS to evaluate proposals based on established state policy goals. Permits DHS to give preference to applicants that serve at least 75% EW residents.

#### **II. PRIORITIZATION OF DEPARTMENT OF HEALTH ENFORCEMENT ACTIVITIES**

*Regular Session, Chapter 60, Article 1, Section 46 (HF 90)*  
*Uncodified Session Law*  
*Effective August 1, 2019*

Directs MDH to prioritize enforcement actions taken regarding service terminations (under existing Minn. Stat. § 144A.442) for the fiscal years 2020 and 2021.

**Resident Quality of Care and Outcomes Improvement Task Force**

*Regular Session, Chapter 60, Article 1, Section 40 (HF 90)*

*Adds Minn. Stat. § 144I.35 (Temporary Cite)*

*Effective August 1, 2019*

Directs MDH to establish by July 1, 2020 a “Resident Quality of Care and Outcomes Improvement Task Force to examine and make recommendations, on an ongoing basis, on how to apply proven safety and quality improvement practices and infrastructure to settings and providers that provide long-term services and supports. Provides that membership must consist of representatives from a range of perspectives, including: (1) consumer organizations; (2) nonprofits “dedicated to patient safety or innovation in health care safety and quality”; (3) providers; (4) a resident (or former resident) and a family member; (5) MDH; and (6) the Office of the Ombudsman for Long-Term Care. Requires the task force to periodically provide recommendations to MDH.

## EMPLOYMENT INSURANCE LAW

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### WAGE THEFT

*First Special Session, Chapter 7, Article 3 (HF 2)*

*Amends Minn. Stat. §§ 16C.285, subd. 3; 175.20; 177.27, subd. 2; 177.30; 177.32, subd. 1; 181.032; 181.101; and 609.52, subds. 1, 2, and 3*

*Adds Minn. Stat. §§ 177.27, subd. 11; 177.45; 181.03, subds. 4, 5, and 6; and 181.1721*

*Various Effective Dates*

#### A. RIGHT TO ALL WAGES

Clarifies that Minnesota law provides a substantive right to payment of all wages owed under law or contract and provides for separate treatment of commissions.

*Amends Minn. Stat. § 181.101*

#### B. RETALIATION BY EMPLOYERS

Prohibits retaliation against employees for asserting rights under the Minnesota Fair Labor Standards Act and Prevailing Wage Law (Chapter 177), and Minnesota Employment Law (Chapter 181). Provides for civil penalty for violation of between \$700 and \$3,000.

*Adds Minn. Stat. § 181.03, subd. 6*

#### C. ADDITIONAL INFORMATION ON EARNINGS STATEMENT

Requires employers to include additional information on employee earnings statements, including: (1) the basis of pay (hourly, salary, piece rate, etc.); (2) any allowances for meals or lodging; and (3) the address and phone number of the employer.

*Amends Minn. Stat. § 181.032*

#### D. NOTICE TO EMPLOYEES

Requires employers to give a written notice to an employee at the start of employment that includes a variety of information about employee pay and the employer.

*Amends Minn. Stat. § 181.032*

#### E. WAGE THEFT DISQUALIFYING FACTOR IN BID FOR STATE CONTRACT

Adds to the list of criteria disqualifying a contractor from securing a contract with the state violation of the new law against wage theft.

*Amends Minn. Stat. § 16C.285, subd. 3*

## **F. CRIMINAL LAW CHANGES**

1. Definition of “Wage Theft”  
Defines “Wage Theft” as: (1) the failure to pay an employee all wages, salary, gratuities, earnings, or commissions at the employee's rate or rates of pay or at the rate or rates required by law; (2) directly or indirectly causing any employee to give a receipt for wages for a greater amount than that actually paid to the employee for services rendered; (3) directly or indirectly demanding or receiving from any employee any rebate or refund from the wages owed the employee under contract of employment with the employer; or making or attempting to make it appear in any manner that the wages paid to any employee were greater than the amount actually paid to the employee.  
*Amends Minn. Stat. § 609.52, subd. 1*
2. Acts Constituting Theft  
Adds wage theft to the criminal acts constituting theft.  
*Amends Minn. Stat. § 609.52, subd. 2*
3. New Misdemeanor  
Makes hindering or delaying the performance of the Department of Labor and Industry’s duties with respect to wage theft enforcement as a misdemeanor.  
*Amends Minn. Stat. § 177.32, subd. 1*
4. Enhanced Penalties/Aggregation of Offenses  
Adds wage theft to list of theft crimes eligible for enhanced penalties as well as aggregation of offenses for sentencing purposes.  
*Amends Minn. Stat. § 609.52, subd. 3*

## **G. ENFORCEMENT**

1. Attorney General Enforcement  
Clarifies the right of the Attorney General to enforce Minnesota Fair Labor Standards Act and Prevailing Wage Law (Chapter 177), and Minnesota Employment Law (Chapter 181).  
*Amends Minn. Stat. § 175.20*  
*Adds Minn. Stat. § 181.1721*
2. Department of Labor and Industry Enforcement  
Clarifies existing and expands Department of Labor and Industry enforcement authority over Minnesota Fair Labor Standards Act and Prevailing Wage Law (Chapter 177), Minnesota Employment Law (Chapter 181); Minnesota Child Labor Law (Chapter 181A); and Employment Agencies (Chapter 184).  
*Amends Minn. Stat. § 175.20*

## **FAMILY LAW/DOMESTIC VIOLENCE**

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### **I. MARITAL RAPE EXCEPTION**

*Regular Session, Chapter 16 (HF 15)*

*Repeals Minn. Stat. § 609.349*

*Effective July 1, 2019 and applies to crimes committed on or after that date*

Eliminates the voluntary relationship defense for criminal sexual conduct crimes.

### **II. ADMISSIBILITY OF EVIDENCE OF DOMESTIC CONDUCT**

*First Special Session, Chapter 5, Article 2, Section 27 (SF 8)*

*Amends Minn. Stat. § 634.20*

*Effective May 31, 2019*

Adds violation of a domestic abuse no contact order under Minn. Stat. § 629.75 as admissible evidence of domestic conduct by the accused against the victim of domestic conduct, or against other family or household members.

### **III. CHILD SUPPORT**

*First Special Session, Chapter 9, Article 1, Sections 34 and 35 (SF 12)*

*Amends Various Sections*

*Various Effective Dates*

#### **A. Imputation of Income for Incarcerated Parents**

Provides that a parent who is incarcerated for nonpayment of child support is not voluntarily unemployed, underemployed, or employed on a less than full-time basis, for purposes of imputing income for establishing child support (by removing the prior statutory exception).

*Amends Minn. Stat. § 518A.32, subd. 3*

*Effective May 31, 2019*

#### **B. Fees for IV-D Services**

Increases the annual fee for child support collection services from \$25 to \$35 for individuals that have received at least \$550 in child support payments through county IV-D collection services.

*First Special Session, Chapter 5, Article 2, Section 34 (SF 8)*

*Amends Minn. Stat. § 518A.51*

*Effective October 1, 2019*

**IV. FAMILY REUNIFICATION ACT  
(Reinstatement of Parental Rights After Termination)**

*Regular Session, Chapter 14 (HF 554)*

*Amends Minn. Stat. § 260C.329, subs. 3, 7, and 8*

*Adds Minn. Stat. § 260C.329, subs. 3a and 12*

*Repeals Minn. Stat. § 260C.329, subd. 5*

*Effective August 1, 2019*

**A. Parent Allowed to File for Reinstatement of Parental Rights**

Modifies existing law to provide the statutory right for a parent to file for the reinstatement of parental rights after they have been taken away through termination. Previously, only the county attorney had that authority.

*Amends Minn. Stat. § 260C.329, subd. 3*

**B. Fee Waiver for Eligible Petitioners**

Provides that filing fees may be waived if the petitioner is filing in forma pauperis.

*Amends Minn. Stat. § 260C.329, subd. 3*

**C. Modified Conditions for Granting Petitions**

Eliminates the age threshold, which was that the child had to be 15 years of age or older. Extends the waiting period between termination and the date a petitioner may first file to 48 months (from 36 months).

*Amends Minn. Stat. § 260C.329, subd. 3*

**D. Contents of the Petition**

Specifies the contents of the petition (which must be signed under oath), which include: (1) why reunification is sought and why reunification is in the child's best interest; (2) the steps the petitioner has taken toward personal rehabilitation; and (3) how the petitioner has corrected the conditions leading to the termination.

*Adds Minn. Stat. § 260C.329, subd. 3a*

**E. Notice and Service**

Requires the petitioning parent to: (1) notify the responsible social service agency 45 days prior to filing the petition; and (2) serve the petition on, in addition to those already required to be served, both the county attorney and the responsible social service agency.

