

NEWS FROM THE HILL

“A Legislative Report”

By the Legal Services Advocacy Project

July 2004

2004 was supposed to be a “short” legislative session focused on bonding. Instead, the legislature did not adjourn until May 16 (one day short of the constitutionally imposed deadline) and it adjourned without passing a bonding bill. While the House passed a bonding bill, the Senate’s bonding bill failed on a floor vote because not enough Republicans voted to pass it by the necessary 60% majority.

Certainly 2004 will be remembered as one of the most acrimonious and partisan sessions ever. The session began with a budget shortfall that the Senate dealt with in one large omnibus bill while the House had five budget bills dealing with different areas. The two bodies could never agree on how to conference these bills and thus failed to pass them. As a result, legislators will face a larger budget deficit when they return next year.

In the end, the 2004 session will likely be more memorable for what did not pass rather than what did pass. Higher profile bills such as sports stadium proposals, expansion of gambling options and tougher sentences for sex offenders all died in legislative gridlock. A widespread sentiment that constituents were not clamoring for anything in particular contributed to the lack of demonstrable results. A bill allowing hunting of mourning doves did pass both bodies, however, and has been signed into law by the governor.

The possibility of a special session has waxed and waned since May 16. It may yet happen, though hopes have been dashed so far by the cold reality of partisan politics. Since all House members are up for reelection this year, they are eager to begin campaigning. To be sure, a special session would be very limited in focus, probably dealing only with bonding and some budget issues. Otherwise, the next regular session convenes January 3, 2005.

CHILD CARE

At-Home Infant Care

Reestablishes the At-Home Infant Care (AHIC) program, which was eliminated in the 2003 legislative session. The program will go into effect on July 1, 2004. AHIC allows families who are eligible for or participating in Basic Sliding Fee (BSF) to receive childcare assistance for a parent to provide care for that family's infant. Eligible families will have an infant under the age of one year, will not be receiving MFIP, other cash assistance or other childcare assistance, and will not have previously received a lifetime total of 12 months of AHIC assistance. Eligible parents must be over the age of 18, care for the infant full time in the infant's home, and care for any other children in the family who are eligible for child care assistance. A family is limited to a lifetime total of 12 months of assistance.

Chapter 288, Article 4, Sections 12-14

Effective July 1, 2004

Military Child Care

Requires counties to reserve a family's position in child care assistance if the family has been receiving child care assistance but is temporarily ineligible due to increased income from active military service. Activated military personnel may be temporarily ineligible until deactivated.

Chapter 288, Article 4, Section 61

Effective August 1, 2004

CHILD WELFARE

Relative Search for Child in Need of Foster Care

A relative's decision not to be a placement resource at the beginning of the case will no longer affect whether the relative is considered for a placement later. The Department of Human Services (DHS) is required to develop a best practices guide and specialized staff training to assist the counties in performing and complying with the relative search requirements.

Chapter 288, Article 3, Section 30

Effective August 1, 2004

CONSUMER LAW

Debt Collectors

Debt collectors will no longer be licensed by, but instead will be registered with, the Department of Commerce. New provisions require collection agencies to: (1) screen collector applicants, (2) register with the Department of Commerce all individual collectors the agency employs, and (3) verify that each collector meets the requirements contained in Minnesota law.

Chapter 208

Effective January 1, 2005

Dishonored Checks

Currently, a person bouncing a check is liable for a “merchant fee” of \$30. The new law permits a law enforcement agency obtaining payment of the bounced check to keep up to the entire \$30 fee. Only one fee per bounced check is allowed.

Chapter 174

Effective August 1, 2004

Equity Stripping

The legislature created a set of consumer protections designed to curb the abuses arising from “foreclosure rescue scams.” These transactions involve misrepresentations by unscrupulous real estate speculators, operating on their own or through intermediaries, who persuade homeowners in foreclosure to transfer ownership in exchange for promises to “save the home,” through a lease back with option to buy, a contract for deed, or some other arrangement.

Under the new law, all arrangements between a homeowner in foreclosure and either those who arrange (called “foreclosure consultants”) or those who finance (called “foreclosure purchasers”) deals must be in writing. The law provides the right to cancel, prohibits a purchaser from promising to “save the home,” and requires that homeowners must receive 82% of the home’s fair market value from the purchaser in a failed deal. Finally, the law gives a homeowner the right to sue, gives the Attorney General and the Department of Commerce enforcement powers, and provides for criminal penalties for purchasers who commit fraud.

