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Criminal Procedure

[Chapter 626](#). Training; Investigation, Apprehension; Reports

Reports

→626.556. Reporting of maltreatment of minors

Subdivision 1. Public policy. The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through physical abuse, neglect, or sexual abuse. In furtherance of this public policy, it is the intent of the legislature under this section to strengthen the family and make the home, school, and community safe for children by promoting responsible child care in all settings; and to provide, when necessary, a safe temporary or permanent home environment for physically or sexually abused or neglected children.

In addition, it is the policy of this state to require the **reporting** of neglect, physical or sexual **abuse** of **children** in the home, school, and community settings; to provide for the voluntary **reporting** of abuse or neglect of children; to require the assessment and investigation of the reports; and to provide protective and counseling services in appropriate cases.

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

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in [section 609.341](#), or by a person in a position of authority, as defined in [section 609.341, subdivision 10](#), to any act which constitutes a violation of [section 609.342](#) (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under [sections 609.321](#) to [609.324](#) or [617.246](#). Sexual abuse includes threatened sexual abuse.

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

(c) "Neglect" means:

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

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so;

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

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

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

(6) prenatal exposure to a controlled substance, as defined in [section 253B.02, subdivision 2](#), used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

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

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

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

(d) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under [section 121A.67](#) or [245.825](#). Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by [section 121A.582](#). Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

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

(2) striking a child with a closed fist;

(3) shaking a child under age three;

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

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

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

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

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

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

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

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

(f) "Facility" means a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under [sections 144.50 to 144.58](#), [241.021](#), or [245A.01 to 245A.16](#), or chapter 245B; or a school as defined in [sections 120A.05, subdivisions 9, 11, and 13](#); and 124D.10; or a nonlicensed personal care provider organization as defined in [sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a](#).

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

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

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

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

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

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

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

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

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

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under [section 260C.201, subdivision 11, paragraph \(d\)](#), clause (1), or a similar law of another jurisdiction.

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

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

- (1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement; or
- (2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under [section 595.02, subdivision 1, paragraph \(c\)](#).

The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency, or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing. The county sheriff and the head of every local welfare agency, agency responsible for assessing or investigating reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph and paragraph (b) are carried out. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school, or agency.

(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under [sections 144.50 to 144.58](#); 241.021; 245A.01 to 245A.16; or chapter 245B; or a nonlicensed personal care provider organization as defined in [sections 256B.04, subdivision 16](#); and 256B.0625, subdivision 19. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work within a school facility, upon receiving a complaint of alleged maltreatment, shall provide information about the circumstances of the alleged maltreatment to the commissioner of education. [Section 13.03, subdivision 4](#), applies to data received by the commissioner of education from a licensing entity.

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

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

Subd. 3a. Report of deprivation of parental rights or kidnapping. A person mandated to report under subdivision 3, who knows or has reason to know of a violation of [section 609.25](#) or [609.26](#), shall report the information to the local police department or the county sheriff. Receipt by a local welfare agency of a report or notification of a report of a violation of [section 609.25](#) or [609.26](#) shall not be construed to invoke the duties of subdivision 10, 10a, or 10b.

Subd. 3b. Agency responsible for assessing or investigating reports of maltreatment. The department of education is the agency responsible for assessing or investigating allegations of child maltreatment in schools as defined in [sections 120A.05, subdivisions 9, 11, and 13](#); and 124D.10.

Subd. 3c. Agency responsible for assessing or investigating reports of maltreatment. The following agencies are the administrative agencies responsible for assessing or investigating reports of alleged child maltreatment in facilities made under this section:

(1) the county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, and legally unlicensed child care and in juvenile correctional facilities licensed under [section 241.021](#) located in the local welfare agency's county;

(2) the department of human services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245B, except for child foster care and family child care; and

(3) the department of health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under [sections 144.50](#) to [144.58](#), and in unlicensed home health care.

Subd. 4. Immunity from liability. (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:

(1) any person making a voluntary or mandated report under subdivision 3 or under [section 626.5561](#) or assisting in an assessment under this section or under [section 626.5561](#);

(2) any person with responsibility for performing duties under this section or supervisor employed by a local welfare agency, the commissioner of an agency responsible for operating or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under [sections 144.50](#) to [144.58](#); 241.021; 245A.01 to 245A.16; or 245B, or a school as defined in [sections 120A.05](#), [subdivisions 9](#), [11](#), and [13](#); and 124D.10; or a nonlicensed personal care provider organization as defined in [sections 256B.04](#), [subdivision 16](#); and 256B.0625, subdivision 19a, complying with subdivision 10d; and

(3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency, the department of education, or a local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10 or under [section 626.5561](#).

(b) A person who is a supervisor or person with responsibility for performing duties under this section employed by a local welfare agency, the commissioner of human services, or the commissioner of education complying with subdivisions 10 and 11 or [section 626.5561](#) or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is (1) acting in good faith and exercising due care, or (2) acting in good faith and following the information collection procedures established under subdivision 10, paragraphs (h), (i), and (j).

(c) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs.

Subd. 4a. Retaliation prohibited. (a) An employer of any person required to make reports under subdivision 3 shall not retaliate against the person for reporting in good faith abuse or neglect pursuant to this section, or against a child with respect to whom a report is made, because of the report.

(b) The employer of any person required to report under subdivision 3 who retaliates against the person because of a report of abuse or neglect is liable to that person for actual damages and, in addition, a penalty up to \$10,000.

(c) There shall be a rebuttable presumption that any adverse action within 90 days of a report is retaliatory. For purposes of this paragraph, the term "adverse action" refers to action taken by an employer of a person required to report under subdivision 3 which is involved in a report against the person making the report or the child with respect to whom the report was made because of the report, and includes, but is not limited to:

(1) discharge, suspension, termination, or transfer from the facility, institution, school, or agency;

- (2) discharge from or termination of employment;
- (3) demotion or reduction in remuneration for services; or
- (4) restriction or prohibition of access to the facility, institution, school, agency, or persons affiliated with it.

Subd. 5. Malicious and reckless reports. Any person who knowingly or recklessly makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury, plus costs and reasonable attorney fees.

Subd. 6. Failure to report. (a) A person mandated by this section to report who knows or has reason to believe that a child is neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor.

(b) A person mandated by this section to report who knows or has reason to believe that two or more children not related to the perpetrator have been physically or sexually abused, as defined in subdivision 2, by the same perpetrator within the preceding ten years, and fails to report is guilty of a gross misdemeanor.

(c) A parent, guardian, or caretaker who knows or reasonably should know that the child's health is in serious danger and who fails to report as required by subdivision 2, paragraph (c), is guilty of a gross misdemeanor if the child suffers substantial or great bodily harm because of the lack of medical care. If the child dies because of the lack of medical care, the person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both. The provision in [section 609.378, subdivision 1, paragraph \(a\)](#), clause (1), providing that a parent, guardian, or caretaker may, in good faith, select and depend on spiritual means or prayer for treatment or care of a child, does not exempt a parent, guardian, or caretaker from the duty to report under this subdivision.

Subd. 6a. Failure to notify. If a local welfare agency receives a report under subdivision 3, paragraph (a) or (b) and fails to notify the local police department or county sheriff as required by subdivision 3, paragraph (a) or (b), the person within the agency who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees. If a local police department or a county sheriff receives a report under subdivision 3, paragraph (a) or (b) and fails to notify the local welfare agency as required by subdivision 3, paragraph (a) or (b), the person within the police department or county sheriff's office who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees.

Subd. 7. Report. An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff, the agency responsible for assessing or investigating the report, or the local welfare agency, unless the appropriate agency has informed the reporter that the oral information does not constitute a report under subdivision 10. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. If requested, the local welfare agency or the agency responsible for assessing or investigating the report shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

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

Subd. 8. Evidence not privileged. No evidence relating to the neglect or abuse of a child or to any prior incidents of neglect or abuse involving any of the same persons accused of neglect or abuse shall be excluded in any proceeding arising out of the alleged neglect or physical or sexual abuse on the grounds of privilege set forth in [section 595.02, subdivision 1, paragraph \(a\), \(d\), or \(g\)](#).

Subd. 9. Mandatory reporting to a medical examiner or coroner. When a person required to report under the provisions of subdivision 3 knows or has reason to believe a child has died as a result of neglect or physical or sexual abuse, the person shall report that information to the appropriate medical examiner or coroner instead of the local welfare agency, police department, or county sheriff. Medical examiners or coroners shall notify the local welfare agency or police department or county sheriff in instances in which they believe that the child has died as a result of neglect or physical or sexual abuse. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff and the local welfare agency. If the child was receiving services or treatment for mental illness, mental retardation or a related condition, chemical dependency, or emotional disturbance from an agency, facility, or program as defined in [section 245.91](#), the medical examiner or coroner shall also notify and report findings to the ombudsman established under [sections 245.91 to 245.97](#).

Subd. 10. Duties of local welfare agency and local law enforcement agency upon receipt of a report. (a) If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, the local welfare agency shall immediately conduct an assessment including gathering information on the existence of substance abuse and offer protective social services for purposes of preventing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under [section 609.378](#), the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

If the assessment indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to [Minnesota Rules, part 9530.6615](#). The local welfare agency shall report the determination of the chemical use assessment, and the recommendations and referrals for alcohol and other drug treatment services to the state authority on alcohol and drug abuse.

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

(c) Authority of the local welfare agency responsible for assessing the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred.

Notwithstanding rule 49.02 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded, unless a school employee or agent is alleged to have maltreated the child. Until that time, the local welfare or law enforcement agency or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

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

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

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

(g) The commissioner of human services, the ombudsman for mental health and mental retardation, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(h) The local welfare agency or the agency responsible for assessing or investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are

needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency or the agency responsible for assessing or investigating the report may make a determination of no maltreatment early in an assessment, and close the case and retain immunity, if the collected information shows no basis for a full assessment or investigation.

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

- (1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;
- (2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;
- (3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the child maintained by any facility, clinic, or health care professional and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and
- (4) information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this paragraph precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding [section 13.384](#) or [144.335](#), the local welfare agency has access to medical data and records for purposes of clause (3). Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency or the agency responsible for assessing or investigating the report during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11. Data of the commissioner of education collected or maintained during and for the purpose of an investigation of alleged maltreatment in a school are governed by this section, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

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

(i) In the initial stages of an assessment or investigation, the local welfare agency shall conduct a face-to-face observation of the child reported to be maltreated and a face-to-face interview of the alleged offender. At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(j) The local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. The following interviewing methods and procedures must be used whenever possible when collecting information:

- (1) audio recordings of all interviews with witnesses and collateral sources; and
- (2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child

witnesses.

(k) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (f), the commissioner of education shall collect available and relevant information and use the procedures in paragraphs (h), (i), and (j), provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (h), (i), and (j).

Subd. 10a. Abuse outside family unit. If the report alleges neglect, physical abuse, or sexual abuse by a person responsible for the child's care functioning outside the family unit in a setting other than a facility as defined in subdivision 2, the local welfare agency shall immediately notify the appropriate law enforcement agency, which shall conduct an investigation of the alleged abuse or neglect. The local welfare agency shall offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the abused or neglected minor.

Subd. 10b. Duties of commissioner; neglect or abuse in facility. (a) This section applies to the commissioners of human services, health, and education. The commissioner of the agency responsible for assessing or investigating the report shall immediately assess or investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in that facility, or has been so neglected or abused, or been the victim of maltreatment in a facility by an individual in that facility within the three years preceding the report; or

(2) a child was neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report.

The commissioner of the agency responsible for assessing or investigating the report shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians.

(b) Prior to any interview, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in subdivision 10d, paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner of the agency responsible for assessing or investigating the report or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j). In conducting assessments or investigations under this subdivision, the commissioner of education shall obtain access to reports and investigative data that are relevant to a report of maltreatment and are in the possession of a school facility as defined in subdivision 2, paragraph (f), notwithstanding the classification of the data as educational or personnel data under chapter 13. This includes, but is not limited to, school investigative reports, information concerning the conduct of school personnel alleged to have committed maltreatment of students, information about witnesses, and any protective or corrective action taken by the school facility regarding the school personnel alleged to have committed maltreatment.

(d) The commissioner may request assistance from the local social services agency.

Subd. 10c. Duties of local social service agency upon receipt of a report of medical neglect. If the report alleges medical neglect as defined in [section 260C.007, subdivision 4](#), clause (5), the local welfare agency shall, in addition to its other duties under this section, immediately consult with designated hospital staff and with the parents of the infant to verify that appropriate nutrition, hydration, and medication are being provided; and shall immediately secure an independent medical review of the infant's medical charts and records and, if necessary, seek a court order for an independent medical examination of the infant. If the review or examination leads to a conclusion of medical neglect, the agency shall intervene on behalf of the infant by initiating legal proceedings under [section 260C.141](#) and by filing an expedited motion to prevent the withholding of medically indicated treatment.