*Amends Minn. Stat. § 260C.329, subd. 7*

**F. Denial and Subsequent Petition**

A court denying a petition must issue an order barring the filing of a subsequent order for a specified period of time.

*Adds Minn. Stat. § 260C.329, subd. 12*

**V. DOMESTIC VIOLENCE AND SEXUAL ASSAULT PREVENTION PROGRAM**

*First Special Session, Chapter 9, Article 11, Section 108 (SF 12)*

*Uncodified Session Law*

*Effective August 1, 2019*

**A. Establishment**

Directs the Department of Health to administer a Domestic Violence and Sexual Assault Prevention Program, which features the award of grants to nonprofit organizations for the purpose of funding programs that incorporate community-driven and culturally relevant practices to prevent domestic violence and sexual assault.

**B. Definition of Domestic Violence and Sexual Assault**

For purposes of this program, defines "Domestic Violence and Sexual Assault" to include (but not limited to): (1) intimate partner violence, including emotional, psychological, and economic abuse; (2) sex trafficking; (3) domestic abuse; (4) criminal sexual conduct; (5) abusive international marriage; (6) forced marriage; and (7) female genital mutilation.

**C. Evaluation and Use of Analysis**

Directs the Department of Health to: (1) evaluate the effectiveness of program, including best practices recommendations to prevent domestic violence and sexual assault, including best practices recommendations that are culturally relevant to historically underserved communities; (2) report to the Legislature every two years; and (3) use the evaluation to inform the administration of existing Department of Health programming and the development of Department of Health policies, programs, and procedures.

## **FOOD SUPPORTS**

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### **SNAP AT FARMERS MARKETS**

*First Special Session, Chapter 10, Article 1 (SF 10)*

*Amends Minn. Stat. § 138.912*

*Appropriations Article*

*Effective July 1, 2019*

Directs the Legislature to transfer the Healthy Eating Here at Home program, also known as “Market Bucks” or the SNAP match at farmers markets, to the Department of Agriculture in 2022 and 2023. Adds the funding to the base.

## **HEALTH LAW**

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## **HEALTH DISPARITIES**

### **I. PRE-NATAL CARE**

*First Special Session, Chapter 9, Article 11, Sections 69 and 70 (SF 12)*  
*Amends Minn. Stat. § 145.928, subds. 1 and 7*  
*Effective August 1, 2019*

Adds access to and utilization of high-quality prenatal care as a goal for the reduction of health disparities. Adds reduction of racial and ethnic disparities in pre-natal care as one area for which community grants are available.

### **II. WORKING GROUP ON HEALTH DISPARITIES AND EDUCATIONAL ACHIEVEMENT FOR CHILDREN FROM AMERICAN INDIAN COMMUNITIES AND COMMUNITIES OF COLOR.**

*First Special Session, Chapter 9, Article 11, Section 106 (SF 12)*  
*Uncodified Session Law*  
*Effective August 1, 2019*

Directs the Department of Health, in consultation with the Department of Education, to develop: (1) a plan to convene one or more working groups to examine the links between health disparities and disparities in educational achievement for children from American Indian communities and communities of color; and (2) recommendations to address health disparities and decrease disparities in educational achievement for children for those populations. Directs the Department of Health to submit the plan for the working group, including proposed legislation establishing the working group, to the Legislature by February 15, 2020.

### **III. COMMUNITY SOLUTIONS FOR HEALTHY CHILD DEVELOPMENT GRANT PROGRAM**

*First Special Session, Chapter 9, Article 11, Section 107 (SF 12)*

*Uncodified Session Law*

*Effective August 1, 2019*

#### **A. Establishment**

Directs the Department of Health to establish the Community Solutions for Healthy Child Development Grant Program.

#### **B. Purposes of the Program**

Specifies that the purposes of the program are to: (1) improve child development outcomes as related to the well-being of children of color and American Indian children from prenatal to grade 3 and their families; (2) reduce racial disparities in children's health and development, from prenatal to grade 3; and (3) promote racial and geographic equity.

#### **C. Community Solutions Advisory Council**

Directs the Department of Health to convene a 12-member Community Solutions Advisory Council to, among other things, advise the department on developing an RFP and to review proposals. Specifies membership on advisory council to include: (1) representatives of the African Heritage, Latino, Asian-Pacific Islander, and American Indian communities; (2) parents of children of color or American Indian children; (3) a person with research or academic expertise in racial equity and healthy child development; and (4) an advocacy organization representing communities of color or American Indians.

## **HEALTH INSURANCE**

### **I. APPEALS OF DENIAL OF STEP THERAPY OVERRIDE**

*First Special Session, Chapter 9, Article 7, Section 4 (SF 12)*

*Amends Minn. Stat. § 62Q.184, subd. 3*

*Effective August 1, 2019*

Allows enrollees (or providers) to appeal the denial of a step therapy override by a health plan company, including under MA and MinnesotaCare, using the DHS administrative review process.

## II. NAVIGATOR FUNDING

*First Special Session, Chapter 9, Article 7, Section 8 (SF 12)*  
*Amends Minn. Stat. § 256.962, subd. 5*  
*Effective July 1, 2019*

Increases from \$25 to \$75 the fee paid to health care navigators for enrolling participants in MA and MinnesotaCare.

## III. NETWORK NOTIFICATIONS TO CONSUMERS

*First Special Session, Chapter 9, Article 8, Sections 5 and 9 (SF 12)*  
*Amends Minn. Stat. § 62K.075 (Health Carriers)*  
*Adds Minn. Stat. § 62D.124, subd. 7 (HMOs)*  
*Effective August 1, 2019*

Requires a “health carrier” to: (1) display on the carrier’s website the provider network for each product; (2) update the website at least once per month; and (3) provide on the website a list of current waivers of the network geographic accessibility standard.

**Note:** “Health carrier” is defined as: (1) a licensed insurance company licensed selling accident and sickness insurance; (2) a nonprofit health service plan corporation; (3) an HMO; (4) a fraternal benefit society; or (5) a joint self-insurance employee health plan. *Minn. Stat. § 62A.011, subd. 2*

## IV. CONSUMER COMPLAINTS ABOUT NETWORK ADEQUACY

*First Special Session, Chapter 9, Article 8, Section 11 (SF 12)*  
*Adds Minn. Stat. § 62K.105*  
*Effective August 1, 2019*

Requires the Department of Health to establish process to accept and investigate consumer complaints health carrier and preferred provider organization network adequacy.

## V. COST-SHARING IN PRESCRIPTION INSULIN DRUGS

*First Special Session, Chapter 9, Article 8, Section 15 (SF 12)*  
*Adds Minn. Stat. § 62Q.48*  
*Effective for health plans issued or renewed on or after January 1, 2020*

Limits the total amount of cost sharing that an enrollee is required to pay at point of sale for insulin at an amount not exceeding the “net price” of the insulin. Defines net price as the health plan company’s cost of the drug, including any rebates or discounts received on or accrued to the health plan company from a manufacturer or pharmacy benefit manager.

**Note:** “Net price” is defined as “the health plan company’s cost of the drug, including any rebates or discounts received on or accrued to the health plan company from a manufacturer or pharmacy benefit manager.”  
*Adds Minn. Stat. § 62Q.48, subd. 2(e)*

**VI. PRIOR AUTHORIZATION FOR STEP-THERAPY**

*First Special Session, Chapter 9, Article 8, Section 17(SF 12)  
Amends Minn. Stat. § 256B.0625, subd. 13f  
Effective January 1, 2020*

Requires any step therapy protocol requirements established by DHS to obtain prior authorization from the Formulary Committee, established by DHS under Minn. Stat. § 256B.0625, subd. 13d.

**HOME CARE**

**I. NOTIFICATION TO RECIPIENT THAT PROVIDER WILL BE TERMINATED**

*First Special Session, Chapter 9, Article 2, Section 119 (SF 12)  
Amends Minn. Stat. § 256B.0651, subd. 17  
Effective May 31, 2019*

Clarifies DHS' authority to notify recipients of services that their provider will be terminated as an MA provider.

**II. DEFINITION OF "STANDBY ASSISTANCE"**

*First Special Session, Chapter 9, Article 11, Section 40 (SF 12)  
Amends Minn. Stat. § 144A.43, subd. 30  
Effective August 1, 2019*

Revises the definition of "Standby Assistance" as: "the presence of another person to assist a client with an assistive task by providing cues, oversight, and minimal physical assistance."