Chapter 263

Effective August 1, 2004

Fire Insurance

Changes the requirements for notice to policyholders of cancellation and nonrenewals of fire insurance policies. Previous law required that policyholders must receive notice 30 days prior to a cancellation during the middle of a policy period and 60 days prior to a nonrenewal. The new law requires that notice must be mailed 30 days prior to a cancellation during the middle of a policy period and 60 days prior to a nonrenewal.

Chapter 202

Effective August 1, 2004

Homeowner’s Insurance

Prohibits an insurance company from refusing to renew (or declining to offer to write) homeowner’s insurance solely because the property houses a day care service for five or fewer children.

Chapter 239

Effective January 1, 2004; applies to coverage applied for, issued, or renewed on or after that date

Municipal Authority Over Hazardous Properties

Provides additional authority for cities to: (1) remove or raze a hazardous building, (2) remove or correct any hazardous condition, (3) acquire any hazardous building or real estate on which any such building is located, or vacant or undeveloped real estate by eminent domain, (4) order the owner of any hazardous building or property to correct or remove the hazardous condition or to raze or remove the building, and (5) correct or remove the hazardous condition.

Chapter 147

Effective April 4, 2004

Real Estate Law and Mortgage Broker Law

The legislature made a variety of changes to current real estate and mortgage broker originator law, while renumbering Minnesota's real estate laws. The changes: (1) require that mortgage brokers disclose to borrowers, in addition to the right to cancel, the specific rights and procedures for exercising the cancellation right; (2) prohibit unreasonable delay by lenders in processing loan applications, and makes lenders liable to borrowers if the delay extends beyond the expiration of an interest rate or discount point agreement or causes the period of the offer to expire; and (3) provide a faster way for buyers or sellers to cancel a real estate purchase when one does not fulfill an obligation.

Chapter 203

Effective August 1, 2004

Special Assessments by Cities

Allows cities to adopt ordinances that will enable them to add to the property taxes of landlords, homeowners, and businesses the charges the city incurs on their behalf. The assessments that will be allowed include: (1) utility bills a city pays on behalf of a landlord to maintain continuity of service to a multi-family dwelling; and (2) reimbursements to the city for the costs of painting the exterior of a building where the painting was necessary to correct a code violation.

Chapter 275

Effective August 1, 2004

COURTS

Judgment Debtor Disclosure

Deletes the requirement that a conciliation court judgment be docketed in district court for at least 30 days before information as to the debtor's assets can be sent to the judgment creditor upon request.

Chapter 226

Effective August 1, 2004

DATA PRACTICES

Mental Health Data

Requires community mental centers and health plans to disclose mental health data to a law enforcement agency if the patient is involved in an emergency interaction and the data is necessary to protect the health and safety of the patient or others.

Chapter 290, Section 9

Effective August 1, 2004

Closed Meetings

Provides that meetings by public bodies to receive security briefings and reports may be closed if disclosure would pose a danger to public safety.

Chapter 290, Section 18

Effective May 30, 2004

Birth Defect Data

Requires the Commissioner of Health to establish and maintain an information system containing data on the cause, treatment, prevention and cure of birth defects.

Chapter 290, Section 3

Effective upon receipt of a federal grant to establish a birth defects information system

DISABILITY

Public Guardianship Changes

The public guardianship statute was changed to conform with changes adopted in 2003 to the private guardianship statute. The term “guardian” now refers to full or limited guardianship of the **person** and the term “conservator” refers only to **estates**. There is no longer a public conservatorship of the person. Various reference changes were made to conform to the 2003 Private Guardianship Act.

Chapter 146, Articles 2 and 3

Effective August 1, 2004

Parent Fees

No overall reduction in parent fees was passed. Three non-budget items were adopted: (1) allowing dependents of any age to count in family size, (2) clarifying that the fee is for the services provided and (3) excluding capital gains used for a home from income.

Chapter 288, Article 3, Section 13

Varying effective dates

Annual Home and Community-Based Services (HCBS) Waiver Report Expanded

The content of the annual HCBS waiver report is expanded to include information on: the county of residence/financial responsibility, age and major diagnoses for persons eligible for the CADI (nursing facility level of care) and TBI (traumatic brain injury) waiver programs for those: 1) receiving services; 2) screened and waiting for waiver services; and 3) those residing in nursing facilities who are under age 65.

Chapter 288, Article 3, Section 25

Effective August 1, 2004

Stakeholder Consultation for Evaluation of Consumer-Directed Services In MR/RC Waiver

DHS is required to confer with interested parties during an independent evaluation of the consumer-directed community supports option, including a review of the funding reductions. A preliminary report to the Legislature is due February 15, 2005.