Subd. 10d. Notification of neglect or abuse in facility. (a) When a report is received that alleges neglect, physical abuse, sexual abuse, or maltreatment of a child while in the care of a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed according to [sections 144.50 to 144.58](#); 241.021; or 245A.01 to 245A.16; or chapter 245B, or a school as defined in [sections 120A.05, subdivisions 9, 11, and 13](#); and 124D.10; or a nonlicensed personal care provider organization as defined in [section 256B.04, subdivision 16](#), and [256B.0625, subdivision 19a](#), the commissioner of the agency responsible for assessing or investigating the report or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, sexually abused, or the victim of maltreatment of a child in the facility: the name of the facility; the fact that a report alleging neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility has been received; the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; that the agency is conducting an assessment or investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may also provide the information in paragraph (a) to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility has occurred. In determining whether to exercise this authority, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; the number of children allegedly neglected, physically abused, sexually abused, or victims of maltreatment of a child in the facility; the number of alleged perpetrators; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner of the agency responsible for assessing or investigating the report or local welfare agency has completed its investigation, every parent, guardian, or legal custodian previously notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; the investigator's name; a summary of the investigation findings; a statement whether maltreatment was found; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. If maltreatment is determined to exist, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility who had contact with the individual responsible for the maltreatment. When the facility is the responsible party for maltreatment, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child who received services in the population of the facility where the maltreatment occurred. This notification must be provided to the parent, guardian, or legal custodian of each child receiving services from the time the maltreatment occurred until either the individual responsible for maltreatment is no longer in contact with a child or children in the facility or the conclusion of the investigation. In the case of maltreatment within a school facility, as defined in [sections 120A.05, subdivisions 9, 11, and 13](#), and [124D.10](#), the commissioner of education need not provide notification to parents, guardians, or legal custodians of each child in the facility, but may provide notification to the parent, guardian, or legal custodian of any student alleged to have been maltreated or involved as a witness to alleged maltreatment.

Subd. 10e. Determinations. Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child

protective services are needed. Upon the conclusion of an assessment or investigation by the commissioner of education, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment has occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases, the commissioner shall inform the school board or employer that a report was received, the subject of the report, the date of the initial report, the category of maltreatment alleged as defined in paragraph (a), the fact that maltreatment was not determined, and a summary of the specific reasons for the determination. When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible, or whether both the facility and the individual were responsible for the maltreatment using the mitigating factors in paragraph (d). Determinations under this subdivision must be made based on a preponderance of the evidence and are private data on individuals or nonpublic data as maintained by the commissioner of education.

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions:

- (1) physical abuse as defined in subdivision 2, paragraph (d);
- (2) neglect as defined in subdivision 2, paragraph (c);
- (3) sexual abuse as defined in subdivision 2, paragraph (a);
- (4) mental injury as defined in subdivision 2, paragraph (k); or
- (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (f).

(b) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in [section 626.559, subdivision 1](#), to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(c) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(d) When determining whether the facility or individual is the responsible party for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

- (1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;
- (2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and
- (3) whether the facility or individual followed professional standards in exercising professional judgment.

Individual counties may implement more detailed definitions or criteria that indicate which allegations to investigate, as long as a county's policies are consistent with the definitions in the statutes and rules and are

approved by the county board. Each local welfare agency shall periodically inform mandated reporters under subdivision 3 who work in the county of the definitions of maltreatment in the statutes and rules and any additional definitions or criteria that have been approved by the county board.

Subd. 10f. Notice of determinations. Within ten working days of the conclusion of an assessment, the local welfare agency or agency responsible for assessing or investigating the report shall notify the parent or guardian of the child, the person determined to be maltreating the child, and if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal or review rights under this section or [section 256.022](#).

Subd. 10g. Interstate data exchange. All reports and records created, collected, or maintained under this section by a local social service agency or law enforcement agency may be disclosed to a local social service or other child welfare agency of another state when the agency certifies that:

- (1) the reports and records are necessary in order to conduct an investigation of actions that would qualify as sexual abuse, physical abuse, or neglect under this section; and
- (2) the reports and records will be used only for purposes of a child protection assessment or investigation and will not be further disclosed to any other person or agency.

The local social service agency or law enforcement agency in this state shall keep a record of all records or reports disclosed pursuant to this subdivision and of any agency to which the records or reports are disclosed. If in any case records or reports are disclosed before a determination is made under subdivision 10e, or a disposition of any criminal proceedings is reached, the local social service agency or law enforcement agency in this state shall forward the determination or disposition to any agency that has received any report or record under this subdivision.

Subd. 10h. Child abuse data; release to family court services. The responsible authority or its designee of a local welfare agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under this section to a court services agency if:

- (1) the court services agency has an active case involving a common client or clients who are the subject of the data; and
- (2) the data are necessary for the court services agency to effectively process the court services' case, including investigating or performing other duties relating to the case required by law.

The data disclosed under this subdivision may be used only for purposes of the active court services case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.

Subd. 10i. Administrative reconsideration of final determination of maltreatment and disqualification based on serious or recurring maltreatment; review panel. (a) Except as provided under paragraph (e), an individual or facility that the commissioner of human services, a local social service agency, or the commissioner of education determines has maltreated a child, an interested person acting on behalf of the child, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the parent or guardian of the child. Effective January 1, 2002, an individual who was determined to have maltreated a child under this section and who was disqualified on the basis of serious or recurring maltreatment under [sections 245C.14](#) and [245C.15](#), may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment

determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification under [sections 245C.16](#) and [245C.17](#).

(b) Except as provided under paragraphs (e) and (f), if the investigating agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under [section 256.045](#) may submit to the commissioner of human services or the commissioner of education a written request for a hearing under that section. [Section 256.045](#) also governs hearings requested to contest a final determination of the commissioner of education. For reports involving maltreatment of a child in a facility, an interested person acting on behalf of the child may request a review by the Child Maltreatment Review Panel under [section 256.022](#) if the investigating agency denies the request or fails to act upon the request or if the interested person contests a reconsidered determination. The investigating agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the investigating agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered determination. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied.

(c) If, as a result of a reconsideration or review, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

(d) Except as provided under paragraph (f), if an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under [section 256.045](#), the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

(e) Effective January 1, 2002, if an individual was disqualified under [sections 245C.14](#) and [245C.15](#), on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and requested reconsideration of the disqualification under [sections 245C.21](#) to [245C.27](#), reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied or the disqualification is not set aside under [sections 245C.21](#) to [245C.27](#), the individual may request a fair hearing under [section 256.045](#). If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

(f) Effective January 1, 2002, if a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under [section 245A.05](#) or a licensing sanction under [section 245A.07](#), the license holder has the right to a contested case hearing under chapter 14 and [Minnesota Rules, parts 1400.8505](#) to [1400.8612](#). As provided for under [section 245A.08, subdivision 2a](#), the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment determination shall not be conducted under paragraph (b). If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under chapter 245C, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(g) For purposes of this subdivision, "interested person acting on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been determined to be the perpetrator of the maltreatment.

Subd. 10j. Release of data to mandated reporters. A local social services or child protection agency, or the agency responsible for assessing or investigating the report of maltreatment, may provide relevant private data on individuals obtained under this section to mandated reporters who have an ongoing responsibility for the health, education, or welfare of a child affected by the data, in the best interests of the child. Mandated reporters with ongoing responsibility for the health, education, or welfare of a child affected by the data include the child's teachers or other appropriate school personnel, foster parents, health care providers, respite care workers, therapists, social workers, child care providers, residential care staff, crisis nursery staff, probation officers, and court services

personnel. Under this section, a mandated reporter need not have made the report to be considered a person with ongoing responsibility for the health, education, or welfare of a child affected by the data. Data provided under this section must be limited to data pertinent to the individual's responsibility for caring for the child.

Subd. 10k. Release of certain investigative records to other counties. Records maintained under subdivision 11c, paragraph (a), may be shared with another local welfare agency that requests the information because it is conducting an investigation under this section of the subject of the records.

Subd. 11. Records. (a) Except as provided in paragraph (b) or (d) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency or agency responsible for assessing or investigating the report under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. All records concerning determinations of maltreatment by a facility are nonpublic data as maintained by the department of education, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. [Section 13.82, subdivisions 8, 9, and 14](#), apply to law enforcement data other than the reports. The local social services agency or agency responsible for assessing or investigating the report shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by [section 13.04, subdivision 2](#), need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure.

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

(c) The commissioner of education must be provided with all requested data that are relevant to a report of maltreatment and are in possession of a school facility as defined in subdivision 2, paragraph (f), when the data is requested pursuant to an assessment or investigation of a maltreatment report of a student in a school. If the commissioner of education makes a determination of maltreatment involving an individual performing work within a school facility who is licensed by a board or other agency, the commissioner shall provide necessary and relevant information to the licensing entity to enable the entity to fulfill its statutory duties. Notwithstanding [section 13.03, subdivision 4](#), data received by a licensing entity under this paragraph are governed by [section 13.41](#) or other applicable law governing data of the receiving entity, except that this section applies to the classification of and access to data on the reporter of the maltreatment.

(d) The investigating agency shall exchange not public data with the child maltreatment review panel under [section 256.022](#) if the data are pertinent and necessary for a review requested under [section 256.022](#). Upon completion of the review, the not public data received by the review panel must be returned to the investigating agency.

Subd. 11a. Disclosure of information not required in certain cases. When interviewing a minor under subdivision 10, an individual does not include the parent or guardian of the minor for purposes of [section 13.04, subdivision 2](#), when the parent or guardian is the alleged perpetrator of the abuse or neglect.

Subd. 11b. Data received from law enforcement. Active law enforcement investigative data received by a local welfare agency or agency responsible for assessing or investigating the report under this section are confidential data on individuals. When this data become inactive in the law enforcement agency, the data are private data on individuals.

Subd. 11c. Welfare, court services agency, and school records maintained. Notwithstanding [sections 138.163](#) and [138.17](#), records maintained or records derived from reports of abuse by local welfare agencies, agencies responsible for assessing or investigating the report, court services agencies, or schools under this section shall be destroyed as provided in paragraphs (a) to (d) by the responsible authority.

(a) If upon assessment or investigation there is no determination of maltreatment or the need for child protective services, the records must be maintained for a period of four years. Records under this paragraph may not be used for employment, background checks, or purposes other than to assist in future risk and safety assessments.

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

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

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

Subd. 11d. Disclosure in child fatality or near fatality cases. (a) The definitions in this paragraph apply to this section.

(1) "Child fatality" means the death of a child from suspected abuse, neglect, or maltreatment.

(2) "Near fatality" means a case in which a physician determines that a child is in serious or critical condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment.

(3) "Findings and information" means a written summary described in paragraph (c) of actions taken or services rendered by a local social services agency following receipt of a report.

(b) Notwithstanding any other provision of law and subject to this subdivision, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:

(1) a person is criminally charged with having caused the child fatality or near fatality; or

(2) a county attorney certifies that a person would have been charged with having caused the child fatality or near fatality but for that person's death.

(c) Findings and information disclosed under this subdivision consist of a written summary that includes any of the following information the agency is able to provide:

(1) the dates, outcomes, and results of any actions taken or services rendered;

(2) the results of any review of the state child mortality review panel, a local child mortality review panel, a local community child protection team, or any public agency; and

(3) confirmation of the receipt of all reports, accepted or not accepted, by the local welfare agency for assessment of suspected child abuse, neglect, or maltreatment, including confirmation that investigations were conducted, the

results of the investigations, a description of the conduct of the most recent investigation and the services rendered, and a statement of the basis for the agency's determination.

(d) Nothing in this subdivision authorizes access to the private data in the custody of a local social services agency, or the disclosure to the public of the records or content of any psychiatric, psychological, or therapeutic evaluations, or the disclosure of information that would reveal the identities of persons who provided information related to suspected abuse, neglect, or maltreatment of the child.

(e) A person whose request is denied may apply to the appropriate court for an order compelling disclosure of all or part of the findings and information of the public agency. The application must set forth, with reasonable particularity, factors supporting the application. The court has jurisdiction to issue these orders. Actions under this section must be set down for immediate hearing, and subsequent proceedings in those actions must be given priority by the appellate courts.

(f) A public agency or its employees acting in good faith in disclosing or declining to disclose information under this section are immune from criminal or civil liability that might otherwise be incurred or imposed for that action.

Subd. 12. Duties of facility operators. Any operator, employee, or volunteer worker at any facility who intentionally neglects, physically abuses, or sexually abuses any child in the care of that facility may be charged with a violation of [section 609.255](#), [609.377](#), or [609.378](#). Any operator of a facility who knowingly permits conditions to exist which result in neglect, physical abuse, sexual abuse, or maltreatment of a child in a facility while in the care of that facility may be charged with a violation of [section 609.378](#). The facility operator shall inform all mandated reporters employed by or otherwise associated with the facility of the duties required of mandated reporters and shall inform all mandatory reporters of the prohibition against retaliation for reports made in good faith under this section.