**Note:** The old definition read: "the presence of another person *within arm's reach to minimize the risk of injury while performing daily activities through physical intervention or cuing (language in italics deleted)*"

**III. HOME CARE PROVIDER REGULATORY CHANGES**

*Regular Session, Chapter 60, Article 4, Sections 17–21; and 23-26 (SF 12)  
Amends Minn. Stat. §§ 144A.471, subds. 7 and 9; 144A.472, subd. 7; 144A.474, subds. 9 and 11;  
144A.475, subds. 3b and 5; 144A.476, subd. 1; and 144A.4799  
Effective August 1, 2019*

**A. Expansion of Comprehensive Home Care Services**

Expands the services a home care provider-licensee providing comprehensive home care services may provide to include treatment and therapies.  
*Amends Minn. Stat. § 144A.471, subd. 7*

**B. MDH Fines**

Establishes a fine of: (1) \$1,000 for maltreatment violations for which the licensee was determined to be responsible; and (2) \$5,000 for maltreatment violations for which the licensee was determined to be responsible consisting of sexual assault, death, or abuse resulting in serious injury. Adds fines and increases other fine amounts. Allows immediate imposition of fines for initial violations and new violations found in follow-up MDH surveys (inspections).

*Amends Minn. Stat. § 144A.472, subd. 7 (additional fine)*

*Amends Minn. Stat. § 144A.474, subd. 9 (fine for new violation found in follow-up survey)*

*Amends Minn. Stat. § 144A.474, subd. 9 (new fine for maltreatment, new fining authority)*

**C. MDH Licensed Home Care Provider Advisory Council**

Adds persons who have received home care services within five years of the application date to the eligible members among the three designated public members. Adds as a new member beginning July 1, 2021, a representative of the County Health and Human Services or County Adult Protection Office. Specifies the subjects about which the council should make recommendations.

*Amends Minn. Stat. § 144A.4799*

**IV. TIMING OF REQUIREMENTS**

*First Special Session, Chapter 9, Article 11, Sections 51, 52, 54, 55, and 56 (SF 12)*

*Amends Minn. Stat. § 144A.4791, subds. 1, 3, 7, 8, and 9*

*Effective August 1, 2019*

**A. Receipt of Home Care Bill of Rights**

Clarifies that a client must receive a written notice of the home care bill of rights, before the date services are first provided.

*Amends Minn. Stat. § 144A.4791, subd. 1*

**B. Provision of Information About Home Care Provider and Home Care Services**

Clarifies that a home care provider must provide the client with information about the home care provider's license and the services the provider can provide before the date services are first provided.

*Amends Minn. Stat. § 144A.4791, subd. 3*

**C. Initial Review of Needs and Preferences**

Requires an initial review of the client's needs and preferences to be completed within 30 days after the date home care services are first provided.

*Amends Minn. Stat. § 144A.4791, subd. 7*

**D. Comprehensive Assessment/Reassessment**

Requires: (1) an initial assessment to occur within five days after the date home care services are first provided; and (2) reassessment occur within 14 days after the date home care services are first provided.

*Amends Minn. Stat. § 144A.4791, subd. 8*

**E. Service Plan**

Requires a service plan to be finalized within 14 days after the date home care services are first provided. Modifies what the service plan must include regarding staffing and supervision.

*Amends Minn. Stat. § 144A.4791, subd. 9*

**V. TEMPORARY PLAN PRIOR TO REVIEW OR ASSESSMENT**

*First Special Session, Chapter 9, Article 11, Section 53 (SF 12)*

*Amends Minn. Stat. § 144A.4791, subd. 6*

*Effective August 1, 2019*

Clarifies that a licensed health professional or registered nurse must complete a temporary plan and orient staff to deliver services if a client receives services before receiving a review or assessment.

**VI. MEDICATIONS**

*First Special Session, Chapter 9, Article 11, Sections 57-60 (SF 12)*

*Amends Minn. Stat. § 144A.4792, subds. 1, 2, 5, and 10*

*Effective August 1, 2019*

**A. Storage of Controlled Substances**

Requires a comprehensive home care provider stores and secures controlled substances to have policies to ensure security and accountability for management, control, and disposition of the substances.

*Amends Minn. Stat. § 144A.4792, subd. 1*

**B. Additional Requirement During Assessment**

Requires the assessment that is conducted before a home care provider provides medication management services to include providing instructions to the client or a representative on interventions to manage medications and prevent medication diversion.

*Amends Minn. Stat. § 144A.4792, subd. 2*

**C. Management for Client's Who Will Be Away From Home**

Modifies requirements for medication management for clients who will be away from home for unplanned time away by limiting the amount of medication a client may receive to the amount needed for seven calendar days (rather than 120 hours [five calendar days] as in prior law).

*Amends Minn. Stat. § 144A.4792, subd. 10*

## LONG-TERM CARE

### I. **ELDER CARE AND VULNERABLE ADULT PROTECTION ACT OF 2019**

*See Elder Law and Elder Care Section above*

### II. **LONG-TERM CARE CONSULTATION SERVICES (MnCHOICES)**

*First Special Session, Chapter 9, Article 5, Sections 43-47, 49, 50, 52, and 53 (SF 12)*

*Amends Minn. Stat. §§ 256B.0911, subds. 1a, 3a, 3f, and 5; 256B.0915, subd. 6; 256B.092, subd. 1b; and 256B.49, subds. 13 and 14*

*Adds Minn. Stat. § 256B.0911, subd. 3g*

*Effective August 1, 2019*

#### A. **Definitions**

Clarifies language related to assessments for developmental disabilities waiver services. Removes from the MnCHOICES assessment process service eligibility determinations for: (1) home care nursing; (2) home care targeted case management; (3) adult targeted case management; and (4) Rule 185 case management services. Removes MnCHOICES assessment as the required process for determining whether the family of a minor with a disability is eligible for a support grant.

*Amends Minn. Stat. § 256B.0911, subd. 1a*

#### B. **Assessments and Support Planning**

##### 1. Nature of Assessment

Requires the assessment process to be conversational in nature.

*Amends Minn. Stat. § 256B.0911, subd. 3a(c)*

##### 2. Role of Legal Representative

Requires the legal representative to provide input during the assessment process. Allows the legal representative to participate remotely.

*Amends Minn. Stat. § 256B.0911, subd. 3a(d)*

##### 3. Provider Reporting

Permits providers to submit written report “the person” completed in consultation with someone who “is known to the person and has interaction with the person on a regular basis.” (Prior law mandated that the employee had to have at least 20 hours of services to the person). Requires the report to be submitted 60 days before the end of the current services agreement and requires the certified assessor to consider the content of the report.

*Amends Minn. Stat. § 256B.0911, subd. 3a(d)*

4. Certified Assessor Obligations

a. *Completion of CSP and CSSP*

Requires the certified assessor to complete the CSP and the CSSP no more than 60 days from the assessment visit. Permits DHS to establish timelines for providing the written CSP to the person or the person's legal representative (previously within 40 days of the assessment).

*Amends Minn. Stat. § 256B.0911, subd. 3a(e)*

b. *Communication to Person of Right to Appeal*

Requires the certified assessor to: (1) verbally communicate the person's right to appeal the assessor's decision regarding eligibility for all services and programs; and (2) "visually point out where in the document the right to appeal is stated."

*Amends Minn. Stat. § 256B.0911, subd. 3a(j)(9)*

c. *Review of Most Recent Assessment*

Requires the certified assessor to review the person's most recent assessment, the CSP, and CSSP.

*Amends Minn. Stat. § 256B.0911, subd. 3f(a)*

d. *To Ensure Continuity of Care*

Requires the certified assessor to ensure continuity of care and complete CSP and CSSP within 60 days from reassessment visit.

*Amends Minn. Stat. § 256B.0911, subd. 3f(a)*

5. Eligibility for Waiver Services

a. *Establishment of Eligibility*

Allows the results of a MnCHOICES assessment to establish service eligibility for developmental disability waiver services for up to 60 days from the time of the assessment.

*Amends Minn. Stat. § 256B.0911, subd. 3f(a)*

b. Update

Changes interaction with existing statute to permit a service eligibility update for developmental disability waiver services to extend the validity of a MnCHOICES assessment for an additional 30 days, aligning these changes with the service eligibility timelines for developmental disability waiver services with the timelines for the other home and community-based waiver and alternative care services.