Chapter 288, Article 3, Section 32

Effective August 1, 2004

Disease Management Program Added to Medical Assistance

DHS is to develop and implement a disease management program to improve care and reduce costs. A report with recommendations is due to the Legislature on January 15, 2005.

Chapter 288

Effective August 1, 2004

Release of Mental Health Data to Law Enforcement

A community mental health center, a county mental health division or a mental health provider must disclose mental health data to a law enforcement agency if the client or patient is involved in an emergency and the information is necessary to protect the client, patient or another person.

Chapter 290, Section 9

Effective August 1, 2004

Service Animal Injury a Misdemeanor

A dog owner who negligently or intentionally allows a dog to run uncontrolled which results in injuries to a service animal is guilty of a misdemeanor and can be required to pay restitution, costs and expenses.

Chapter 159

Effective August 1, 2004

2003 Changes Effective July 1, 2004

See MA/EPD located in the Health Care Section – located on page 10

DOMESTIC ABUSE

Extension of Order for Protection

Adds a new basis for a subsequent order for protection or extension of an order for protection if the respondent is incarcerated and about to be released, or has recently been released from prison.

Chapter 164

Effective April 27, 2004

Orders for Protection and Temporary Restraining Orders Effective upon Referee's Signing

Provides that ex parte orders for protection (OFP's) and temporary restraining orders (TRO's) are effective upon a referee's signature. This bill was necessary because in at least one county (Ramsey), ex parte OFP's and TRO's were not being enforced if they were only signed by a referee and not a judge.

Chapter 145

Effective August 1, 2004

Access to Police Reports

Requires that written incident reports including domestic abuse data must be released at no cost to the victim of domestic abuse or the victim's attorney. Current law allows release only to an organization designated as providing services to victims of domestic abuse.

Chapter 290, Sections 16 and 37

Effective May 30, 2004

Domestic Fatality Review Team

Extends the duration of the domestic fatality review team pilot project in the fourth judicial district (Hennepin County) until December 31, 2006 and the deadline for a report to January 15, 2007.

Chapter 290, Section 38

Effective August 1, 2004

EMPLOYMENT and TRAINING

Dislocated Worker Program

The Dislocated Worker Program provides funding for programs to help workers who have lost their jobs primarily due to plant closings, mass layoffs or general economic condition. Previously, at least half of the Dislocated Worker Program money had to be targeted for workers who lost their jobs due to mass layoffs totaling 50 or more workers. The remaining balance was targeted for workers involved in layoffs of fewer than 50. Because of the increased layoffs from smaller firms, the statute has been changed to provide more funds to assist these workers.

Chapter 257

Varying effective dates

FAMILY LAW

Parental Education Classes

Where custody or parenting time is contested, parents are now required to take a minimum of eight hours of parental education classes. Up until now, most counties have required four hours.

Chapter 273

Effective July 1, 2004

Minnesota Healthy Marriage and Responsible Fatherhood Initiative

The Department of Human Services (DHS) is required to develop and implement this initiative. The purpose is to develop a community-based collaborative project that will test and evaluate a comprehensive strategy for promoting marriage and responsible fatherhood among unmarried urban parents who are expecting or have recently had a child.

Chapter 273

Effective July 1, 2004

Marriage License Fee

The marriage license fee is increased from \$80 to \$85 and the \$5 increase is given to DHS to fund the Healthy Marriage and Responsible Fatherhood Initiative.

Chapter 273

Effective July 1, 2004

Visitation and Access Funds

Requires the Department of Human Services (DHS) to apply for and accept on behalf of the state federal funds for access and visitation programs.

Chapter 288, Article 4, Section 60

Effective August 1, 2004

HEALTH CARE

Community Transition Interagency Committee

Provides that members of community transition interagency committees for individuals with disabilities must include mental health representatives. The committee identifies services and programs, facilitates the

development of multi agency teams, develops community plans and recommends changes in the community services system for individuals with disabilities.

Chapter 166

Effective April 27, 2004

State Soldier's Assistance Fund

Eliminates hospitalization and medical treatment benefits from the State Soldier=s Assistance Fund due to funding shortage. The Fund is now primarily used to provide emergency optical and dental assistance to needy Veterans.

Chapter 256

Effective May 30, 2004

Medical Assistance Asset Transfers

Specifies conditions under which a charitable contribution is not presumed to have been made to establish medical assistance eligibility and considered a prohibited transfer of assets.