Subd. 13. Repealed by Laws 1988, c. 625, § 9.

Subd. 14. Conflict of interest. (a) A potential conflict of interest related to assisting in an assessment under this section resulting in a direct or shared financial interest with a child abuse and neglect treatment provider or resulting from a personal or family relationship with a party in the investigation must be considered by the local welfare agency in an effort to prevent unethical relationships.

(b) A person who conducts an assessment under this section or [section 626.5561](#) may not have:

(1) any direct or shared financial interest or referral relationship resulting in a direct shared financial gain with a child abuse and neglect treatment provider; or

(2) a personal or family relationship with a party in the investigation.

If an independent assessor is not available, the person responsible for making the determination under this section may use the services of an assessor with a financial interest, referral, or personal or family relationship.

Subd. 15. Auditing. The commissioner of human services shall regularly audit for accuracy the data reported by counties on maltreatment of minors.

CREDIT(S) Laws 1975, c. 221, § 1. Amended by Laws 1977, c. 130, § 9, eff. May 20, 1977; Laws 1977, c. 212, § 2, 3; Laws 1978, c. 755, § § 1 to 9; Laws 1979, c. 143, § 1; Laws 1979, c. 255, § 7, eff. Aug. 1, 1979; Laws 1980, c. 509, § § 50, 181; Laws 1981, c. 240, § 2; Laws 1981, c. 273, § 12, eff. May 29, 1981; Laws 1981, c. 311, § 39; Laws 1981, 1st Sp., c. 4, art. 1, § 15; Laws 1982, c. 393, § § 1, 2; Laws 1982, c. 545, § 24; Laws 1982, c. 636, § § 1 to 4, eff. March 24, 1982; Laws 1983, c. 217, § 8, eff. Aug. 1, 1983; Laws 1983, c. 229, § § 1, 2, eff. Aug. 1, 1983; Laws 1983, c. 345, § § 13 to 19, eff. Aug. 1, 1983; Laws 1984, c. 484, § 3, eff. Aug. 1, 1984; Laws 1984, c. 573, § 10, eff. Aug. 1, 1984; Laws 1984, c. 577, § § 1 to 6, eff. April 27, 1984; Laws 1984, c. 588, § 12, eff. April 27, 1984; Laws 1984, c. 654, art. 5, § 58; Laws 1984, c. 655, art. 2, § 14, subd. 1, eff. April 27, 1984; Laws 1985, c. 266, § § 5 to 15; Laws 1985, c. 283, § § 2 to 4; Laws 1985, c. 286, § § 19, 20; Laws 1985, c. 293, § § 3 to 5; Laws 1986, c. 351, § 19, eff. Aug. 1, 1985; Laws 1986, c. 351, § 20, eff. March 20, 1986; Laws 1986,

c. 380, § 3, eff. March 20, 1986; Laws 1986, c. 444; Laws 1986, c. 469, § 2; Laws 1986, 1st Sp., c. 3, art. 1, § 77; Laws 1987, c. 91, § § 1 to 3, eff. Aug. 1, 1987; Laws 1987, c. 110, § 2; Laws 1987, c. 135, § § 1 to 3; Laws 1987, c. 211, § 1; Laws 1987, c. 352, § § 9, 10; [Laws 1988, c. 543, § § 11, 12](#); [Laws 1988, c. 625, § § 2 to 8](#); [Laws 1988, c. 662, § 4](#); [Laws 1989, c. 177, § § 2, 3](#); [Laws 1989, c. 209, art. 2, § 1](#); [Laws 1989, c. 282, art. 2, § § 200, 201](#); [Laws 1989, c. 290, art. 5, § 4](#); [Laws 1990, c. 426, art. 1, § 55](#); [Laws 1990, c. 542, § § 20 to 26](#); [Laws 1991, c. 181, § 1](#); [Laws 1991, c. 319, § § 24, 25](#); [Laws 1993, c. 13, art. 1, § 50](#); [Laws 1993, c. 296, § 3](#); [Laws 1993, c. 306, § § 18, 19](#); [Laws 1993, c. 326, art. 6, § 23](#); [Laws 1993, c. 351, § § 37, 38](#); [Laws 1994, c. 434, § § 8 to 10](#); [Laws 1994, c. 631, § 31](#); [Laws 1994, c. 636, art. 2, § § 57 to 59](#); [Laws 1994, c. 636, art. 4, § 30](#); [Laws 1995, c. 187, § § 1 to 7](#); [Laws 1995, c. 229, art. 4, § 20, eff. Oct. 1, 1995](#); [Laws 1997, c. 203, art. 5, § § 25 to 30](#); [Laws 1997, c. 245, art. 2, § 8](#); [Laws 1997, 1st Sp., c. 3, § 44](#); [Laws 1997, 3rd Sp., c. 3, § 10](#); [Laws 1998, c. 406, art. 1, § 36, eff. April 21, 1998](#); [Laws 1998, c. 406, art. 4, § § 2 to 7](#); [Laws 1998, c. 407, art. 9, § 35, eff. April 22, 1998](#); [Laws 1998, 1st Sp., c. 3, § 25](#); [Laws 1999, c. 139, art. 4, § 2](#); [Laws 1999, c. 227, § 22](#); [Laws 1999, c. 241, art. 2, § 54](#); [Laws 1999, c. 241, art. 10, § 3](#); [Laws 1999, c. 245, art. 4, § 102](#); [Laws 1999, c. 245, art. 8, § § 66 to 79](#); [Laws 2000, c. 401, § 1, eff. April 15, 2000](#); [Laws 2000, c. 447, art. 2, § 47, eff. Jan. 1, 2001](#); [Laws 2001, c. 7, § 88](#); [Laws 2001, c. 136, § 1, eff. May 22, 2001](#); [Laws 2001, c. 178, art. 1, § § 40, 44](#); [Laws 2001, c. 178, art. 2, § § 7 to 17, eff. May 26, 2001](#); [Laws 2001, 1st Sp., c. 6, art. 3, § 16, eff. July 1, 2001](#); [Laws 2001, 1st Sp., c. 9, art. 11, § 6](#); [Laws 2001, 1st Sp., c. 9, art. 11, § 7, eff. July 1, 2001](#); [Laws 2001, 1st Sp., c. 9, art. 11, § 8](#); [Laws 2001, 1st Sp., c. 9, art. 11, § § 9 to 11, eff. July 1, 2001](#); [Laws 2001, 1st Sp., c. 9, art. 11, § 12](#); [Laws 2001, 1st Sp., c. 9, art. 14, § 29](#); [Laws 2002, c. 375, art. 1, § 21](#); [Laws 2002, c. 379, art. 1, § 107](#); [Laws 2002, c. 385, § 9](#); [Laws 2003, c. 15, art. 1, § 33, eff. April 18, 2003](#); [Laws 2003, c. 130, § 12](#); [Laws 2004, c. 288, art. 1, § 78](#); [Laws 2004, c. 288, art. 1, § 79, eff. May 30, 2004](#); [Laws 2004, c. 294, art. 5, § 18](#).

RULES OF CRIMINAL PROCEDURE

<Section 480.059, subd. 7, provides in part that statutes which relate to training, investigation, apprehension, and reports found in chapter 626 remain in full force and effect notwithstanding the Rules of Criminal Procedure.>

HISTORICAL AND STATUTORY NOTES

2005 Electronic Update

2003 Legislation

Laws 2003, c. 15, art. 1, § 33, provided:

"(a) The revisor of statutes shall correct internal cross-references to sections that are now in Minnesota Statutes, chapter 245C, throughout Minnesota Statutes and Minnesota Rules.

"(b) If a provision of a section of Minnesota Statutes amended or recodified by this act is amended by the 2003 regular legislative session or 2003 special legislative session, if any, the revisor shall codify the amendment consistent with the recodification of the affected section by this act, notwithstanding any law to the contrary. In sections affected by this instruction, the revisor may make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning."

Laws 2003, c. 130, § 12, par. (b), directed the revisor of statutes to change "children, families, and learning" to "education" throughout Minnesota Statutes and Minnesota Rules.

2004 Legislation

Laws 2004, c. 288, art. 1, § § 78 and 79, in subd. 10, par. (i), inserted a sentence providing that the local child welfare agency or agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual; and in subd. 10i, par. (e), deleted "or rescinded" from the second sentence, and in par. (f), substituted "and [Minnesota Rules, parts 1400.8505 to 1400.8612](#)" for "and [Minnesota Rules, parts 1400.8510 to 1400.8612](#) and successor rules".

Laws 2004, c. 294, art. 5, § 18, in subd. 2, par. (c), cl. (4), substituted "section 125A.091, subdivision 5" for "section 125A.09, subdivision 3".

2003 Main Volume

Laws 1977, c. 130, in the first sentence of subd. 2(a) substituted "609.342, 609.343, 609.344, or 609.345" for "609.291, 609.292, 609.293, 609.295, or 609.296".

Laws 1977, c. 212, in subd. 2(c)(ii) inserted "or health defect" following "Any physical injury" and substituted "a" for "the history of injuries provided by the" and in subd. 11 in clause (a) substituted "false" for "unsubstantiated" and in clause (c) in the first sentence inserted "or disproved" and in the second sentence inserted "neither" after "If", inserted "nor local police department", and substituted "able" for "unable" preceding "to substantiate the".

The 1978 amendment in the second paragraph of subd. 1 inserted "neglect," and "abuse or"; in subd. 2 in clause (a) added the second sentence, in clause (b) rewrote the first sentence which prior thereto read: " 'Neglected child' shall have the meanings defined in section 260.015, subdivision 10.", in clause (c) in subclause (ii) deleted "or health defect" and inserted "the history of injuries provided by", and in clause (d) inserted ", police department or county sheriff"; in subd. 3 inserted "or county sheriff" throughout and, in addition, in the first paragraph in the first sentence inserted "neglected or" and substituted a comma for "or" following "local welfare agency" and inserted the third sentence and in the first sentence of the second paragraph substituted a comma for "or" following "local welfare agency"; in subd. 4 inserted ", including those voluntarily making reports and those required to make reports under subdivision 3,"; in subd. 6 inserted "or neglect"; in subd. 7 in the second sentence inserted ", the county sheriff", in the fourth sentence inserted "or the county sheriff", and added the final two sentences; in subd. 9 in the first sentence inserted "neglect or", substituted a comma for "or" following "local welfare agency" and added "or county sheriff", in the second sentence inserted "or county sheriff" and "neglect or" and in the third sentence substituted "police department or county sheriff" or "appropriate law enforcement authorities"; and in subd. 11 in the first paragraph in the first sentence added "data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff" and added the second and third sentences, in the second paragraph inserted ", the police department or county sheriff", and in clause (c) in the first sentence inserted ", local police department or county sheriff" and in the second sentence deleted "neither", substituted a comma for "nor", inserted "or county sheriff", substituted "able" for "unable" preceding "to substantiate the report within" substituted "each agency unable to substantiate the report shall destroy its" for "all" and deleted "shall be destroyed immediately" at the end.

Laws 1979, c. 143, in subd. 2 in the second sentence of clause (a) added "or 617.246" and in the first sentence of clause (b) added "or failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical and mental health when reasonably able to do so".

Laws 1979, c. 255, in the second sentence of clause (a) of subd. 2 substituted "sections 609.321 to 609.324" for "section 609.32".

The 1980 amendment in the first sentence of subd. 2(b) substituted "or" for "and" following "the child's physical" and in the fourth sentence of the first paragraph of subd. 11 substituted "15.1671" for "15.168".

Laws 1981, c. 240, in subd. 11 in the first paragraph in the second and third sentences inserted "investigating, petitioning, or", in the second sentence substituted "the" for "such" following "on individuals except", in the third sentence substituted "any" for "only those" preceding "records which contain" and substituted "investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons" for "litigation", in the fourth sentence substituted "15.1699." for "15.1671, and", and in the resulting final sentence substituted "An" for "an", deleted "only (a) by the local welfare agency if the report is found to be unsubstantiated or (b)" following "shall be disclosed", inserted ", police department, or county sheriff only" and substituted "or as required by law or a rule of civil or criminal procedure" for "if the report is found to be substantiated" and in the second paragraph substituted "shall" for "must".

Laws 1981, c. 273, in the first sentence of subd. 2(a) added ", or sections 609.364 to 609.3644".

Laws 1981, c. 311, § 39, directed statutory cross reference changes generally throughout the statutes to correct references to provisions formerly numbered as § § 15.1611 to 15.1699.

Laws 1981, 1st Sp., c. 4, art. 1, in the fourth sentence of the first paragraph of subd. 11 substituted "15.1611 to 15.1699" for "15.162 to 15.1671".

Laws 1982, c. 393, in subd. 2 added clauses (e) and (f) and added subd. 12.