*Amends Minn. Stat. § 256B.0911, subd. 3a(k)*

6. Face-to-Face Assessment  
Adds DD waiver to list of services where face-to-face assessment is valid to establish service eligibility for no more than 60 days.  
*Amends Minn. Stat. § 256B.0911, subd. 3a(k)*
  
7. Information Sharing Among Providers and Case Managers  
Requires DHS to develop mechanisms for providers and case managers to share information with the assessor to facilitate a reassessment and support planning process tailored to the person's needs and preferences.  
*Amends Minn. Stat. § 256B.0911 by adding subd. 3f(b)*
  
8. Rule 185 Case Management Assessments  
Gives county agencies the option not to conduct or arrange for an annual needs reassessment by a certified assessor. Requires the case manager to: (1) identify the person's needs; and (2) develop a person-centered service plan based on the person's assessed needs and preferences to "minimize the impact of the disability on the person's life." Permits a person receiving only Rule 185 case management services to decline annual MNCHOICES assessments.  
*Adds Minn. Stat. § 256B.0911, subd. 3g*

**C. Data and Efficiency**

Requires DHS, in cooperation with lead agencies, to: (1) develop and collect data on a set of measures of increasing efficiency in the MnCHOICES assessment process; (2) report an analysis of that data to lead agencies and to the Legislature; and (3) demonstrate that the process is becoming more efficient.  
*Amends Minn. Stat. § 256B.0911, subd. 5*

**D. Timelines**

Removes the current ten-day deadline for case managers to complete coordinated service and support plans for people receiving any home and community-based waiver services or alternative care (including elderly waiver). Requires DHS to determine a new deadline for completing coordinated service and support plans, but the total time for a MnCHOICES assessor to complete the community support plan and the case manager to complete the coordinated service and support plan must not exceed 60 days.  
*Amends Minn. Stat. §§ 256B.0915, subd. 6; 256B.092, subd. 1b; and 256B.49, subd. 13*

**III. HOME CARE AND ASSISTED LIVING ADVISORY COUNCIL**

*First Special Session, Chapter 9, Article 11, Section 65 (SF 12)*  
*Amends Minn. Stat. § 144A.4799, subds. 1 and 3*  
*Effective August 1, 2019*

Makes eligible for appointment to the council persons who have received home care services within five years of the application date. Adds emerging issues in the field of assisted living as one of the topics on which the council must advise.

## MEDICAL ASSISTANCE

### **I. EXCESS INCOME STANDARD (MA SPENDDOWN)**

*First Special Session, Chapter 9, Article 7, Section 21 (SF 12)*

*Amends Minn. Stat. § 256B.056, subd. 5c*

*Effective July 1, 2022*

Effective July 1, 2022, the excess income standard for a person whose eligibility is based on blindness, disability, or age of 65 or more years moves to 100% of federal poverty guidelines.

### **II. ELIGIBILITY**

*First Special Session, Chapter 9, Article 6, Sections 74 and 75, and Article 7, Sections 18, 19, 20, 22, and 34 (SF 12)*

*Amends Minn. Stat. §§ 256B.055, subd. 2; 256B.056, subds. 1, 3, and 7a; and 256B.69, subd. 4*

*Amends Laws 2017, First Special Session Chapter 6, Article 8, Sections 71 and 72*

*Various Effective Dates*

#### **A. Coverage for Mental Health Services in Children’s Residential Facilities**

Removes the sunset and thus extends indefinitely provisions funding MA coverage for mental health services provided by children’s residential facilities that qualify as institutions for mental diseases under federal law.

*Amends Laws 2017, First Special Session chapter 6, article 8, sections 71 and 72*

*Effective July 1, 2019*

#### **B. Coverage for Children in Foster Care**

Makes children who are not eligible for Title IV-E assistance (federal payments for foster care) but are determined eligible for foster care or kinship assistance eligible for MA.

*Amends Minn. Stat. § 256B.055, subd. 2*

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

#### **C. Residency**

Directs DHS to identify MA enrollees who are absent from the state for more than 30 consecutive days, but who continue to qualify. Requires covered services for those enrollees to be paid through the fee-for-service system and not through the managed care capitated rate payment system.

*Amends Minn. Stat. § 256B.056, subd. 1*

*Effective August 1, 2019*

**D. Asset Limits for MA-EPD**

Establishes a disregard for a designated employment incentives asset account for a person who is age 65 or older and is enrolled in MA under MA-EPD. Specifies criteria for a designated employment incentives asset account. Repeals existing language which allows a higher asset disregard (\$20,000 for an individual after exclusions) for persons formerly eligible under MA-EPD who turn 65 and seek MA eligibility as a person who is elderly, blind, or has a disability (an asset limit of \$3,000 for a household of one/\$6,000 for a household of two normally applies to this group).

*Amends Minn. Stat. § 256B.056, subd. 3*

*Effective July 1, 2019*

**E. Renewal of Eligibility**

Authorizes a local agency to close an enrollee's case file if the required information is not submitted within four months of termination.

*Amends Minn. Stat. § 256B.056, subd. 7a*

*Effective August 1, 2019*

**F. Prepaid Health Plans**

Provides that a person who is absent from the state for more than 30 consecutive days but still eligible for MA is not required to be enrolled in managed care.

*Amends Minn. Stat. § 256B.69, subd. 4*

*Effective August 1, 2019*

**III. CORRECTIVE PLAN TO ELIMINATE DUPLICATE PERSONAL IDENTIFICATION NUMBERS**

*First Special Session, Chapter 9, Article 7, Section 45 (SF 12)*

*Uncodified Session Law*

*Effective August 1, 2019*

Directs DHS to: (1) design and implement, a corrective plan to address the issue of MA enrollees being assigned more than one personal identification number; (2) make any necessary corrections or fixes by June 30, 2021. Requires a progress report to the Legislature by February 15, 2020 that includes: (1) the number of enrollees with duplicate ID numbers; and (2) the effect of the duplication on enrollees and federal payments to the state.

**IV. TEFRA**

*First Special Session, Chapter 9, Article 5, Sections 20 and 88 (SF 12)*

*Amends Minn. Stat. § 252.27, subd. 2a*

*Uncodified Session Laws*

*Effective August 1, 2019*

**A. Parental Contribution**

Reduces the parental contribution required under the MA TEFRA option (for children with disabilities) by 15%.

*Amends Minn. Stat. § 252.27, subd. 2a*

**B. Information to Applicants on DHS Web Site**

Directs DHS to: (1) develop content explaining the MA-TEFRA option to online applicants; (2) develop a cover letter to accompany materials sent to applicants explaining the MA-TEFRA enrollment and renewal processes.

*Uncodified Session Law*

**C. DHS Stakeholder Group to Consider TEFRA Improvements**

*Uncodified Session Law*

1. Establishment

Directs DHS to convene a stakeholder group to consider improvements to the TEFRA option enrollment and renewal processes.

2. Members

Provides that the stakeholder group must include representatives from: (1) DHS; (2) MNsure; (3) counties in Greater Minnesota and in the Metro; (4) the Arc Minnesota; (5) Gillette Children's Specialty Healthcare; (6) the Autism Society of Minnesota; (7) Proof Alliance; and the Minnesota Consortium for Citizens with Disabilities. Allows DHS to invite others.

3. Group Report to DHS

Directs the stakeholder group to report to DHS the recommended improvements and associated costs by December 31, 2020

**V. INCONTINENCE PURCHASING**

*First Special Session, Chapter 9, Article 7, Sections 14 and 47 (SF 12)*

*Amends Minn. Stat. § 256B.04, subd.14*

*Repeals Minn. Stat. § 256B.0625, subd. 31c*

*Effective May 31, 2019*

Prohibits DHS from utilizing volume purchasing through competitive bidding for incontinence products and related supplies. Repeals the Preferred Incontinence Product Program.

**VI. NON-EMERGENCY MEDICAL TRANSPORT (NEMT)**

*First Special Session, Chapter 9, Article 7, Sections 27 - 29 (SF 12)*

*Amends Minn. Stat. § 256B.0625, subd. 17*

*Adds Minn. Stat. § 256B.0625, subds. 17d and 17e*

*Various Effective Dates*

**A. Individual Enrollment of Drivers**

Requires all nonemergency medical transportation drivers to be individually enrolled with DHS and reported on the claim as the individual providing the service. Removes language requiring consultation with the Minnesota Department of Transportation.

*Amends Minn. Stat. § 256B.0625, subd. 17(c)*

*Effective July 1, 2021*

**B. Oversight of NEMT Providers**

Requires the commissioner to contract with a vendor or dedicate staff to oversee providers of nonemergency medical transportation (NEMT) services.

*Adds Minn. Stat. § 256B.0625, subd. 17d*

*Effective July 1, 2019*

**C. Provider Termination**

Prohibits a terminated NEMT provider from enrolling as a NEMT provider for five years following termination. Requires a provider seeking reenrollment after the five-year period to be placed on a one-year probation, during which DHS is required to complete unannounced site visits and request documentation to review compliance with program requirements.