Chapter 266

Effective upon publication of State Register Notice of receipt of federal approval

Minnesota Comprehensive Health Association (MCHA)

MCHA provides coverage for hard to insure individuals. New changes: (1) allow MCHA to pay an enrollee an incentive for participation in a disease management program; (2) phase out MCHA coverage for extended basic Medicare supplement plans by January 1, 2006; and (3) require analysis of eligibility standards used for MCHA enrollment, comparing MCHA's practices with other states. The study and recommendations must be presented to the legislature by January 15, 2005.

Chapter 268

Varying Effective Dates

Health Plan Requirement Changes

Other changes: (1) provide for high deductible health plans effective January 1, 2004; (2) authorize health care purchasing alliances to include seasonal employees; (3) provide for electronic submission of health care information by health plans; and (4) require automatic enrollment in mother's health plan for an infant born to a Medical Assistance eligible mother.

Chapter 268

Varying Effective Dates

Public Health Data Study

The commissioner of health must prepare a plan for development of a statewide public health data management system, which includes a cost-effective way to collect and utilize public health data. The plan must be completed and presented to the legislature by January 15, 2005.

Chapter 279

Effective August 1, 2004

Pharmaceutical Manufacturer Rebate Program

Clarifies that individuals may participate in pharmaceutical manufacturer's rebate programs. Individuals may receive discounts or other price reductions, samples or limited-time free supplies offered by manufacturers.

Chapter 280

Effective July 1, 2004

Department of Human Services (DHS) Miscellaneous Policy Bill

Chapter 288

Varying Effective Dates

Community-Based Waiver

Establishes an additional priority category for the Mentally Retarded/ Related Condition waiver based on the need to serve persons whose consumer support grant exception amount was eliminated in 2003. Also requires DHS to consult with specified entities in evaluating the new consumer directed community support option under the home and community-based waiver programs.

Health Care Services

Requires individual family policies of indemnity insurers, HMOs and nonprofit health service plans to cover medical and dental expenses for treatment of cleft palate up to age 19 and certain students up to age 25. Currently, coverage is limited to dependents up to age 18. Also requires health plans to cover ovarian cancer surveillance tests and repeals the requirement that state-regulated health coverage must include autologous bone marrow transplants for breast cancer patients.

Long Term Care Services

(1) Specifies that medical assistance covers nursing facility services for persons eligible for Medicare who have waived the Medicare nursing facility benefit and enrolled in the Medicare hospice program. (2) Requires DHS to issue requests for proposals for collaborative service models between counties and managed care organizations, to integrate elderly waiver services and additional nursing services into managed care. Prohibits state-wide managed care coverage of elderly waiver services before 7/1/06. (3) Requires DHS to develop and implement a disease management program to improve patient care and health outcomes and reduce health care costs. Requires DHS to report to the Legislature the status of disease management initiatives and recommendations by 01/15/05.

Mental Health Services

(1) Provides case management services for individuals with serious emotional disturbance over age 18. (2) Allows DHS to establish a mechanism by which counties, DHS, hospitals, health plans, consumers, and others may enter into agreements to develop effective, efficient and accessible provision of mental health services. (3) Requires county boards to provide children's mental health screening to certain children within the limits of legislative appropriations. (4) Requires DHS to create a savings account for each patient receiving treatment in a secure treatment facility. The funds come from the patient's share of the cost of care to be used for housing and other personal needs when the patient returns to the community. (5) Expands allowable medical assistance payments to include staff travel time to provide rehabilitative services and nonresidential crisis stabilization services.

Newborn Enrollment in Mother's Health Plan

Requires DHS to enroll infants born to a Medical Assistance eligible mother into the mother's managed care plan.

Prescription Drugs

Requires pharmacies to provide to purchasers information about co-payment amounts and the usual and customary price of prescriptions. Provides exemptions from anti kickback laws for receipt by individuals of prescription drug and medical supply discounts and trinkets and mementos of insignificant value offered by pharmaceutical manufacturers and others as long as specified conditions are met.

Lead Paint Study

Requires the Commissioner of Health, in consultation with others, to develop and evaluate the best strategies to reduce the number of children endangered by lead paint.

Birth Defects Information System

Requires the Commissioner of Health to establish a birth defects information system with protections under the Data Practices Act.

Reminder That The Following Changes From Last Year Take Effect July 1, 2004:

MA-EPD: Two changes in Medical Assistance for Employed Persons with Disabilities: (1) a new eligibility requirement that monthly earnings be over \$65 per month; and (2) taxes must be withheld from wages or, for the self-employed, estimated taxes must be paid on a quarterly basis.