Laws 1982, c. 545, § 24, directed statutory cross reference changes generally throughout the statutes to correct references to provisions formerly numbered as 15.1611 to 15.1699, including those contained in Laws 1981, c. 311.

Laws 1982, c. 636, in subds. 3 and 7 added the respective final paragraphs and in subd. 11 in the first paragraph in the fifth sentence substituted "confidential while the report is under investigation" for "disclosed by the local welfare agency, police department, or county sheriff only upon court order or as required by law or a rule of civil or criminal procedure" and added the sixth sentence, in the second paragraph substituted "described in clauses (a) to (c)" for "follows", rewrote clause (a), in clause (b) substituted a period for "; and", and in the second sentence of clause (c) added "in the manner provided by clause (a)". Prior to being rewritten, clause (a) read:

"(a) All records relating to reports which, upon investigation, are found to be false shall be destroyed immediately;"

Laws 1983, c. 217, updated section references in subd. 12.

Laws 1983, c. 229, added clause (b) to subd. 4 and subd. 4a. Laws 1983, c. 229, § 3, provides in part that these additions apply to any civil actions commenced on or after August 1, 1983.

Laws 1983, c. 345, made public policy applicable to school and community settings in subd. 1; inserted subd. 2(b), redesignated former clauses (b) through (f) as new clauses (c) through (g), added subd. 2(c)(ii) and subd. 2(h); added (c) and (d) paragraphs of subd. 4; substituted "the abuse or neglect of the child if the person is known" for "his care" and substituted "abuse or neglect" for "child's injuries" in third sentence of first paragraph of subd. 7; added "If the report alleges neglect, * * * responsible for the child's care," at beginning of subd. 10(a) and added subds. 10(b) to (f); added subds. 10a and 10b.

Laws 1984, c. 484, § 3, added subd. 3a.

Laws 1984, c. 573, § 10, in subd. 2, inserted "or by a person in a position of authority, as defined in section 609.341, subdivision 10" in the first sentence of cl. (a) and inserted "whether paid or unpaid" in cl. (b).

Laws 1984, c. 577, inserted references to assessments in subds. 1, 4, 10, and 11; added the definition of "assessment" in subd. 2; in subd. 3 inserted the third paragraph pertaining to reports to agencies; in subd. 4 inserted "or assisting in an assessment" in (a), and inserted "or local law enforcement agency" in (b); in subd. 10 inserted references to local law enforcement agencies throughout the subdivision, in (a) substituted "conduct an assessment" for "investigate" in the first sentence, in (b) substituted "assessing" for "investigating" in the first sentence and added "or school official" in the second sentence, in (c) in the third sentence inserted "For interviews conducted by the local welfare agency", in the fourth sentence added "but the local welfare agency, or the local law enforcement agency shall have the exclusive authority to determine who may attend the interview", and inserted the sixth sentence pertaining to court orders. And in subd. 11, deleted a sentence which read, "Report records maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority."

Laws 1984, c. 588, rewrote subd. 8.

Laws 1984, c. 654, art. 5, § 58, instructed the revisor of statutes to change references to the commissioner or department of public welfare to references to the commissioner or department of human services throughout Minnesota Statutes 1984.

Laws 1984, c. 655, was a revisor's bill, which by its title purported to correct erroneous references, eliminate

redundant and superseded provisions, reenact certain laws and correct 1984 session legislation. Article 2, § 14, subd. 1 amended subd. 11 of this section as amended by Laws 1984, c. 577, by inserting the second sentence pertaining to police and sheriffs' reports. Article 2, § 14, subd. 2, provided that this amendment was effective the day following enactment of c. 577. Chapter 577 was approved by the governor April 26, 1984.

Laws 1985, c. 266, in subd. 1, in the second paragraph, deleted "suspected" following "the reporting of"; in subd. 2, inserted cls. (1) and (2) in par. (b) and added par. (j); rewrote subs. 3 and 4; in subd. 4a deleted "suspected" preceding "abuse or neglect" in pars (a) and (b); in subd. 5 substituted "knowingly" for "willfully"; rewrote subd. 6; added subd. 6a; in the first sentence of subd. 9 substituted "knows or has reason" for "has reasonable cause"; in subd. 10, rewrote pars. (b) and (c); and in subd. 11, in the first paragraph added "except as otherwise permitted by this subdivision" at the end of the third to the last sentence and inserted the next to the last sentence, and in the second paragraph inserted "Notwithstanding section 138.17" and substituted "(d)" for "(c)" in the introductory language and added subpar. (d). Prior to revision, subs. 3 and 4 and pars. (b) and (c) of subd. 10 read:

"Subd. 3. Persons mandated to report. A professional or his delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement who has knowledge of or reasonable cause to believe a child is being neglected or physically or sexually abused shall immediately report the information to the local welfare agency, police department or the county sheriff. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency. The local welfare agency, upon receiving a report, shall immediately notify the local police department or the county sheriff. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school or agency.

"Any person not required to report under the provisions of this subdivision may voluntarily report to the local welfare agency, police department or the county sheriff if he has knowledge of or reasonable cause to believe a child is being neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency.

"A person mandated to report suspected physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b.

"Any person who makes a report shall, upon request to the local welfare agency, receive a concise summary of the disposition of the report, unless release would be detrimental to the best interests of the child."

"Subd. 4. Immunity from liability. (a) Any person, including those voluntarily making reports and those required to make reports under subdivision 3, participating in good faith and exercising due care in the making of a report or assisting in an assessment pursuant to this section has immunity from any liability, civil or criminal, that otherwise might result by reason of his action.

"(b) A supervisor or social worker employed by a local welfare agency, who in good faith exercises due care when complying with subdivisions 10 and 11 or any related rule or provision of law, shall have immunity from any civil liability that otherwise might result by reason of his action.

"Any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency or local law enforcement agency and assists in good faith in an investigation or assessment pursuant to subdivision 10 has immunity from any liability, civil or criminal, that otherwise might result by reason of that action.

"This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child."

"[Subd. 10](b) Authority of the local welfare agency responsible for assessing the child abuse report and of the local law enforcement agency includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged perpetrator. The

interview may take place at school or any facility or other place where the alleged victim or other minors might be found and may take place outside the presence of the perpetrator or parent, legal custodian, guardian, or school official. Except as provided in this clause, the parent, legal custodian, or guardian shall be notified, no later than the conclusion of the investigation or assessment, that this interview has occurred. Notwithstanding rule 49.02 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, notification of this interview be withheld from the parent, legal custodian, or guardian.

"(c) When the local welfare or local law enforcement agency determines that an interview should take place on school property, written notification must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chairman of the county welfare board or his designee. The time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare agency, or the local law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is deemed necessary by agreement between the school officials and the local welfare agency or local law enforcement agency. Where the school fails to comply with the provisions of this section, the juvenile court may order the school to comply with this provision. School officials shall not disclose to the parent, legal custodian, guardian, or perpetrator that a request to interview the child has been made until after the investigation or assessment has been concluded. Every effort shall be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises."

Laws 1985, c. 283, in subd. 2, in the definition of "neglect", added the last sentence; in subd. 10, in par. (f), inserted "including medical records"; and added subd. 10c.

Laws 1985, c. 286, in subd. 11, inserted the sentence in the first paragraph, relating to exemption of the notice requirement for minors under age 10 who are alleged victims of abuse or neglect, and added subd. 11a.

Laws 1985, c. 293, § 3 to 5, in subd. 10b designated the former text as par. (a), in par. (a) added the last sentence, and added par. (b); added subd. 10d; and in subd. 11, in the first paragraph inserted "concerning individuals" and "and except as otherwise provided in section 626.556, subdivision 10b and 626.556, subdivision 10c" in the first sentence, and in the second paragraph inserted "Notwithstanding section 138.163" at the beginning and substituted "false" for "unsubstantiated" in the first sentence of subpar. (a).

Laws 1986, c. 380, § 3, in subd. 4 included social workers and supervisors employed by local welfare agencies complying with subd. 10d among those deemed immune from liability.

Laws 1986, c. 444, authorized the removal of nonsubstantive gender specific references.

Laws 1986, c. 469, § 2, added "and the provision of guardian ad litem services" to the definition of "practice of social services".

Laws 1987, c. 91, required mandated reporters to report past child neglect or physical or sexual abuse within the preceding three years in subs. 3 and 6. The amendment also revised subd. 10b, clause (a) which formerly read:

"If the report alleges that a that a child in the care of a facility as defined in subdivision 2 is neglected, physically abused, or sexually abused by an individual in that facility, the commissioner shall immediately investigate. The commissioner shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians."

Laws 1987, c. 91, § 4, provided that the offense specified in subd. 6 applies to offenses committed on or after

August 1, 1987.

Laws 1987, c. 110, exempted aversive and deprivation procedures authorized under § 245.825 from the definition of "physical abuse" in subd. 2(d).

Laws 1987, c. 135, § 1, in subd. 7, required a written report of abuse within 72 hours of an oral report, exclusive of weekends and holidays. Section 2 of the amendatory act, in subd. 10, directed local law enforcement agencies and local welfare agencies to coordinate their investigations where a violation of a criminal statute involving sexual or physical abuse is alleged. Section 3 of the amendatory act, in subd. 10a, charged the appropriate local law enforcement agency with investigating alleged abuse or neglect outside the family unit by person responsible for child's care.

Laws 1987, c. 211, § 1, in subd. 11 provided that the name of the reporter, formerly accessible to the individual subject of the record upon court order, may be compelled to be disclosed by the subject of the report only with consent of the reporter or upon certain written findings of the court, and also provided that this subdivision does not alter disclosure responsibilities and obligations under the rules of criminal procedure.

Laws 1987, c. 352, § § 9 and 10, added the fourth sentence in subd. 9; and in subd. 10, inserted par. (b), redesignating former pars. (b) to (f) as pars. (c) to (g), and in par. (g), inserted "the ombudsman for mental health and mental retardation" in the first sentence.

Laws 1988, c. 543, § § 11 and 12, rewrote the last sentence of subd. 9 and par. (b) of subd. 10. Prior to revision, the last sentence of subd. 9 read:

"When a person required to report under the provisions of subdivision 3 knows or has reason to believe a child has died as a result of neglect or physical or sexual abuse, the person shall report that information to the appropriate medical examiner or coroner instead of the local welfare agency, police department or county sheriff. Medical examiners or coroners shall notify the local welfare agency or police department or county sheriff in instances in which they believe that the child has died as a result of neglect or physical or sexual abuse. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff and the local welfare agency. If the child was receiving residential treatment for mental illness, mental retardation, chemical dependency, or emotional disturbance from a mental health or mental retardation agency or facility as defined in section 245.91, the medical examiner or coroner shall also notify and report findings to the ombudsman for mental health and mental retardation."

Prior to revision, par. (b) of subd. 10 read:

"(b) When a local agency receives a report or otherwise has information indicating that a child who is a mental health or mental retardation client, as defined in section 245.91, has been the subject of physical abuse or neglect at a mental health or mental retardation agency or facility, as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman for mental health and mental retardation."

Laws 1988, c. 625 changed the heading of subd. 5 from "falsified reports" to "malicious and reckless reports"; in subd. 10d in cl. (c) substituted "a statement whether maltreatment was found" for "a statement whether the report was found to be substantiated, inconclusive, or false", substituted at the end "if maltreatment is determined to exist" for "if the report is substantiated", and deleted a final two sentences permitting the commissioner or local welfare agency to provide the written memorandum to parents, guardians, or legal custodians of any other children in the facility if the investigation is inclusive and requiring that the facility be notified whenever this discretionary authority is exercised, added subds. 10e, 10f, 11b and 11c, and in subd. 11 at the beginning added the exception relating to subd. 11b and deleted from the end of subd. 11 the following:

"Notwithstanding sections 138.163 and 138.17, records maintained by local welfare agencies, the police department or county sheriff under this section shall be destroyed as described in clauses (a) to (d):

"(a) If upon assessment or investigation a report is found to be false, notice of intent to destroy records of the report shall be mailed to the individual subject of the report. At the subject's request the records shall be maintained as

private data. If no request from the subject is received within 30 days of mailing the notice of intent to destroy, the records shall be destroyed.

"(b) All records relating to reports which, upon assessment or investigation, are found to be substantiated shall be destroyed seven years after the date of the final entry in the case record.

"(c) All records of reports which, upon initial assessment or investigation, cannot be substantiated or disproved to the satisfaction of the local welfare agency, local police department or county sheriff may be kept for a period of one year. If the local welfare agency, local police department or county sheriff is unable to substantiate the report within that period, each agency unable to substantiate the report shall destroy its records relating to the report in the manner provided by clause (a).

"(d) Any notification of intent to interview which was received by a school under subdivision 10, paragraph (c), shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision."

Laws 1988, c. 625, § 9, repealed subd. 13, which related to the application of the data practices act on reports and records created for the purposes of this section.