*Adds Minn. Stat. § 256B.0625, subd. 17e*

*Effective May 31, 2019*

**VII. DURABLE MEDICAL EQUIPMENT**

*First Special Session, Chapter 9, Article 7, Section 37 (SF 12)*

*Amends Minn. Stat. § 256B.766*

*Effective July 1, 2019 subject to federal approval*

Provides that payment rates for durable medical equipment, prosthetics, orthotics or supplies, that are subject to the upper payment limit in accordance with section 1903(i)(27) of the Social Security Act, is paid at the Medicare rate. Excludes those equipment items from rate increases otherwise provided in the chapter.

**VIII. PEDIATRIC AUTOIMMUNE NEUROPSYCHIATRIC DISORDERS ASSOCIATED WITH STREPTOCOCCAL INFECTIONS (PANDAS) AND PEDIATRIC ACUTE-ONSET NEUROPSYCHIATRIC SYNDROME (PANS) TREATMENT AND COVERAGE**

*First Special Session, Chapter 9, Article 8, Sections 2, 18, and 21 (SF 12)*

*Adds Minn. Stat. §§ 62A.3097; and 256B.0625, subd. 66*

*Uncodified Session Laws*

*Various Effective Dates*

**A. Insurance Coverage**

Requires health plans to provide coverage for (and defines) Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections (PANDAS) and Pediatric Acute-Onset Neuropsychiatric Syndrome (PANS), including: (1) antibiotics; (2) medication; (3) behavioral therapies; (4) plasma exchange; and (5) immunoglobulin.

*Adds Minn. Stat. § 62A.3097, subs. 1 (definitions) and 3 (required coverage)*

*Effective January 1, 2020, and applies to health plans offered, sold, issued, or renewed on or after that date.*

**B. 2019 Coverage**

Requires a health carrier to use a health plan's coverage as of January 1, 2019 to determine whether the health carrier would not have provided coverage for PANDAS or PANS. Provides that treatments and services covered by a health plan as of January 1, 2019, are not eligible for reimbursement by Department of Commerce.

*Uncodified Session law*

*Effective August 1, 2019*

**C. Medical Assistance Coverage**

Requires MA to cover treatments for PANDAS or PANS according to protocols developed by the Health Services Policy Committee.

*Amends Minn. Stat. § 256B.0625, subdivision 66*

*Effective August 1, 2019*

## MENTAL HEALTH

### **I. HEALTH HOMES**

*First Special Session, Chapter 9, Article 6, Sections 58-66 (SF 12)*

*Amends Minn. Stat. § 256B.0757, subds. 1, 2, and 4*

*Adds Minn. Stat. § 256B.0757, subds. 2a, 4a, 4b, 4c, 4d, and 4e*

*Effective upon federal approval*

#### **A. Health Homes for Persons with Mental Illness or Emotional Disturbance**

Gives DHS the authority to develop health home models for persons with a mental illness or an emotional disturbance, in accordance with federal law.

*Amends Minn. Stat. § 256B.0757, subd. 2*

#### **B. Behavioral Health Home**

##### **1. Discharge**

Establishes that a person may be discharged if: (1) the provider cannot locate the person for more than three months; or (2) the person refuses services. Requires the provider, prior to discharge, to offer an in-person meeting with the person and the “person’s identified supports” to discuss the options including remaining in the home.

*Adds Minn. Stat. § 256B.0757, subd. 2a*

##### **2. Other Requirements**

Makes changes to the statute governing Behavioral Health Homes, including listing: (1) training and other requirements for behavioral health home services providers to follow; and (2) staff qualifications; (3) service delivery standards.

*Adds Minn. Stat. § 256B.0757, subds. 4b, 4c, and 4d*

### **II. MENTAL HEALTH SERVICES FOR HOMELESS OR SEXUALLY EXPLOITED YOUTH**

*First Special Session, Chapter 9, Article 6, Section 72 (SF 12)*

*Adds Minn. Stat. § 256K.46*

*Effective August 1, 2019*

Establishes a “Shelter-Linked Youth Mental Health Grant Program” for housing providers to partner with community-based mental health practitioners to provide mental health services to homeless or sexually exploited youth.

**III. MA COVERAGE FOR MENTAL HEALTH SERVICES IN CHILDREN’S RESIDENTIAL FACILITIES**

*First Special Session, Chapter 9, Article 6, Sections 74 and 75 (SF 12)*

*Amends Laws 2017, First Special Session Chapter 6, Article 8, Sections 71 and 72*

*Effective July 1, 2019*

Removes the sunset and thus extends indefinitely provisions funding MA coverage for mental health services provided by children’s residential facilities that qualify as institutions for mental diseases under federal law.

**IV. SCHOOL-LINKED MENTAL HEALTH GRANT PROGRAM**

*First Special Session, Chapter 9, Article 6, Section 78 (SF 12)*

*Uncodified Session Law*

*Effective May 31, 2019*

Directs DHS, in collaboration with the Department of Education, providers, and advocates, to: (1) assess the school-linked mental health grant program (including impact on outcomes); (2) develop recommendations for improvements; and (3) report to the Legislature by January 15, 2020.

**MISCELLANEOUS**

**I. BLUE RIBBON COMMISSION ON HEALTH AND HUMAN SERVICES**

*First Special Session, Chapter 9, Article 7, Section 46 (SF 12)*

*Uncodified Session Law*

*Effective August 1, 2019*

*Expires the earlier of October 2, 2020 or the day after submitting the required action plan*

**A. Establishment**

Establishes a 17-member Blue Ribbon Commission on Health and Human Services “to advise and assist the Legislature and Governor in transforming the health and human services system” and developing and presenting to the Legislature by October 1, 2020 an action plan to “improve program efficiencies, produce savings, and promote better outcomes for Minnesotans.”

**B. Specific Duties**

Provides that the action plan the Blue Ribbon Commission is charged with developing must include, among other things: (1) strategies to improve program simplification; (2) an examination of the roles and experience of counties and tribes in delivering services and identification of conflicts and duplications among agencies, counties, and tribal service delivery; (3) approaches to reducing program expenditures, including for MA; (4) identify opportunities for reducing fraud; and (4) statewide strategies for improving access to health and human services with a focus on addressing geographic, racial, and ethnic disparities.

**C. Limitation on Action Plan**

Prohibits the Blue Ribbon Commission from including in the action plan recommendations that may result in loss of benefits for the individuals eligible for public programs or exacerbate health disparities and inequities in access to health care and human services.

**II. FACILITY FEE DISCLOSURE**

*Regular Session, Chapter 7 (SF 131)*

*Adds Minn. Stat. § 62J.824*

*Effective August 1, 2019*

**A. Disclosure Required**

Requires clinics that are part of, but physically separate from, hospitals to provide notice that: (1) the clinic is part of a hospital; and (2) the patient may receive a separate charge or billing for a “facility fee,” which may result in a higher out-of-pocket expense.

*Adds Minn. Stat. § 62J.824(a)*

**B. Definitions of “Facility Fee”**

Defines “Facility Fee” as “any separate charge or billing by a provider-based clinic in addition to a professional fee for physicians’ services that is intended to cover building, electronic medical records systems, billing, and other administrative and operational expenses.”

*Adds Minn. Stat. § 62J.824(d)(1)*

**III. CHLOE BARNES ADVISORY COUNCIL ON RARE DISEASES**

*Regular Session, Chapter 65 (S.F. 973)*

*Adds Minn. Stat. § 137.68*

*Effective July 1, 2019*

**A. Establishment**

Requests the Regents of the University of Minnesota to establish an advisory council on rare diseases to provide research, diagnosis, treatment, and education related to rare diseases. Defines rare diseases to have the meaning given in 21 U.S.C. 360bb.

*Adds Minn. Stat. § 137.68, subd. 1*

**B. Appointments**

Provides that the Legislature will appoint four members. Requests the Board of Regents to appoint 17 public members.

*Adds Minn. Stat. § 137.68, subd. 2*

**C. Duties**

Enumerates the duties of the advisory council, which include: (1) developing resources or recommendations relating to quality of and access to treatment and services; and (2) identifying best practices for rare disease care implemented in other states and at the national and international levels.

*Adds Minn. Stat. § 137.68, subd. 4*

**D. Reporting**

Requires, beginning January 1, 2020, an annual report to the Legislature on the advisory council's activities and other issues on which the advisory council may choose to report.

*Adds Minn. Stat. § 137.68, subd. 6*

**V. BACKGROUND CHECKS FOR CERTAIN HEALTH-RELATED PROFESSIONS**

Regular Session, Chapter 49 (HF 637)

Amends Minn. Stat. §§ 214.075, subds. 1, 4, 5, and 6; and 214.10, subd. 8

Repeals Minn. Stat. § 214.075, subd. 8

Effective May 23, 2019

Updates provisions governing background checks conducted by health-related licensing boards by, among other things: (1) expanding the universe of individuals for whom health-related licensing boards must conduct a state criminal records check and a national criminal history (FBI) check; (2) removing the 90-day timeframe to submit fingerprints; (3) modifying terminology for national criminal history record checks; (4) allowing a health-related licensing board to require an alternative background check for an applicant or licensee who has submitted at least two (not three as currently provided) unreadable sets of fingerprints (5) prohibiting health-related licensing boards from exchanging criminal history records; and (6) modifying time requirements for a health-related licensing board to issue final order on a temporary suspension after a contested case hearing.