Pregnant Women: A reduction in the Medical Assistance eligibility standard for pregnant women from 275% of the federal poverty level (FPL) to 200% FPL. Although the law requires this change, DHS has stated that implementation will be delayed.

Children: A reduction in the Medical Assistance eligibility standard for children from 170% FPL to 150% FPL.

HOUSING

Housing Discrimination

This law prohibits condominium or cooperative associations from adopting by-laws or other rules that prohibit a public housing or redevelopment authority from leasing units the authority purchased in the condo or coop to low- or moderate-income families.

Chapter 263

Effective July 1, 2004

Assisted Living Facilities

Provides that for purposes of consistency with long term care insurance policies, a housing with services establishment that holds a home care license or other license or approval required for delivery of services constitutes an "assisted living facility or residence."

Chapter 185

Effective August 1, 2004

Supportive Housing and Managed Care Pilot Project

Extends to 06/30/07, the supportive housing and managed care pilot project established under Minn. Stat. §256K, to determine whether the integrated delivery of employment services, supportive services, housing and health care into a single flexible program will reduce public expenditures on homeless families and individuals.

Chapter 204

Effective July 1, 2004

TRUSTS

Trust Law Changes

Amends trust law to provide (1) a legal structure for memorial funds such as a community response to a personal tragedy; (2) acquisition of title by successor trustees; (3) binding non-judicial settlement agreements among trust beneficiaries; and (4) a process for court removal of trustees in limited circumstances.

Chapter 146, Article 1

Effective August 1, 2004

UNEMPLOYMENT INSURANCE

Receipt of Social Security Disability Benefits

Amends state law to comply with a recent Minnesota Court of Appeals decision involving social security offsets and the ability to work. The law has been that an applicant is disqualified from receiving unemployment insurance benefits for any week that the applicant received Social Security disability benefits.

In the future, an applicant is eligible to receive their weekly unemployment benefit amount after deducting one half of the weekly equivalent of the primary Social Security disability benefits the applicant receives. In order to be eligible, the applicant must either 1) provide a statement from a health care professional that the applicant is able to work and available for suitable employment or 2) demonstrate that the Social Security administration approved the collecting of disability benefits each month the applicant was employed during the base period used to establish eligibility for unemployment insurance.

Chapter 183, Section 56

Effective August 1, 2004

UTILITIES

Directory Assistance Charges

A local exchange carrier providing directory assistance for a fee (either directly or through a third party) must provide an immediate credit to a customer who informs the directory service provider that incorrect information was given. Carriers must provide notice of the right to immediate credit to new customers within 45 days of commencing service and annually to existing customers.

Chapter 261

Effective August 1, 2004

Dispute Resolution

In consultation with the Office of the Attorney General and the Department of Commerce, the Public Utilities Commission must develop by January 15, 2005, a seamless means to resolve consumer complaints. Currently, dispute resolution functions are split among the three agencies, but consumers have no single point of entry, and are unaware of what issues each agency covers.

Chapter 216

Effective August 1, 2004

Interest on Utility Deposits

The interest paid on utility deposits is changed from 6% to a rate to be set annually by the Department of Commerce based on the weekly average yield of one-year Treasury bills. The maximum cap of \$50 for telephone deposits is removed. However, the rules governing when deposits can be demanded (i.e., only if applicants or existing customers have not paid prior utility bills) and the formula for determining the amount of the deposit (i.e., maximum of two months' bills) remain unchanged.

Chapter 261

Effective August 1, 2004

Unauthorized Third Party Charges

The practice of placing unauthorized charges for non-telecommunications services on local telephone bills is called "cramming" or "loading." This new law restricts this practice by prohibiting local telephone companies from placing third party charges on telephone bills without the express consent of customers.

Any unauthorized charges must be removed upon notification from the customer, and a company must credit unauthorized charges already paid back six months, unless the company can document the customer's prior authorization.

Chapter 214

Effective August 1, 2004

Xcel Low-Income Affordability Program

This new program replaces the current Xcel Low- Income Discount Program. The company will identify low-income customers with the highest energy burdens and provide benefits to ensure that households do not spend more than two or three percent of their income on electric costs. Customers will be required to enter into an affordable payment arrangement, and make mutually agreed upon payments that are less than the full bill. The program makes up the difference. The program may also provide other services, which could include energy efficiency and conservation investments. Those customers who are elderly or who have a disability will either move to the affordability program or continue to receive the current discount, which is a 50% reduction on the first 300 kilowatt-hours of electricity. The goals of the new program are: to assist those most in need, reduce credit and collection activities and costs, increase customer payments, and reduce disconnections.

Chapter 216

Effective July 1, 2004