Laws 1988, c. 662 revised subd. 3(a) which formerly read:

"(a) A professional or the professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement who knows or has reason to believe a child is being neglected or physically or sexually abused, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, police department or the county sheriff. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency orally and in writing. The local welfare agency, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing. The county sheriff and the head of every local welfare agency and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph and paragraph (b) are carried out. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school or agency."

Laws 1989, c. 177, § § 2 and 3, in subd. 11 substituted "Reports" for "Report records" preceding "maintained by any police department", inserted "Section 13.82, subdivisions 5, 5a, and 5b, apply to law enforcement data other than the reports." preceding "The welfare board shall make available"; and in subd. 11c deleted reports by county sheriffs or police departments from the list of records to be destroyed.

Laws 1989, c. 209, art. 2, § 1, instructed the revisor of statutes to substitute " 245A.01 to 245A.16 " for " 245.781 to 245.812 " in subd. 2.

Laws 1989, c. 282, art. 2, § § 200 and 201, inserted exception in subd. 2, par. (c), imposing a duty to report if a lack of medical care may cause imminent and serious danger to child's health; and added par. (c) to subd. 10e.

Laws 1989, c. 290, art. 5, § 4, in subd. 2(c) inserted the provision expanding "neglect" to include prenatal exposure to a controlled substance and substituted "section 260.015, subdivision 2a, clause (5)" for "section 260.015, subdivision 10, clause (e)".

Laws 1990, c. 426 was a revisor's bill which by its title purported to correct erroneous, ambiguous, and omitted text and obsolete references, eliminate redundant, conflicting, and superseded provisions, and make technical corrections.

Laws 1990, c. 542, § § 20 to 26, in subd. 1, divided the first paragraph into two sentences, adding to the beginning of the second sentence that part referring to the intent of the legislature and inserting a reference to neglected children at the end; in subd. 2, inserted "of a child" near the beginning of par. (a), provided at the end of par. (a) that

sexual abuse includes threatened sexual abuse, substituted a reference to § 253B.02, subd. 2, for a reference to § 626.5561 in par. (c), extended the definition of "physical abuse" in par. (d) to include mental injury or threatened injury, added par. (k), defining "mental injury", and added par. (l), defining "threatened injury"; inserted "as defined in subdivision 2" in subd. 3, par. (a); in subd. 4, inserted the references to § 626.5561 and added par. (d), relating to attorney fees and costs; in subd. 10e, rewrote par. (a), clause (1), which had read: "an assault, as defined in section 609.02, subdivision 10, or any physical contact not exempted by section 609.379, where the assault or physical contact is either severe or recurring and causes either injury or significant risk of injury to the child", and added par. (a), clause (4), relating to mental injury; added subd. 10g, relating to interstate data exchange; and inserted a reference to subd. 10g in subd. 11.

Laws 1991, c. 181, § 1, increased the maximum penalty in subd. 4a, par. (b), from \$1,000 to \$10,000.

Laws 1991, c. 319, §§ 24, 25, added subd. 10h relating to the release of child abuse data to court services agencies; and in subd. 11c, in the introductory language inserted a reference to court services agencies and corrected an internal reference, and added par. (d) relating to court services agencies.

Laws 1993, c. 13, was a revisor's instruction which, by its title, corrected erroneous, ambiguous, and omitted text and obsolete references; eliminated certain redundant, conflicting, and superseded provisions; and made miscellaneous technical corrections to statutes and other laws. Article 1, § 50, of this act corrected a citation in subd. 10.

Laws 1993, c. 296, § 3, in subd. 2, par. (c) added failure to provide for a child's education in accordance with state law to the definition of "neglect," and provided that this section does not impose upon persons not otherwise legally responsible for providing "education" to a child, a duty to so provide.

Laws 1993, c. 306, §§ 18 and 19, in subd. 10, brought reports of neglect or endangerment under § 609.378 within the scope of par. (a), brought reports of sexual abuse within the scope of par. (b), and brought neglect reports within the scope of par. (c); and, in subd. 11, directed the welfare board to make certain records available to county medical examiners or county coroners or their professional delegates.

Laws 1993, c. 326, art. 6, § 23, in subd. 10, par. (c), authorized, for the purpose of conducting an interview, the transportation of a child to a place appropriate for the interview, as designated by the local welfare agency or law enforcement agency.

Laws 1993, c. 351, §§ 37 and 38, in subd. 11, directed the welfare board to make certain records available to county medical examiners or county coroners; and, in subd. 11c, par. (b), provided that records be maintained for at least ten years after the date of the final entry in the case record, rather than destroyed seven years after that date.

Laws 1994, c. 434, §§ 8 to 10, in subd. 3, par. (d), removed the requirement that a person mandated to report that a child was being neglected or physically or sexually abused request a summary of the disposition of the report made by that reporter before he or she would receive such a report; in subd. 7, with respect to the requirement that a person required to report the possibility of abuse or neglect of a child follow up an oral report with a written report, inserted an exception for reporters who have been informed that the oral information so provided did not constitute a report; and, in subd. 10, par. (a), inserted the sentence that, in cases of alleged child maltreatment resulting in death, allows local agencies to rely on fact-finding efforts of a law enforcement investigation to make determinations of whether or not maltreatment occurred.

Laws 1994, c. 631, § 31, par. (b), instructed the revisor of statutes to substitute "local social services agency" for "county welfare board" and "county welfare department".

Laws 1994, c. 636, art. 2, §§ 57 to 59, in subd. 2 in par. (a) inserted "by a person who has a significant relationship to the child, as defined in section 609.341," in par. (c) substituted "a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty" for "there is a duty", and deleted "imminent and" preceding "serious danger"; rewrote subd. 6; and in subd. 10e in par. (c) deleted "imminent and" preceding "serious danger". Prior to revision, subd. 6 read:

"A person mandated by this section to report who knows or has reason to believe that a child is neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor."

Laws 1994, c. 636, art. 2, § 70, provides in part that § § 57 to 59 (amending subs. 2, 6, and 10e) are effective August 1, 1994 and apply to crimes committed on or after that date.

Laws 1994, c. 636, art. 4, § 30, in subd. 3a added references to section 609.25 in two places.

Laws 1994, c. 636, art. 4, § 42, provides in part that § 30 (amending subd. 3a) is effective August 1, 1994, and applies to crimes committed on or after that date.

Laws 1995, c. 187, § § 1 to 7, in subd. 4, in par. (a), in cl. (2), substituted "person with responsibility for performing duties under this section" for "social worker", inserted "or the commissioner" and deleted a reference to the provisions of § 626.5561, and in par. (b) substituted "person with responsibility for performing duties under this section" for "social worker", inserted "or the commissioner", inserted a reference to § 626.5561, designated cl. (1) as such and added cl. (2), relating to persons acting in good faith and following information collection procedures; in subd. 5, provided for the recovery of costs and reasonable attorney fees against a person recklessly making a false report; in subd. 10, in pars. (c), (d), and (e), substituted "offender" and "alleged offender" for "perpetrator" throughout, added par. (h), relating to collection of information to determine whether maltreatment occurred and whether protective services are needed, added par. (i), relating to face-to-face observation of children reported to be maltreated and face-to-face interviewing of the alleged offender, and added par. (j), relating to interviewing methods and procedures; in subd. 10b, added par. (c), relating to information to which the commissioner or the local welfare agency shall gain access; in subd. 10e, added a requirement that determinations be based on a preponderance of the evidence; rewrote subd. 10f; and added subd. 14, relating to conflicts of interest. Prior to revision, subd. 10f read:

"Within ten working days of the conclusion of an assessment the local welfare agency shall notify the parent or guardian of the child of the determinations. Within ten working days of completing an investigation of a licensed facility, the local welfare agency shall notify the person alleged to be maltreating the child, the director of the facility, and the parent or guardian of the child of the determinations. In addition to the determinations, the notice shall include the length of time that the records will be kept under subdivision 11c. When there is no determination of either maltreatment or a need for services, the notice shall also include the alleged perpetrator's right to have the records destroyed."

Laws 1995, c. 229, art. 4, § 20, in subd. 12, corrected a citation.

Laws 1997, c. 203, art. 5, § § 25 to 30, in subd. 10b, added par. (d), relating to responsibility for investigations and notifications required under subs. 10d and 10f; in subd. 10d, substituted in par. (a) "chapter 245A" for "sections 245A.01 to 245A.16"; in subd. 10e, in the introductory paragraph, inserted the second sentence, relating to the application of mitigating factors upon determinations of maltreatment, and added par. (d), relating to mitigating factors in determining responsibility for maltreatment; in subd. 10f, added the last sentence, relating to notification of the child's designee; inserted subd. 10i, relating to administrative reconsideration of final determinations of maltreatment; and in subd. 11c, at the end of par. (a), added the clause permitting destruction of records after appeal rights under subd. 10i have concluded.

Laws 1997, c. 245, art. 2, § 8, in subd. 2, in par. (j), brought visitation expeditor services within the definition of "practice of social services".

Laws 1997, 1st Sp., c. 3, § 44, in subd. 11, designated the existing text as par. (a), and at the beginning therein allowed exceptions as provided in par. (b), and added par. (b), relating to the release of information to the legislative auditor.

Laws 1997, 3rd Sp., c. 3, § 10, in subd. 10f, in the last sentence, provided that the investigating agency shall notify the "parent or guardian" of the child, rather than the "designee" of the child.

Laws 1997, 3rd Sp., c. 3, § 29, provides that, unless provided otherwise, each section of this act takes effect at the

time that the provision of law enacted in 1997 that it amends, cites, or refers to takes effect. Laws 1997, c. 203, art. 5, § 28, which amended subd. 10f, had no specific effective date.

Laws 1998, c. 406, art. 1, § 36, added subd. 11d, which related to disclosure in child fatality or near fatality cases and was identical to the subd. 11d added by Laws 1998, c. 407, art. 9, § 35.

Laws 1998, c. 406, art. 4, § 2 to 7, in subd. 10, par. (h), inserted cl. (4), relating to information on the existence of domestic abuse and violence in the home of the child; in subd. 10e, added par. (e), relating to commissioner recommendations; added subd. 10j, relating to the release of data to mandated reporters; added subd. 10k, relating to the release of certain investigative records to other counties; in subd. 11c, rewrote par. (a); and added subd. 15, relating to auditing. Prior to revision, subd. 11c, par. (a), read:

"(a) If upon assessment or investigation there is no determination of maltreatment or the need for child protective services, the records may be maintained for a period of four years. After the individual alleged to have maltreated a child is notified under subdivision 10f of the determinations at the conclusion of the assessment or investigation, upon that individual's request, records shall be destroyed within 30 days or after the appeal rights under subdivision 10i have been concluded, whichever is later."

Laws 1998, c. 407, art. 9, § 35, added subd. 11d, which related to disclosure in child fatality or near fatality and was identical to the subd. 11d added by Laws 1998, c. 406, art. 1, § 36.

Laws 1998, 1st Sp., c. 3, § 25, amended subd. 10f, as amended by Laws 1997, 3rd Sp., c. 3, § 10, by deleting a sentence providing that when there is no determination of either maltreatment or a need for services, the notice shall also include the alleged perpetrator's right to have the records destroyed.

Laws 1998, 1st Sp., c. 3, § 26, provides that each section of this act takes effect at the time the provision being corrected takes effect.

Laws 1999, c. 139, art. 4, § 2, par. (b), in part directed the revisor of statutes to correct cross references in Minnesota Statutes to sections that were repealed and recodified by Laws 1999, c. 139.

Laws 1999, c. 227, § 22, provided:

"The revisor of statutes shall reorganize Minnesota Statutes, chapter 13, to create a structure that provides users with quick access to the data practices laws codified in chapter 13, and locates references to data practices laws codified outside chapter 13 adjacent to their particular service area codified in chapter 13. For purposes of this section, 'data practice laws codified outside chapter 13' includes both laws that place restrictions on access to data and laws involving data sharing. Service areas may include government entities such as state agencies, cities, or school districts, or functional areas such as education, law enforcement, human services, or child protection. If there is no appropriate service area in chapter 13, the revisor shall recodify the provision in another logical and appropriate place in chapter 13. The revisor shall consult with the chairs of the data practices subcommittees in the house of representatives and senate, and legislative staff. The revisor shall include the data practices recodification in the 2000 edition of Minnesota Statutes."

Laws 1999, c. 241, art. 2, § 54, added subd. 3b, making the department of children, families, and learning the agency responsible for assessing or investigating allegations of child maltreatment in schools.

Laws 1999, c. 241, art. 10, § 3, in subd. 10b, par. (a), rewrote the introductory paragraph, which formerly read: "The commissioner shall immediately investigate if the report alleges that:".

Laws 1999, c. 245, art. 4, § 102, in subd. 10i, added par. (d), relating to hearings.