## **HIGHER EDUCATION LAW**

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### **CAMPUS SEXUAL ASSAULT**

*Regular Session, Chapter 64, Article 2, Section 3 (SF 2415)*

*Amends Minn. Stat. § 135A.15*

*Effective August 1, 2019*

Requires all postsecondary institutions to provide victims of sexual assault with information on free legal resources and services.

## HOUSING AND LANDLORD-TENANT LAW

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### I. LEASES

*First Special Session, Chapter 1, Article 6, Sections 56 and 57 (SF 1)*

*Amends Minn. Stat. § 504B.111*

*Adds Minn. Stat. § 504B.146*

*Effective May 31, 2019 and applies to all leases entered into or renewed on or after that date*

#### A. Unit Must Be Specified

Requires the written lease to identify the specific unit the tenant will occupy before the tenant signs the lease

*Amends Minn. Stat. § 504B.111*

#### B. Lease Duration Notice

Requires a written lease, on the first page, to: (1) identify the start and end dates; and (2) indicate the amount of the prorated rent for the relevant months if the lease requires the tenant to move in or out on a date other than the first or last day of the month, and the rent is prorated.

*Adds Minn. Stat. § 504B.146*

### II. NOTICE PROVIDED BY LANDLORDS AND TENANTS

*First Special Session, Chapter 1, Article 6, Section 58 (SF 1)*

*Adds Minn. Stat. § 504B.147*

*Effective May 31, 2019 and applies to all leases entered into or renewed on or after that date*

Where a residential lease provides a time period for the landlord to give notice to quit the premises or notice of a rent increase that is different than the time period the tenant is required to give for notice of intention to quit the premises, allows a tenant to give notice of an intention to quit that is either: (1) the time period provided in the lease for the tenant to give a notice of intention to quit the premises; or (2) the time period provided in the lease for the landlord to give a notice to quit the premises or notice of a rent increase. Prohibits a landlord from giving a notice to quit the premises or notice of a rent increase that is shorter than the time period the lease provides for the tenant to give notice of an intention to quit the premises. Prohibits any waivers of these requirements and provides that any provision (whether oral or written) that waives these requirements is contrary to public policy and void.

### III. **RIGHT OF VICTIMS OF VIOLENCE TO BREAK LEASE**

*First Special Session, Chapter 1, Article 6, Section 59 (SF 1)  
Amends Minn. Stat. § 504B.206, subd. 3  
Effective August 1, 2019*

Corrects a drafting mistake affecting the termination of a lease in tenancy with multiple tenants where one tenant invokes the right to break the lease under Minn. Stat. § 504B.206. Provides that any lease governing all tenants is terminated at the later of the end of the month or the end of the rent interval in which one tenant terminates the lease under this section. (Prior law mistakenly provided that the lease ends at the latter of the end of the month or the end of the rent interval in which one tenant terminates.)

### IV. **RENTAL ASSISTANCE FOR PERSONS WITH MENTAL ILLNESS**

*First Special Session, Chapter 1, Article 5, Section 2, Subdivision 8 (SF 1)  
Appropriations Article  
Effective July 1, 2019*

Appropriates \$8.6 million for the biennium to the Minnesota Housing Finance Agency (MHFA) for the rental housing assistance program for persons with a mental illness or families with an adult member with a mental illness. Requires MHFA to prioritize proposals that target, in part, eligible persons who desire to move to more integrated, community-based settings.

### V. **MANUFACTURED HOME PARKS**

#### A. **Exempting Certain Dealers from Mortgage Originator Licensing**

*Regular Session, Chapter 58 (HF 990)  
Amends Minn. Stat. §§ 58.04, subd. 1, and 58A.03, subd. 2  
Effective August 1, 2019*

Exempts from the requirements of Chapter 58 – the Mortgage Originator Licensing Law – and from licensing as a mortgage originator, manufactured home park dealers (as defined in Minn. Stat. § 327B.01, subdivision 19) who: (1) perform only clerical or support duties in connection with assisting a consumer in filling out a residential mortgage loan application; (2) do not negotiate loan terms or hold themselves out as housing counselors; (3) receive no direct or indirect compensation or gain from a company for performing their duties; (4) discloses in writing to a borrower if a corporate affiliation with a lender exists and, if so, that the lender cannot guarantee to lowest or best loan terms; (5) discloses that the consumer has the right to choose a lender; and (6) discloses the name of at least one unaffiliated lender. Requires that the disclosure be made on a one-page document prepared by the Department of Commerce.

**Note:** *In 2018, Congress relaxed requirements under Dodd-Frank that manufactured park home dealers obtain a license as a mortgage originator. This new law does not follow Congress' action but rather provides a significantly more limited exception.*

**B. Right of First Refusal**

*First Special Session, Chapter 1, Article 6, Sections 6–14 (SF 1)*

*Amends Minn. Stat. § 327C.095, subs. 1-4, 6, 7, 9, and 11*

*Adds Minn. Stat. § 327C.01, subd.8a*

*Effective August 1, 2019*

1. Notice of Intent to Close or Convert a Manufactured Home Park  
Provides that the 45-day notice of intent to close or convert a manufactured home park required under existing law must be “made available in alternative formats or translations if requested by a resident and the request is a reasonable accommodation due to a disability of an adult resident or because there is not an adult resident who is able to speak the language the notice is provided in.”  
*Amends Minn. Stat. § 327C.095, subd. 6*
  
2. Closure Statement  
Extends from nine to 12 months the time prior to closure that a park owner must prepare and provide a copy of a closure statement to each resident.  
*Amends Minn. Stat. § 327C.095, subd. 1*
  
3. Time to Make Offer
  - Provides that a park owner may not offer the park for sale other than to a “representative acting on behalf of residents” during the 45-day notice period and that, if an offer is made, the park owner must negotiate “in good faith.”  
*Amends Minn. Stat. § 327C.095, subd. 6*
  
  - Defines “representative acting on behalf of residents” as a representative who is authorized to represent residents in the purchase of property by obtaining a signature of support from at least one resident who is a homeowner-signatory to the home's lot lease agreement in at least 51 percent of the occupied homes in a manufactured home park.  
*Adds Minn. Stat. § 327C.01, subd.8a*
  
4. Preservation of Park as Affordable Housing  
Requires that, if the park is sold to the residents, the representative acting on behalf of the resident must certify to the commissioner of commerce that the property will be preserved as a manufactured home park for ten years from the date of the sale.  
*Amends Minn. Stat. § 327C.095, subd. 6*

**C. Minnesota Manufactured Home Relocation Trust Fund**

*First Special Session, Chapter 1, Article 6, Sections 12, 15, and 16 (SF 1)*

*Amends Minn. Stat. § 327C.095, subs. 4, 12, and 13*

*Effective August 1, 2019*

1. Restocking the Fund

Provides that an assessment of park owners is triggered if the balance in the Minnesota Manufactured Home Relocation Trust Fund falls below \$2 million. (Under prior law, the trigger for an assessment is if the fund balance falls below \$1 million.)

*Amends Minn. Stat. § 327C.095, subd. 12*

2. Notice of Annual Assessment of Residents

Adds a bold-faced statutory notice from manufactured park owners to park residents that the annual \$15 resident payment into the fund (through the owner) is mandatory.

*Amends Minn. Stat. § 327C.095, subd. 12*

**D. Reporting of Licensed Manufactured Home Parks**

*First Special Session, Chapter 1, Article 6, Section 17 (SF 1)*

*Adds Minn. Stat. § 327C.095, subd 16*

*Effective August 1, 2019*

Directs the Department of Health (or local units of government to which the Department of Health delegates the responsibility) to annually list the names and addresses of the manufactured home parks licensed in the previous year, and for each manufactured home park, the current licensed owner, the owner's address, the number of licensed manufactured home lots.

**E. Modular Homes**

*First Special Session, Chapter 1, Article 6, Sections 3 and 4 (SF 1)*

*Adds Minn. Stat. §§ 327.31, subd. 23, and 327.335*

*Effective August 1, 2019*

1. Definition

Defines “Modular Home” as a single-family dwelling: (1) constructed in accordance with applicable standards in Minnesota Rules governing Prefabricated Buildings (Chapter 1360) and Industrialized/Modular Buildings (Chapter 1361); and (2) attached to a foundation designed to the State Building Code.