Laws 1999, c. 245, art. 8, § 66 to 79, rewrote subd. 2; in subd. 3, in pars. (a) and (b), inserted references to notifying the agency responsible for assessing or investigating the report, in par. (c) inserted "under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04,

subdivision 16; and 256B.0625, subdivision 19", and in par. (d), provided that the summary shall include whether the case has been opened for child protection or other services, or if a referral has been made to a community organization; added subd. 3c, relating to the agencies responsible for assessing or investigating reports of maltreatment; in subd. 4, par. (a), cl. (2), inserted "of an agency responsible for operating or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16; and 256B.0625, subdivision 19a"; in subd. 7, required the local welfare agency, when requested, to inform the reporter within ten days after the report is made on whether the report was accepted for assessment or investigation; in subd. 10, in par. (a), in the first paragraph, required as part of the assessment the gathering of information on the existence of substance abuse, and added the second paragraph, relating to alcohol and other drugs, and in par. (h), cl. (4), added "and substance abuse"; in subd. 10b, in par. (a), made this section applicable to the commissioners of human services and health, inserted references to "the agency responsible for assessing or investigating the report" throughout the subdivision, and in par. (d), substituted "local social services agency" for "local social service agency"; in subd. 10d, rewrote par. (a), and inserted references to "the agency responsible for assessing or investigating the report"; in subd. 10e, par. (e), deleted a provision relating to the commissioner's duties in connection with the maltreatment of minors advisory committee; in subd. 10f, inserted "or agency responsible for assessing or investigating the report"; rewrote subd. 10j; and in subds. 11, 11b, and 11c, inserted references to agencies responsible for assessing or investigating reports. Prior to revision, subd. 2, subd. 10d, par. (a), and subd. 10j read:

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

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

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

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

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

under section 245.825.

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

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

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

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

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

"(j) 'Practice of social services,' for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and visitation expeditor services.

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

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

"[Subd. 10d] (a) When a report is received that alleges neglect, physical abuse, or sexual abuse of a child while in the care of a facility required to be licensed pursuant to chapter 245A, the commissioner or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, or sexually abused: the name of the facility; the fact that a report alleging neglect, physical abuse, or sexual abuse of a child in the facility has been received; the nature of the alleged neglect, physical abuse, or sexual abuse; that the agency is conducting an investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed."

"Subd. 10j. Release of data to mandated reporters. A local social service or child protection agency may provide relevant private data on individuals obtained under this section to mandated reporters who have an ongoing responsibility for the health, education, or welfare of a child affected by the data. The commissioner shall consult with the maltreatment of minors advisory committee to develop criteria for determining which records may be shared with mandated reporters under this subdivision."

Laws 2000, c. 401, § 1, in subd. 2, par. (c), deleted cl. (8) and redesignated the following clauses accordingly. Prior to amendment, former cl. (8) read:

"(8) that the parent or other person responsible for the care of the child:

"(i) engages in violent behavior that demonstrates a disregard for the well-being of the child as indicated by action that could reasonably result in serious physical, mental, or threatened injury, or emotional damage to the child;

"(ii) engages in repeated domestic assault that would constitute a violation of section 609.2242, subdivision 2 or 4;

"(iii) intentionally inflicts or attempts to inflict bodily harm against a family or household member, as defined in section 518B.01, subdivision 2, that is within sight or sound of the child; or

"(iv) subjects the child to ongoing domestic violence by the abuser in the home environment that is likely to have a detrimental effect on the well-being of the child;"

Laws 2000, c. 444, art. 2, § 47, in subd. 2, par. (j), substituted "parenting time" for "visitation".

Laws 2001, c. 7, § 88, in subd. 11, corrected citations.

Laws 2001, c. 136, § 1, in subd. 2, par. (c), cl. (2), substituted "conditions or actions that seriously endanger" for "conditions or actions which imminently and seriously endanger".

Laws 2001, c. 178, art. 1, § 40, in subd. 2, rewrote par. (l), which formerly read:

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

Laws 2001, c. 178, art. 2, § § 7 to 17, in subd. 2, in par. (b), included other school employees or agents as non-family individuals having responsibilities for the care of a child, in par. (d), in the introductory fragment, inserted references to regulated interventions and to § 121A.67 and added cl. (10), relating to an act in a school facility or school zone by a person responsible for the child's care that is a violation under § 121A.58, in par. (e), included within the definition of "report" any report received by an agency responsible for assessing or investigating maltreatment, and in par. (m), required persons conducting assessments or investigations under this section to take into account accepted teacher discipline practices; in subd. 3, rewrote par. (c); in subd. 4, in par. (a), cl. (3), inserted a reference to the department of children, families, and learning, and in par. (b), extended immunity from civil or criminal liability to investigators and supervisors employed by the commissioner of human services and the commissioner of children, families, and learning; in subd. 7, referred to "the agency responsible for assessing or investigating the report" four times in connection with the flow of reports; in subd. 10, in par. (b), added the last sentence, requiring the commissioner of children, families, and learning to inform the ombudsman of any reports indicating that maltreatment occurred at a school, in par. (d), in the first paragraph, twice inserted references to "the agency responsible for assessing or investigating a report of maltreatment" and added "unless a school employee or agent is alleged to have maltreated the child" as a condition triggering early disclosure of any written notification of intent to interview a child on school property, in par. (g), distinguished the commissioner of human services from the commissioner of children, families and learning, in par. (h), inserted "or the agency responsible for assessing or investigating the report" following "the local welfare agency" throughout the paragraph, added a sentence to the end of the third paragraph of par. (h) providing that data of the commissioner of children, families, and learning collected or maintained during an investigation of alleged maltreatment are governed by this section, and added the last paragraph of par. (h), directing the commissioner of children, families, and learning to collect relevant investigative reports and data from the school and local law enforcement, and added par. (k), relating to the conduct of an assessment or investigation by the commissioner of children, families, and learning; in subd. 10b, in par. (a), inserted "assess or" preceding "investigate" in the introductory fragment, and rewrote pars. (c) and (d); in subd. 10d, in par. (a), substituted "conducting an assessment or investigation" for "conducting an investigation", and in par. (c), inserted "previously" in the first sentence and added the last sentence, regarding the obligation of the commissioner of children, families, and learning to provide notification; in subd. 10e, in the introductory paragraph, inserted the second through the fourth sentences, relating to the duties of the commissioner of children, families, and learning upon the conclusion of an assessment or investigation by the commissioner, inserted "or whether both the facility and the individual was responsible" preceding "for the maltreatment using the mitigating factors in paragraph (d)", and added language to the end of the last sentence treating determinations under subd. 10e as private data on individuals or nonpublic data; in subd. 10i, in pars. (a) and (b), inserted references to the commissioner of children, families, and learning, and in par. (b), added the last sentence, relating to the scope of § 256.045; in subd. 10j, inserted "or the agency responsible for assessing or investigating the report of maltreatment" in the first sentence; and in subd. 11, in par. (a), inserted a sentence characterizing all records concerning determinations of maltreatment by a facility as nonpublic data, and added par. (c), relating to the provision of data to, and the release of information by, the commissioner of children, families, and learning. Prior to revision, subd. 3, par. (c), and subd. 10b, pars. (c) and (d), read:

"[Subd. 3] (c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04,

subdivision 16; and 256B.0625, subdivision 19. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b."

"[Subd. 10b] (c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j).

"(d) Except for foster care and family child care, the commissioner has the primary responsibility for the investigations and notifications required under subdivisions 10d and 10f for reports that allege maltreatment related to the care provided by or in facilities licensed by the commissioner. The commissioner may request assistance from the local social services agency."

Laws 2001, 1st Sp., c. 6, art. 3, § 16, in subd. 2, par. (c), added "which does not include a parent's refusal to provide the parent's child with synpathomimetic medications, consistent with section 125A.09, subdivision 3" to the end of cl. (4).

Laws 2001, 1st Sp., c. 9, art. 11, § § 6 to 12, in subd. 10 [as amended by Laws 2001, c. 178, art. 2, § 11], par. (h), cl. (3), inserted "maintained by a facility, clinic, or health care professional", and in cl. (4), inserted the sentence providing that the local welfare agency has access to medical data and records for purposes of cl. (3); in subd. 10b, par. (a), cls. (1) and (2), inserted provisions relating to victims of maltreatment in a facility; in subd. 10d [as amended by Laws 2001, c. 178, art. 2, § 13], in pars. (a) and (b), inserted provisions relating to victims of maltreatment in a facility, and rewrote par. (c); in subd. 10e, par. (a), deleted "committed by a person responsible for the child's care" following "acts or omissions", and added cl. (5) relating to maltreatment of a child in a facility; in subd. 10f, substituted "appeal or review rights under this section or section 256.022" for "appeal rights under this section"; in subd. 11, par. (a), inserted a reference to par. (c), and added par. (c) relating to the exchange of not public data with the child maltreatment review panel; and in subd. 12, substituted "sexual abuse, or maltreatment of a child in a facility while" for "or sexual abuse of a child", and added the sentence relating to mandatory reporters. Prior to revision, subd. 10d, par. (c), read:

"(c) When the commissioner of the agency responsible for assessing or investigating the report or local welfare agency has completed its investigation, every parent, guardian, or legal custodian previously notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, or sexual abuse; the investigator's name; a summary of the investigation findings; a statement whether maltreatment was found; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. The commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility if maltreatment is determined to exist. In the case of maltreatment within a school facility, as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10, the commissioner of children, families, and learning need not provide notification to parents, guardians, or legal custodians of each child in the facility, but may provide notification to the parent, guardian, or legal custodian of any student alleged to have been maltreated or involved as a witness to alleged maltreatment."

Laws 2001, 1st Sp., c. 9, art. 14, § 29, rewrote subd. 10i, as amended by Laws 2001, c. 178, art. 2, § 15. Prior to revision by either 2001 law, subd. 10i read:

"Subd. 10i. Administrative reconsideration of final determination of maltreatment. (a) An individual or facility that the commissioner or a local social service agency determines has maltreated a child, or the child's designee, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment.

"(b) If the investigating agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services a written request for a hearing under that section.

"(c) If, as a result of the reconsideration, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

"(d) If an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party."

Laws 2002, c. 375, art. 1, § 21, in subd. 10i, rewrote par. (e), which formerly read:

"(e) Effective January 1, 2002, if an individual was disqualified under section 245A.04, subdivision 3d, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and requested reconsideration of the disqualification under section 245A.04, subdivision 3b, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. If an individual disqualified on the basis of a determination of maltreatment, which was serious or recurring requests a fair hearing under paragraph (b), the scope of the fair hearing shall include the maltreatment determination and the disqualification."

Laws 2002, c. 379, art. 1, § 107, in subd. 11, par. (a), corrected a citation.

Laws 2002, c. 379, art. 1, § 113, provides:

"2001 First Special Session Senate File No. 4, as passed by the senate and the house of representatives on Friday, June 29, 2001, and subsequently published as Laws 2001, First Special Session chapter 9, is reenacted. Its provisions are effective on the dates originally provided in the bill."

Laws 2002, c. 385, § 9, in subd. 6, designated pars. (a) and (c) as such, and added par. (b), which specified the penalty for failing to report certain child abuse.

Laws 2002, c. 385, § 11, provides in part that § 9 (amending subd. 6) is effective August 1, 2002, and applies to crimes committed on or after that date.

CROSS REFERENCES

Abortion, minors, notification of parent, victim of sexual abuse under this section, declaration and notice thereof, see [§ 144.343](#).

Child care program reporting under this section, see [§ 245A.145](#).

Child maltreatment review panel established by commissioner of human services, see [§ 256.022](#).

Child protections, preparing a case plan for delivery of services under this section, see [§ 260C.201](#).

Children's trust fund for prevention of child abuse, see [§ § 144.226, 119A.10](#) et seq.

Complementary or alternative health care practices; reporting under this section, see [§ 146A.025](#).

Domestic child abuse or neglect, appointment of guardian ad litem for custody, dissolution, and separation proceedings, see [§ 518.165](#).

Falsely **reporting child abuse**, see [§ 609.507](#).

Hospital immunity from liability for failure to make a report under this sections, see [§ 145.902](#).

Human service licensing, application procedures, license suspension or revocation, see [§ § 245A.04, 245A.07](#).

Place of prosecution of child abuse cases, see [§ 627.15](#).

Prosecution by county attorney, failure to report child abuse or neglect, see [§ 388.051](#).

School boards, reporting teacher discharge or resignation after charges, see [§ 122A.20](#).

Sexual assault counselors, competency of witnesses, no exemption from compliance with this section, see [§ 595.02](#).

ADMINISTRATIVE CODE REFERENCES

Protective services for children, see [Minn. Rules 9560.0210](#) et seq.

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[C.J.S. Infants § § 5, 31, 36 to 40, 43 to 44, 51 to 52, 55, 57, 62, 69 to 85, 92 to 93, 95 to 98](#).

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[119 ALR 5th 275](#), Competency of One Spouse to Testify Against Other in Prosecution for Offense Against Child of Both or Either or Neither.