*Adds Minn. Stat. § 327.31, subd. 23*

2. Designation of Modular Homes

Provides that a modular home is a manufactured home park as defined in Minn. Stat. § 327.14, subdivision 3 and Chapters 327, 327C, and 504B apply.

*Adds Minn. Stat. § 327.335*

**VI. DISPARITIES IN HOME OWNERSHIP**

*First Special Session, Chapter 1, Article 5, Section 2, Subdivision 10 (SF 1)*

*Appropriations Article*

*Effective July 1, 2019*

Appropriates approximately \$1.8 million for to the Minnesota Housing Finance Agency (MHFA) the biennium for the Home Ownership Assistance Fund. Requires MHFA to continue to strengthen its efforts to address the disparity gap in the homeownership rate between white households and indigenous American Indians and communities of color and collect demographic information regarding race, color, national origin, and sex of applicants for agency programs intended to benefit homeowners and homebuyers.

**VII. LEGISLATIVE COMMISSION ON HOUSING AFFORDABILITY**

*First Special Session, Chapter 10, Article 2, Section 2 (SF 10)*

*Adds Minn. Stat. § 3.8845*

*Effective May 31, 2019*

*Expires June 30, 2023*

Establishes an eight-member, bipartisan commission consisting of four state senators and four state representatives. The commission is tasked with: (1) defining housing affordability and studying issues relating to housing affordability and the construction, preservation, and rehabilitation of owner-occupied and rental housing; (2) reviewing and providing the legislature with research and analysis of emerging issues affecting housing affordability and homeownership access and reducing the homeownership equity gap; and (3) reviewing and making recommendations on legislative and rulemaking proposals positively impacting personal housing affordability, access to homeownership, and other related barriers to homeownership, especially with regard to first-time homebuyers and economically disadvantaged buyers and renters.

## JUVENILE/YOUTH LAW

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### I. FOSTER CARE FOR CHILDREN WITH PARENT IN SUBSTANCE ABUSE DISORDER TREATMENT

*First Special Session, Chapter 9, Article 1, Sections 22–31, and 33 (SF 12)*

*Amends Minn. Stat. §§ 260C.007, subd. 18; 260C.178, subd. 1; and 260C.201, subds. 1 and 2*

*Adds Minn. Stat. §§ 260C.007, subd. 22a; 260C.190; and 260C.228*

*Effective August 1, 2019*

#### A. Definitional Changes

1. “Foster Care”

Modifies the definition of “Foster Care” to include a child collocated with a parent in a licensed residential family-based substance use disorder treatment program.

*Amends Minn. Stat. § 260C.007, subd. 18*

2. “Licensed Residential Family-Based Substance Use Disorder Treatment Program”

Defines “Licensed Residential Family-Based Substance Use Disorder Treatment Program” as a residential treatment facility licensed by DHS that provide parents or guardians with trauma-informed parenting skills training, parent education, or individual and family counseling.

*Adds Minn. Stat. § 260C.007, subd. 22a*

#### B. Family-Focused Residential Placement

Establishes the process and standards for placement of a child in foster care with a parent receiving services from a licensed residential family-based substance use disorder treatment program.

1. Authorization to Co-Locate

Authorizes the responsible agency to collocate a child with a parent receiving substance use disorder treatment services in a residential family-based program.

*Adds Minn. Stat. § 260C.190, subd. 1*

2. Permission for Agency for Visit Child  
Authorizes the responsible agency to visit the child as the agency deems necessary and requires the agency to: (1) shall continue to have access to information for child placement as provided under Minn. Stat. § 260C.208; and (2) continue to provide appropriate services to both the parent and the child.  
*Adds Minn. Stat. § 260C.190, subd. 1*

**C. Case Plans**

1. Documentation of Best Interest Recommendation  
Requires documentation in a child's case plan of a recommendation that the child's placement with a parent is in the child's best interests before a child may be co-located with a parent in a licensed residential family-based substance use disorder treatment program.  
*Adds Minn. Stat. § 260C.190, subd. 2*
2. Requirements of Case Plan  
Requires a written case plan for each child's case plan that: (1) is developed with the parent and the treatment program staff; and (2) describes the safety plan for the child and the treatment program's responsibilities if the parent leaves or is discharged without completing the program.  
*Adds Minn. Stat. § 260C.190, subd. 2*
3. Out-of-Home Placement Plan  
Requires completion of the out-of-home placement plan required under Minn. Stat. § 260C.212 no later than 30 days from when a child is co-located with a parent in a licensed residential family-based substance use disorder treatment program.  
*Adds Minn. Stat. § 260C.190, subd. 2*

**D. Court Reviews**

Provides that court reviews must be conducted according to Minn. Stat. § 260C.202 and provides additional direction for courts and responsible agencies in cases where: (1) the child has been in foster care for six months; (2) the child is co-located with a parent in a licensed residential family-based substance use disorder treatment program 12 months after the child was placed in foster care; and (3) a parent leaves or is discharged from a licensed residential family-based substance use disorder treatment program without completing the program.  
*Adds Minn. Stat. § 260C.190, subd. 3*

**E. CHIPS Dispositions**

Requires, as a conforming change, that written findings of fact to support the disposition and case plan ordered must be issued regarding the appropriateness a child co-located with a parent in a licensed residential family-based substance use disorder treatment program when legal custody of the child is transferred.

*Amends Minn. Stat. § 260C.201, subd. 2*

**F. Voluntary Foster Care**

1. Voluntary Placement Agreement

Provides that the responsible agency and the parent in a licensed residential family-based substance use treatment facility may enter into a written voluntary placement agreement: (1) when the agency and the parent agree that a child's placement in foster care and colocation with the parent is in the child's best interests; and (2) the recommendation for placement is specified in the child's case plan.

*Adds Minn. Stat. § 260C.228, subd. 1*

2. Judicial Review

*Adds Minn. Stat. § 260C.228, subd. 2*

a. *Timing*

Requires court review within 165 days of the date the voluntary agreement was signed. Requires the agency, five days prior to the review, to submit a report and specifies its content.

b. *Powers and Duties of the Court*

Grants the court jurisdiction, and mandates the court, to determine whether: (1) the voluntary foster care arrangement is in the child's best interests; (ii) the parent and agency are appropriately planning for the child; and (iii) if a child 12 years of age or older disagrees with the foster care placement, whether to appoint counsel and a guardian ad litem for the child.

c. *When Placement Found Inappropriate*

Requires the court, where placement found not to be in the best interests or if the parent or agency is not appropriately planning to: (1) notify parties; (2) set the matter for hearing; and (3) appoint a guardian ad litem for the child.

d. *Termination of Voluntary Placement Agreements*

Provides that voluntary placement agreements terminate upon the parent's discharge from the treatment program, unless the parent requests termination in writing or a later termination date is specified.

**II. TRANSITION TO ADULTHOOD FROM FOSTER CARE**

*First Special Session, Chapter 9, Article 1, Section 32 (SF 12)*

*Amends Minn. Stat. § 260C.452, subd. 4*

*Effective August 1, 2019*

Adds a requirement that a transition plan for a child who will be discharged from foster care at the age of 18 or older must include official documentation that the youth was previously in foster care.

**III. HOMELESS YOUTH**

**A. Mental Health Services**

*First Special Session, Chapter 9, Article 6, Section 72 (SF 12)*

*Adds Minn. Stat. § 256K.46*

*Effective August 1, 2019*

Establishes a “Shelter-Linked Youth Mental Health Grant Program” for housing providers to partner with community-based mental health practitioners to provide mental health services to homeless or sexually exploited youth.

**B. Access to Birth Records and Minnesota ID Cards**

*First Special Session, Chapter 9, Article 1, Section 39 (SF 12)*

*Uncodified Session Law*

*Effective August 1, 2019*

Directs DHS to consult with MDH and the Department of Public Safety and report to the Legislature by January 15, 2020, with recommendations on providing birth records and Minnesota identification cards to homeless youth at no cost.

**IV. MA COVERAGE FOR MENTAL HEALTH SERVICES IN CHILDREN’S RESIDENTIAL FACILITIES**

*First Special Session, Chapter 9, Article 6, Sections 74 and 75 (SF 12)*

*Amends Laws 2017, First Special Session, Chapter 6, Article 8, Sections 71 and 72*

*Effective July 1, 2019*

Removes the sunset and thus extends indefinitely provisions funding MA coverage for mental health services provided by children’s residential facilities that qualify as institutions for mental diseases under federal law.