[7 ALR 3rd 1458](#), Applicability in Criminal Proceedings of Privilege as to Communications Between Physician and Patient.

Encyclopedias

[38 Am. Jur. Trials 1](#), Professional Liability for Failure to Report Child Abuse.

Treatises and Practice Aids

[7 Minnesota Practice Series § 1.7](#), Rules of Evidence.

[9 Minnesota Practice Series § 47.9](#), Evidence.

[10 Minnesota Practice Series CRIMJIG 13.65](#), Mistreatment of Persons Confined--Child--Defined.

[10 Minnesota Practice Series CRIMJIG 13.66](#), Mistreatment of Persons Confined--Child--Elements.

[10 Minnesota Practice Series CRIMJIG 13.86](#), Permitted Use of Reasonable Force Toward a Child.

[11 Minnesota Practice Series § 501.03](#), Marital Privileges.

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[12 Minnesota Practice Series R 10](#), Discovery.

[12 Minnesota Practice Series R 30](#), Records.

[13 Minnesota Practice Series R 38](#), Definitions.

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[13 Minnesota Practice Series R 76](#), Disposition.

[23 Minnesota Practice Series § 23.2](#), Husband-Wife Privilege.

[23 Minnesota Practice Series § 23.14](#), Communications to Sexual Assault Counselors.

[9A Minnesota Practice Series § 51.12](#), Evidence.

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[1](#). Validity

Procedures available under Minnesota statute [M.S.A. § 626.556] which requires that certain professionals report suspected incidences of child abuse to responsible county authorities who investigate the report and, if warranted, offer "protective social services" and "maintain appropriate records," adequately protected reputation interests of parents identified as child abusers under the statute, and did not violate Fourteenth Amendment due process clause, despite parents' contention that county denied them due process by failing to provide them with notice of finding of child abuse, statement of basis for that finding, and notice of their right to appeal. [Bohn v. Dakota County, C.A.8 \(Minn.\)1985, 772 F.2d 1433](#), certiorari denied [106 S.Ct. 1192, 475 U.S. 1014, 89 L.Ed.2d 307](#).



Application of subd. 10(c) in this section of **Reporting** of Maltreatment of Minors Act to permit interviews of suspected victims of **child abuse** without parental consent even though alleged perpetrator was not identified did not violate father's right to privacy in family relationships; interview of suspected victim of **child abuse** without parental consent when identification of perpetrator was unknown was reasonable means to effectuate State's interests in identifying and protecting abused children. [R.S. v. State, 1990, 459 N.W.2d 680](#). Constitutional Law  82(10); Infants  12(9)



Requirement in subd. 6 of this section that educator who knows or who has reason to believe child is being neglected or physically or sexually abused report information to local welfare agency, police department or county sheriff, is not unconstitutionally vague or overbroad, as the "reason to believe" phrase is interpreted under criminal negligence standard, which is sufficiently clear and definite to provide a standard for governance of conduct of educator; nor does it interfere with educator's right of free speech by compelling him to espouse a viewpoint with which he may not wish to associate. [State v. Grover, 1989, 437 N.W.2d 60](#). Infants  12(9); Schools  10


Policy which is set forth in subd. 1 of this section and which authorized county's investigation of sexual abuse charges against social worker was not unconstitutional as a deprivation of due process, where social worker received notice of charges and opportunity to respond to charge. [Johnston v. Michael Shea and Associates, App.1988, 425 N.W.2d 263](#), review denied. Constitutional Law  278.4(5)


This section requiring **reporting** of suspected **child abuse** by psychologist, does not violate client's right to privacy. [Matter of Schroeder, App.1987, 415 N.W.2d 436](#), review denied. Constitutional Law  82(10); Infants  12(9)


2. In general

Minnesota statutes exempting spiritual healers from criminal child neglect statutes and exempting Christian Scientists from laws that forbid practicing medicine without a license did not sanction prayer alone to treat child battling life-threatening disease. [Lundman v. McKown, App.1995, 530 N.W.2d 807](#), review denied, certiorari denied [116 S.Ct. 814, 516 U.S. 1092, 133 L.Ed.2d 759](#), certiorari denied [116 S.Ct. 828, 516 U.S. 1099, 133 L.Ed.2d 770](#). Constitutional Law  84.5(17); Infants  20


Child victim of sexual abuse could not recover from county, from county employees, or from professionals and facilities charged with supervising probationer who abused victim for violations of **Child Abuse Reporting Act**; Act did not create private right of action for violations or create duty which could be enforced through common-law negligence action, and, furthermore, defendants substantially complied with Act's **reporting** requirements. [Valtakis v. Putnam, App.1993, 504 N.W.2d 264](#). Action  3; Infants  13

Child Abuse Reporting Act is construed narrowly to achieve its purposes without destroying benefits that result when those who maltreat children seek confidential therapy sessions. [State v. Odenbrett, 1984, 349 N.W.2d 265](#). Infants  12(1)


State has compelling interest in identifying and protecting victims of **child abuse** which must be balanced against the patient's interest in his privacy in context of challenge to constitutionality of **Child Abuse Reporting Act**. [State v. Odenbrett, 1984, 349 N.W.2d 265](#). Infants  12(9)



In prosecution for criminal sexual conduct in second degree, defendant's medical privilege was not violated by admission of sexual abuse report disclosed by mental health unit of private health care center to local welfare agency, which disclosure was authorized by **Child Abuse Reporting Act**. [State v. Odenbrett, 1984, 349 N.W.2d 265](#). Witnesses  211(4)

Information which is sheltered by statutory medical privilege loses its privileged status to extent its disclosure is authorized by **Child Abuse Reporting Act**. [State v. Odenbrett, 1984, 349 N.W.2d 265](#). Witnesses  211(4)


Within this section "battered child syndrome" means a condition by which children are injured other than by accident. [State v. Loss, 1973, 295 Minn. 271, 204 N.W.2d 404](#). Infants  13

3. Construction with other law


There may be circumstances under which **child abuse** report under **Child Abuse Reporting Act** could be health record under Health Records Act. [Bol v. Cole, 1997, 561 N.W.2d 143](#), rehearing denied. Infants  133


Child abuse report which is required to be filed under **Child Abuse Reporting Act** is not "health record," and cannot be released as such by health care provider under statute which allows patients to obtain records. [Bol v. Cole, App.1996, 545 N.W.2d 408](#), review granted, reversed [561 N.W.2d 143](#), rehearing denied. Infants  13.5(1); Infants  133

3.5. Purpose


Acts mandated by **Child Abuse Reporting Act** (CARA) were clearly for the protection of a particular class of persons, i.e., those children who were identified in suspected abuse or neglect reports received by county, rather than for protection of public in general, which was factor to be considered in determining if county owed special duty requiring it to act with due care in investigating reports of **child abuse**, for purposes of father's wrongful death action against county and county child protection workers, alleging that they had negligently investigated reports of suspected **abuse of child**. [Radke v. County of Freeborn, 2005, 694 N.W.2d 788](#). Infants  17

4. Person responsible for child's care


It was not necessary that psychologist's client, the grandfather of a girl whom he was sexually abusing, have responsibility for care of the granddaughter in order for psychologist to be disciplined for failing to report the abuse; it was sufficient that the grandfather was alone with the granddaughter. [Matter of Schroeder, App.1987, 415 N.W.2d 436](#), review denied. Health  204

Child Abuse Reporting Act authorized disclosure by private health care center personnel of defendant's identity, as defendant, who was babysitting the victim was "person responsible for the child's care". [State v. Odenbrett, 1984, 349 N.W.2d 265](#). Infants  13.5(2)


5. Injuries to child


Term "child's injuries" in **Child Abuse Reporting Act**, when used in context of sexual abuse, includes psychic injury. [State v. Odenbrett, 1984, 349 N.W.2d 265](#). Infants  13.5(1)

6. Notice


Allegedly defective notice given by Department of Human Services to mother accused of maltreating her son did not require reversal of determination that mother maltreated son, where notice was sent in envelope addressed to both mother and son's adoptive father who lived at same address, mother was involved in every step of appeal process, and she was never denied a hearing. [Zahler v. Minnesota Dept. of Human Services, App.2001, 624 N.W.2d 297](#), review denied. Infants  198

7. Records

Social worker maintained appropriate records concerning investigation of maltreatment of son by mother, where social worker completed intake social service referral form generated when paternal grandparents met with social worker which documented their allegations of abuse, social services referral which documented minor's version of abusive incident, and personal narrative of events surrounding maltreatment determination. [Zahler v. Minnesota Dept. of Human Services, App.2001, 624 N.W.2d 297](#), review denied. Infants  17

Mandatory **reporting** law concerning **child abuse** or neglect requires a disclosure by a welfare agent to an individual who is the subject of the data of all records maintained following a report of abuse or neglect, but the law requires disclosure by a county sheriff or law enforcement agency to the individual only of the initial report of abuse or neglect, notwithstanding the confidential classification for investigative data found in the Data Practices Act. [Nelson v. Ninneman, App.1985, 373 N.W.2d 373](#). Infants  133

8. Credibility evaluation

Social worker was not required, under statute governing reporting of maltreatment of minors, to evaluate son's credibility in investigation of whether mother maltreated son. [Zahler v. Minnesota Dept. of Human Services, App.2001, 624 N.W.2d 297](#), review denied. Infants  17

9. Retaliatory discharge

Discharged employee failed to state claim for retaliatory discharge under subd. 4a of this section where no written report was submitted and no complaints during term of employment related to physical or sexual abuse or neglect of minor children by her employer. [Ziegler v. Leo A. Hoffmann Center, Inc., App.1986, 397 N.W.2d 378](#), review denied. Labor And Employment 🔑 778

10. Civil actions

County and two county child protection workers owed special duty to child under **Child Abuse Reporting Act** (CARA) once they received reports identifying child as suspected victim of abuse, and thus father could bring wrongful death action against county and workers under CARA, in which he alleged that county and workers had negligently investigated reports of suspected **abuse of child**; CARA set forth mandatory acts that were for particular protection of particular class of persons and not public in general, which factor was "overwhelmingly dominant" in determination that special duty existed, and county had actual knowledge of dangerous condition at issue, i.e., that child had allegedly been abused, overruling, [Hoppe v. Kandiyohi County, 543 N.W. 2d 635](#). [Radke v. County of Freeborn, 2005, 694 N.W.2d 788](#). Infants 🔑 17

While limited facts before Supreme Court suggested that father had not established that county had increased risk of harm to his child in investigating reports that child was being abused, absence of "increased risk of harm" factor would not prevent father's wrongful death case against county and others, pursuant to **Child Abuse Reporting Act** (CARA), from going forward, as presence of all four factors analyzed to determine whether county owed special duty of care under a statute that required it to act with due care were not required to be met in order for special duty to exist. [Radke v. County of Freeborn, 2005, 694 N.W.2d 788](#). Infants 🔑 17

Child Abuse Reporting Act does not contain a civil cause of action for alleged negligent investigation or intervention. [Radke v. County of Freeborn, App.2004, 676 N.W.2d 295](#), review granted, reversed [694 N.W.2d 788](#). Action 🔑 3

Statute requiring certain professionals to report suspected neglect, physical abuse, or sexual **abuse of children** does not create a private cause of action for a violation of its **reporting** requirements or create a duty which could be enforced through a common-law negligence action. [Meyer v. Lindala, App.2004, 675 N.W.2d 635](#), review denied. Infants 🔑 13.5(2)


Reporting of Maltreatment of Minors Act (RMMA) neither authorized nor implied a civil cause of action for bad faith **reporting** or investigation of **child abuse**. [Kuelbs v. Williams, App.2000, 609 N.W.2d 10](#), review denied. Infants 🔑 13.5(2); Infants 🔑 17



There is no express or implied civil cause of action under Reporting of Maltreatment of Minors Act (RMMA) for bad faith reporting or investigating child maltreatment. [Kuelbs v. Williams, App.2000, 609 N.W.2d 10](#), review denied. Infants 🔑 13.5(2); Infants 🔑 17

No special relationship existed between child and uncle when child's father was present, and thus uncle could not be held liable for father's sexual abuse of child in uncle's home, where father's parental rights had not been restricted or terminated, father had not imposed any responsibility for protecting child upon uncle, and uncle was not party to any marital or contractual relationship which would have given rise to special relationship, even though uncle had assumed from child's mother responsibility to care for child and her sister during the week. [Sunnarborg v. Howard, App.1998, 581 N.W.2d 397](#), review denied. Negligence 🔑 258


Statutes exempting parents who attempt to heal child by spiritual means from criminal child neglect statute did not establish civil standard of care in negligence action against mother, stepfather, Christian Science nurse and Christian Science practitioner arising from death of child who was treated by spiritual means. [Lundman v. McKown, App.1995, 530 N.W.2d 807](#), review denied, certiorari denied [116 S.Ct. 814, 516 U.S. 1092, 133 L.Ed.2d 759](#), certiorari denied [116 S.Ct. 828, 516 U.S. 1099, 133 L.Ed.2d 770](#). Parent And Child 🔑 11; Health 🔑 693

11. Civil rights


This section could not form basis of civil rights claim against county officials who separated parents from their children during investigation of alleged child sexual abuse. [Myers v. Morris, C.A.8 \(Minn.\)1987, 810 F.2d 1437](#), certiorari denied [108 S.Ct. 97, 484 U.S. 828, 98 L.Ed.2d 58](#). Civil Rights  1088(1)



Social workers' alleged violations of [§ § 13.04, 257.071, 260.165](#), and 626.556, specifying procedures relative to foster care placement of children, while questioning children who were alleged to have been sexual abuse victims, did not violate parents' liberty interests in undisrupted family units, where statutes and regulations did not confer or embody any constitutionally protected rights. [In re Scott County Master Docket, D.Minn.1987, 672 F.Supp. 1152](#), affirmed [868 F.2d 1017](#). Constitutional Law  274(5); Infants  17


12. Disclosure of reporter


Identity of reporter making allegations of abuse to minors may not be disclosed to person accused until trial court, in camera, has inspected files and records concerning report and any subsequent investigation thereof in agency's possession to which alleged abuse has been reported, and, thereafter has made written findings that report was false and that there existed evidence that report was made in bad faith. [Guetter v. Brown County Family Services, 1987, 414 N.W.2d 729](#). Infants  133

13. Duty to report


Use of word "shall" in subd. 10 of this section dealing with duties of local welfare agencies upon receipt of a report of child abuse does not give parents a property interest in social services. [Doe v. Hennepin County, C.A.8 \(Minn.\)1988, 858 F.2d 1325](#), rehearing denied, certiorari denied [109 S.Ct. 3161, 490 U.S. 1108, 104 L.Ed.2d 1023](#). Constitutional Law  277(2)

Social worker's statement in her notice of maltreatment to mother of alleged victim of **child abuse** that mother's boyfriend repeatedly struck victim was protected from defamation claim by qualified privilege; social worker was required by **Reporting** of Maltreatment of Minors Act (RMMA) to send notice to child's parent and target failed to establish social worker acted with malice. [Kuelbs v. Williams, App.2000, 609 N.W.2d 10](#), review denied. Libel And Slander  42(2); Libel And Slander  51(3)


Social worker would not be protected by official immunity for alleged failure to communicate accurately information received from out-of-state father alleging that his child was sexually abused; communication of information on which decision was based was ministerial duty. [S.L.D. v. Kranz, App.1993, 498 N.W.2d 47](#). Infants  17

Fact that psychologist who learned of sexual abuse may have concluded that the abuse occurred only in the past did not relieve him of duty to report the suspected abuse. [Matter of Schroeder, App.1987, 415 N.W.2d 436](#), review denied. Infants  13.5(1)


13.5. Duty to investigate

While it could not be determined conclusively whether father had reasonably relied on county's representations and conduct with respect to county's investigation of allegations that child was being abused, which was factor to be considered in determining if county owed special duty under **Child Abuse Reporting** Act (CARA) requiring it to act with due care in investigating reports of **child abuse**, given the repeated reports to county from child's father, police, doctors, and child's guardian ad litem, it was difficult to speculate as to what more father could have done, for purposes of father's wrongful death action against county and county child protection workers, alleging that they had negligently investigated reports of suspected **abuse** of **child**. [Radke v. County of Freeborn, 2005, 694 N.W.2d 788](#). Infants  17


County had actual knowledge of dangerous condition at issue, which knowledge was factor to be considered in

determining if county owed special duty under **Child Abuse Reporting Act** (CARA) requiring it to act with due care in investigating reports of **child abuse**, for purposes of father's wrongful death action against county and county child protection workers, alleging that they had negligently investigated reports of suspected **abuse of child**; county had received numerous reports of suspected **abuse of child** from father, police, doctors, and child's guardian ad litem. [Radke v. County of Freeborn, 2005, 694 N.W.2d 788](#). Infants  17


14. Authorized recipients of report

Psychologist who released copy of **child abuse** report which was required to be made under **Child Abuse Reporting Act** to individual who was not designated recipient of report under Act was not entitled to immunity in defamation action brought by person who was named in report as having committed acts of **child abuse**, as report did not constitute "health record" under statute allowing patients to demand such records. [Bol v. Cole, App.1996, 545 N.W.2d 408](#), review granted, reversed [561 N.W.2d 143](#), rehearing denied. Libel And Slander  36


15. Criminal proceedings


Marital privilege under § 595.02 does not apply to proceedings under § 609.342 arising out of sexual abuse of a child by person responsible for, or in position of authority over child. [State v. Willette, App.1988, 421 N.W.2d 342](#), review denied. Witnesses  188

16. Assessments of reports


Law enforcement and welfare agencies are not required to conduct assessments of reports to determine at what point the interests of the parent becomes subservient to the interest of interviewing the child in private for fear of damaging the investigation. [R.S. v. State, App.1989, 447 N.W.2d 205](#), review granted, reversed [459 N.W.2d 680](#). Infants  13


17. Interview

Interview of suspected victim of child abuse without parent consent if identification of perpetrator is unknown is reasonable means to effectuate State's legitimate interest in identifying and protecting abused children as long as discretion to conduct interview is wisely and sensitively exercised. [R.S. v. State, 1990, 459 N.W.2d 680](#). Infants  13

Allegation that reported victim of child abuse resides with or has resided with alleged perpetrator is not required before child victim may be interviewed without parental notice or consent; requirement of residing with alleged perpetrator before interview may take place applies only to "other minors" not specifically mentioned in report of suspected abuse who may reside with that perpetrator. [R.S. v. State, 1990, 459 N.W.2d 680](#). Infants  13


18. Statement

Social worker satisfied any statutory requirement to provide mother with opportunity to make statement prior to making determination that son was maltreated, where social worker set up interview with mother but mother's attorney canceled interview. [Zahler v. Minnesota Dept. of Human Services, App.2001, 624 N.W.2d 297](#), review denied. Infants  17


Mother was provided opportunity to meet with social worker for face-to-face interview in proceeding to determine whether mother had maltreated son, but mother's attorney canceled appointment. [Zahler v. Minnesota Dept. of Human Services, App.2001, 624 N.W.2d 297](#), review denied. Infants  17

19. Destruction of files



Statutorily mandated destruction of results of earlier investigations of reports that defendant was sexually abusing his niece, on ground that allegations of sexual abuse were unsubstantiated, was not destruction of evidence such as


would entitle defendant to dismissal of criminal sexual conduct charges that were later filed against him; comparable evidence could be obtained by other reasonably available means, by having defense investigators interview same witnesses and investigate same circumstances. [State v. Wiherski, App.1992, 481 N.W.2d 144](#), review denied. Criminal Law  700(9)



20. Audio recordings


County would not be penalized for failing to make audio recordings of social worker's interviews with son and paternal grandparents in making determination that son had been maltreated by mother, where statute governing reporting of maltreatment of minors required recordings to be made "whenever possible," statute did not specify penalty for failing to make recordings, and record otherwise supported decision to uphold finding of maltreatment. [Zahler v. Minnesota Dept. of Human Services, App.2001, 624 N.W.2d 297](#), review denied. Infants  17


21. Immunity--In general



Absent malice, a person who in good faith based on reasonable cause makes a report under the Reporting of Maltreatment of Minors Act (RMMA) is protected from a defamation claim by a qualified privilege. [Kuelbs v. Williams, App.2000, 609 N.W.2d 10](#), review denied. Libel And Slander  42(2); Libel And Slander  43


For a defamatory statement to be protected by a qualified privilege, the statement must be made in good faith, on a proper occasion, from a proper motive, and based on reasonable or probable cause. [Kuelbs v. Williams, App.2000, 609 N.W.2d 10](#), review denied. Libel And Slander  41

Social worker's statement in her notice of maltreatment to mother of alleged victim of **child abuse** that mother's boyfriend repeatedly struck victim was protected from defamation claim by qualified privilege; social worker was required by **Reporting** of Maltreatment of Minors Act (RMMA) to send notice to child's parent and target failed to establish social worker acted with malice. [Kuelbs v. Williams, App.2000, 609 N.W.2d 10](#), review denied. Libel And Slander  42(2); Libel And Slander  51(3)


Psychologist was not immune under **Child Abuse Reporting** Act from civil defamation liability for sending **child abuse** report to child's parent, as Act neither required nor authorized psychologist to report suspected abuse to parent. [Bol v. Cole, 1997, 561 N.W.2d 143](#), rehearing denied. Libel And Slander  36

Psychologist who released copy of **child abuse** report which was required to be made under **Child Abuse Reporting** Act to individual who was not designated recipient of report under Act was not entitled to immunity in defamation action brought by person who was named in report as having committed acts of **child abuse**, as report did not constitute "health record" under statute allowing patients to demand such records. [Bol v. Cole, App.1996, 545 N.W.2d 408](#), review granted, reversed [561 N.W.2d 143](#), rehearing denied. Libel And Slander  36

County was vicariously immune from suit based on alleged negligent determination of social workers that an out-of-state father's allegations did not constitute report of neglect; workers were entitled to official immunity. [S.L.D. v. Kranz, App.1993, 498 N.W.2d 47](#). Counties  146; Infants  17

Social workers were performing discretionary duties, rather than mere ministerial duties, when they decided that an out-of-state father's call did not constitute a report of neglect, and, thus, the social workers were protected by official immunity for the decision not to investigate father's assertion of sexual abuse. [S.L.D. v. Kranz, App.1993, 498 N.W.2d 47](#). Infants  17

22. ---- Burden of proof, immunity

If a defendant is protected by a qualified privilege, the plaintiff has the burden to prove that the privilege was abused because the allegedly defamatory statements were made with malice. [Kuelbs v. Williams, App.2000, 609 N.W.2d 10](#), review denied. Libel And Slander  51(1)

23. Sexual abuse

Defendant's offense, involving sexual intercourse with his niece, was "child abuse," within meaning of venue statute for criminal prosecution of child abuse; defendant was in "position of authority" over niece in that he was ten years older than she, she described him as her "favorite uncle," and he acted as her confidante. [State v. Larson, App.1994, 520 N.W.2d 456](#), review denied. Criminal Law 🔑 106

24. Government data

Letter that employees of school district wrote to child's guardian ad litem, expressing concerns over child's care at foster home, was not a confidential mandated report of child neglect or child abuse, but was "government data" over which Commissioner of Administration had jurisdiction in proceeding brought by foster parents to have letter rescinded, even though guardian ad litem faxed copy of letter to county child protection worker who was a designated recipient of mandated reports. [In re Determination of Responsible Authority for South Washington County School Dist. 833, App.2000, 620 N.W.2d 45](#). Infants 🔑 208

25. Evidence

Confidentiality of patient records provisions of the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act ([42 U.S.C.A. § 4582](#)) and the regulations promulgated thereunder did not preclude use of patient records in **child abuse** proceedings to extent required by the Minnesota Maltreatment of Minors **Reporting Act** (§ 626.556). [State v. Andring, 1984, 342 N.W.2d 128](#). Witnesses 🔑 196.4

While subd. 8 of the Minnesota Maltreatment of Minors Reporting Act providing that, despite physician-patient or husband-wife privilege, no evidence regarding child's injuries shall be excluded in any proceeding arising out of alleged neglect or physical or sexual abuse was meant to allow evidentiary use of information reported to authorities under mandate of Reporting Act, it does not require that defendant's record from crisis unit, which includes confidential statements made to professionals in one-on-one sessions and within group therapy sessions, be handed over, in its entirety, to prosecution authorities. [State v. Andring, 1984, 342 N.W.2d 128](#). Criminal Law 🔑 627.5(6)

In prosecution for first-degree manslaughter, arising out of defendant's intentional assault upon his two-month-old daughter causing her death, use of medical phrase "battered child syndrome" in physician's testimony was not prejudicial. [State v. Goblirsch, 1976, 309 Minn. 401, 246 N.W.2d 12](#). Criminal Law 🔑 338(7)

In prosecutions relating to injuries or death of minor children, it is proper to introduce medical testimony relating to "battered child syndrome" and "battering parent syndrome." [State v. Loss, 1973, 295 Minn. 271, 204 N.W.2d 404](#). Criminal Law 🔑 474.4(4)

Where evidence, in prosecution based on death of infant, establishes existence of a battered child syndrome beyond a reasonable doubt, prosecution need not prove existence of a battering parent syndrome and evidence for which a jury could reasonably infer that defendant fits one of psychological patterns of such a person is proper and can form part of circumstantial evidence against defendant. [State v. Loss, 1973, 295 Minn. 271, 204 N.W.2d 404](#). Homicide 🔑 996

M. S. A. § 626.556, MN ST § 626.556

Current with laws of the 2005 Regular Session effective through June 1, 2005

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