**V. BACKGROUND STUDY FOR LICENSED CHILDREN’S RESIDENTIAL FACILITIES**

*First Special Session, Chapter 9, Article 1, Section 36 (SF 12)*

*Uncodified Session Law*

*Effective August 1, 2019*

Requires new background studies for individuals affiliated with a licensed children’s residential facility that are required to complete a background study pursuant to Chapter 245C. Requires the new background studies to be completed by: (1) March 1, 2020, for facilities that are eligible to receive federal Title IV-E funding; and (2) March 1, 2021, for facilities that are not eligible to receive federal Title IV-E funding.

**VI. BACKGROUND SET ASIDES FOR CHILDREN’S RESIDENTIAL FACILITIES**

*First Special Session, Chapter 9, Article 2, Section 78 (SF 12)*

*Adds Minn. Stat. § 245C.24, subd. 5*

*Effective for background studies initiated on or after July 1, 2019*

Prohibits granting a set aside for an individual affiliated with a children’s residential facility who was convicted of a felony for physical assault or battery, or a drug-related offense, within the past five years.

## **PUBLIC BENEFITS LAW**

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### **I. MINNESOTA FAMILY INVESTMENT PROGRAM**

*First Special Session, Chapter 9, Article 1, Section 20 (SF 12)*  
*Amends Minn. Stat. § 256J.24, subd. 5*  
*Effective February 1, 2020*

Increases the MFIP cash assistance grant \$100 per month beginning February 1, 2020.

### **II. HOUSING SUPPORTS**

*Regular Session, Chapter 60, Article 4, Sections 28 and 29 (HF 90)*  
*Amends Minn. Stat. §§ 256I.03, subd. 15, and 256I.04, subd. 2a*  
*Effective August 1, 2019*

#### **1. Definition Change**

Changes the definition of supportive housing to mean housing “that is not time-limited and provides or coordinates services needed for a resident to maintain housing stability.”

*Amends Minn. Stat. § 256I.03, subd. 15*

#### **2. New Licensing Provisions**

Allows the following entities to receive housing supports: (1) Supportive Housing Establishments where an individual has an approved habitability inspection and an individual lease agreement; and (2) Assisted Living Facilities (which will become licensed in 2021). Requires certain Supportive Housing Establishments that serve people experiencing long-term homelessness to participate in a coordinated assessment system.

*Amends Minn. Stat. § 256I.04, subd. 2a*

### III. ANTI-FRAUD PROVISIONS

*First Special Session, Chapter 9, Article 2, Sections 13, 108, 117, and 129 (SF 12)*

*Amends Minn. Stat. §§ 245.095, subd. 1, and 256.98, subd. 1*

*Adds Minn. Stat. § 256B.064, subd. 5*

*Various Effective Dates*

#### A. Wrongfully Obtaining Benefits Under Housing Support Program

Adds receipt of assistance under the Housing Support Act (Chapter 256I) to the list of programs for which wrongfully obtaining assistance constitutes theft.

*Amends Minn. Stat. § 256.98, subd. 1*

*Effective August 1, 2019*

#### B. Immunity for Reporting Fraud

Grants immunity to a person who makes a good faith report from any civil or criminal liability that might otherwise arise from reporting or participating in the investigation. Requires reporter's name to be kept confidential following the completion of the investigation, except the subject of the report can compel disclosure of the reporter's name only: (1) with the consent of the reporter; or (2) upon a written finding by a district court that the report was false and there is evidence that the report was made in bad faith.

*Adds Minn. Stat. § 256B.064, subd. 5*

*Effective May 31, 2019*

#### C. Disqualification from All Programs

Excludes a provider, vendor, or individual enrolled, licensed, or receiving funds under a grant contract, or registered in any program administered by DHS from receiving payments under any and all programs if the provider, vendor, or individual is, for the applicable sanction period: (1) if applicable, disenrolled from any other program; and (2) disqualified from all programs.

*Amends Minn. Stat. § 245.095, subd. 1*

*Effective August 1, 2019*

#### D. DHS Reports to the Legislature

##### 1. On Responsibility for Fraud Investigations

Directs DHS, in consultation with counties, to report to the Legislature no later than January 15, 2020 on recommendations for legislation that identifies and clarifies the responsibilities of DHS and counties for fraud investigations in public programs administered by DHS.

*Uncodified Session Law*

*Effective May 31, 2019*

2. On How to Count Self-Employment Income

Directs DHS, in consultation with counties, to report to the Legislature no later than January 15, 2020 on recommendations for legislation on how to count self-employment income for purposes of determining eligibility for and maintaining the integrity of public assistance programs.

*Uncodified Session Law*

*Effective August 1, 2019*

## UNEMPLOYMENT INSURANCE LAW

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### I. COVERED AND NONCOVERED EMPLOYMENT

*First Special Session, Chapter 7, Article 4, Sections 1 and 2, and Article 7, Section 1 (HF 2)*  
*Amends Minn. Stat. § 268.035, subd. 12, 15, and 20*  
*Various Effective Dates*

#### A. Primary Place of Employment

Clarifies when employers pay UI taxes related to employees who work both inside and outside of Minnesota and establishes “50 percent or more” as the threshold for an employee who works “primarily” in one state or the other (or Canada).

*Amends Minn. Stat. § 268.035, subd. 12*  
*Effective October 1, 2020*

#### B. Base of Operations

Eliminates the concept of employers having a base of operations and instead focuses on whether an employee lived and worked in Minnesota for certain periods of time.

*Amends Minn. Stat. § 268.035, subd. 12*  
*Effective October 1, 2020*

#### C. J-1 Visas

Adds work by employees under J-1 visas, generally summer work travel programs, to the list of noncovered employment.

*Amends Minn. Stat. § 268.035, subd. 20*  
*Effective October 1, 2020*

#### D. Traveling Sales Staff

Provides federal conformity and clarifies UI coverage for certain traveling sales employees.

*Amends Minn. Stat. § 268.035, subd. 15*  
*Effective October 1, 2019*

**II. BASE PERIODS**

*First Special Session, Chapter 7, Article 6, Sections 1 and 2 (HF 2)  
Amends Minn. Stat. §§ 268.035, subd. 4; and 268.07, subd. 1  
Effective January 1, 2020*

Clarifies that the base period for the first month of each quarter does not include the most recently completed calendar quarter.

**III. MISCONDUCT**

*First Special Session, Chapter 7, Article 7, Section 9 (HF 2)  
Amends Minn. Stat. § 268.095, subd. 6  
Effective October 1, 2019*

Makes minor modifications to the definition of employment misconduct. Strikes conduct that “displays clearly ... substantial lack of concern for the employment” from the definition. Leaves in place other language with similar meaning and intent.

**IV. REPRESENTATION FEES, COSTS**

*First Special Session, Chapter 7, Article 8, Section 4 (HF 2)  
Amends Minn. Stat. § 268.105, subd. 6  
Effective October 1, 2019*

Clarifies that in addition to a prohibition on attorneys’ fees in UI administrative appeals, no costs or disbursements may be assessed against the department as a result of any proceeding.

**V. MISCELLANEOUS “HOUSEKEEPING” CHANGES**

*First Special Session, Chapter 7, Article 7, Sections 4-8, and Article 8, Sections 3, and 5-7 (HF 2)  
Amends Minn. Stat. §§ 268; 268.069, subd. 1; 268.145, subd. 1; 268.18, subd. 5; 268.035;  
268.047, subd. 2; 268.105; and 268.052, subd. 2  
Effective October 1, 2019*

Contains DEED’s stylistic rewrites of these subdivisions and a Revisor’s Instruction to delete or replace several terms.

**Note:** *The changes are not intended to be substantive.*

## **TAX LAW**

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### **I. WORKING FAMILY TAX CREDIT**

*First Special Session, Chapter 6, Article 2, Section 17 (HF 5)*

*Amends Minn. Stat. § 290.0671, subd. 1*

*Effective July 1, 2019*

Expands the Minnesota Working Family Tax Credit (the state's corollary to the federal Earned Income Tax Credit) by \$30 million per year, affecting approximately 275,000 households. Increases the credit for workers without dependent children and families with one or two children. Makes more single workers and married couples without children eligible.

### **II. TAXPAYER ASSISTANCE GRANTS (VOLUNTEER INCOME TAX ASSISTANCE PROGRAM OR VITA)**

*First Special Session, Chapter 6, Article 11, Section 18 (HF 5)*

*Appropriations*

*Effective May 31, 2019*

Doubles the size of Taxpayer Assistance Grants that fund the Volunteer Income Tax Assistance Program (VITA) from \$400,000 for the biennium to \$800,000. (The VITA program offers free tax preparation services to low-income and elderly Minnesotans to help them file federal and state income tax returns to claim federal and state refunds and tax credits, such as the federal Earned Income Tax and state Working Family Tax Credit.