

**Subject** Department of Human Services operations, program integrity and criminal penalties policy

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### Overview

This bill, as amended, establishes new offenses involving soliciting, receiving, offering, or making a payment, such as a bribe or kickback, in exchange for an act that involves payment under a federal health care program or state child care program. The bill also modifies human services licensing provisions, foster care training requirements, and DHS fining authority, and makes conforming changes.

### Summary

Section	Description
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| 1 | <p><b>Application.</b></p> <p>Amends § 13.82, subd. 1. Expands the list of entities for whom the law enforcement data provisions apply to include the Department of Human Services.</p>  |
| 2 | <p><b>First date of direct contact.</b></p> <p>Amends § 245A.041 by adding subd. 5. Requires DHS license holders, except family child care and family child foster care providers, to document the first date on which a background study subject has direct contact with persons served by the program. Makes this section effective January 1, 2021.</p>   |
| 3 | <p><b>License holder qualifications for child foster care.</b></p> <p>Amends § 245A.11 by adding subd. 13. (a) Specifies that child foster care license holders and household members must maintain the ability to care for a foster child and continue to be free from substance use issues. Requires license holders to immediately notify the licensing agency of:</p> <ol style="list-style-type: none"><li>1) any changes to a license holder's or household member's health that may pose a risk to a foster child;</li><li>2) substance use issues; and</li><li>3) the removal of a child for whom the license holder is responsible.</li></ol> |

Section	Description
	(b) Allows the licensing agency to request that the license holder or household member undergo an evaluation by a relevant specialist.  Makes this section effective January 1, 2021.
4	<b>Child passenger restraint systems; training requirement.</b> Amends § 245A.18, subd. 2. Removes language relating to training variances for emergency relative placements (moved to different section); makes this section effective January 1, 2021.
5	<b>Family child foster care training requirements.</b> Proposes coding for § 245A.70. Consolidates foster care training requirements into a single section.  <b>Subd. 1. Applicability.</b> Specifies that the section applies to licensed family child foster care programs in the license-holder’s residence; defines “foster parent.”  <b>Subd. 2. Orientation.</b> Specifies requirements for pre-licensing orientation training for foster parents.  <b>Subd. 3. Mental health training.</b> Specifies requirements for two hours of pre-licensing mental health training for foster parents.  <b>Subd. 4. Child passenger restraint systems.</b> Specifies motor vehicle child passenger restraint systems training requirements for foster parents and caregivers.  <b>Subd. 5. Training about the risk of sudden unexpected infant death and abusive head trauma.</b> Specifies requirements for one hour of training on sudden unexpected infant death and abusive head trauma for foster parents and caregivers.  <b>Subd. 6. Training on use of medical equipment.</b> Specifies requirements for training on the operation of a child’s medical equipment for foster parents and caregivers, if applicable.  <b>Subd. 7. Fetal alcohol spectrum disorders training.</b> Specifies annual requirement for training on fetal alcohol spectrum disorders for foster parents and caregivers.  <b>Subd. 8. Ongoing training.</b> Specifies ongoing training requirements for foster parents and caregivers.  <b>Subd. 9. Documentation of training.</b> Specifies foster care training documentation requirements for licensing agencies.

Section	Description
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Makes this section effective January 1, 2021.

**6 Foster residence setting staff training requirements.**

Proposes coding for § 245A.75. Consolidates foster residence setting staff training requirements into a single section.

**Subd. 1. Applicability.** Defines “foster residence setting” for purposes of this section.

**Subd. 2. Orientation.** Specifies training for foster residence setting staff required before unsupervised contact with a foster child.

**Subd. 3. Mental health training.** Specifies requirements for mental health training for foster residence setting staff.

**Subd. 4. Child passenger restraint systems.** Specifies motor vehicle child passenger restraint systems training requirements for license holders, staff persons, or caregivers.

**Subd. 5. Training about the risk of sudden unexpected infant death and abusive head trauma.** Specifies requirements for one hour of training on sudden unexpected infant death and abusive head trauma for certain foster residence setting staff persons.

**Subd. 6. Training on use of medical equipment.** Specifies requirements for training on the operation of a child’s medical equipment for foster residence setting license holders or staff, if applicable.

**Subd. 7. Fetal alcohol spectrum disorders training.** Specifies annual requirement for training on fetal alcohol spectrum disorders for foster residence setting staff.

**Subd. 8. Prudent parenting standards training.** Specifies requirement for at least one on-site staff person to be trained on reasonable and prudent parenting standards.

**Subd. 9. Annual training plan and hours.** Requires license holders to develop an annual training plan for staff and volunteers; specifies additional requirements for training.

**Subd. 10. Documentation of training.** Specifies staff and volunteer training documentation requirements for license holders.

Makes this section effective January 1, 2021.

<b>Section</b>	<b>Description</b>
7	<p><b>15-year disqualification.</b></p> <p>Amends § 245C.15, subd. 2. Adds a felony violation of the new crimes created in section 14 to the list of offenses that trigger a 15-year disqualification under a human services background study for a position that allows direct contact with persons receiving services from an entity identified in section 245C.03. Makes this section effective August 1, 2020.</p>
8	<p><b>Ten-year disqualification.</b></p> <p>Amends § 245C.15, subd. 3. Adds a gross misdemeanor violation of the new crimes created in section 14 to the list of offenses that trigger a ten-year disqualification under a human services background study for a position that allows direct contact with persons receiving services from an entity identified in section 245C.03. Makes this section effective August 1, 2020.</p>
9	<p><b>Seven-year disqualification.</b></p> <p>Amends § 245C.15, subd. 4. Adds a misdemeanor violation of the new crimes created in section 14 to the list of offenses that trigger a seven-year disqualification under a human services background study for a position that allows direct contact with persons receiving services from an entity identified in section 245C.03. Makes this section effective August 1, 2020.</p>
10	<p><b>Financial misconduct or misconduct.</b></p> <p>Amends § 245E.01, subd. 8. Adds a violation of the new crimes created in section 14 to the definition of “financial misconduct” or “misconduct.” Under chapter 245E, financial misconduct or misconduct can result in sanctions including, but not limited to, referral for criminal prosecution, monetary recovery, and suspending or terminating payments to a provider. Makes this section effective August 1, 2020.</p>
11	<p><b>Grounds for sanctions against vendors.</b></p> <p>Amends § 256B.064, subd. 1a. Adds the establishment of probable cause to believe that a person or entity violated the new crimes created in section 14 to the list of actions that can trigger sanctions against a vendor of medical care. Sanctions can include the imposition of a fine, suspension or withholding of payments, or termination from the program. Makes this section effective August 1, 2020.</p>
12	<p><b>Imposition of monetary recovery and sanctions.</b></p> <p>Amends § 256B.064, subd. 2. Adds cross-references to chapters 254B and 245G, to allow DHS to expand fining authority for violations of substance use disorder treatment statutes and regulations.</p>

Section	Description
13	<p><b>Legal representation.</b></p> <p>Amends § 256B.12. Permits the attorney general, in addition to a county attorney, to institute criminal or civil actions regarding alleged violations of the new crimes created in section 14. Makes this section effective August 1, 2020.</p>
14	<p><b>Human services programs crimes.</b></p> <p>Proposes coding for § 609.542.</p> <p><b>Subd. 1. Definitions.</b> Defines “federal health care program” and “remuneration” consistent with the definitions in federal law located in United States Code, title 42, section 1320a.</p> <p><b>Subd. 2. Illegal remunerations for medical assistance.</b> Establishes new criminal offenses for soliciting, receiving, offering, or paying anything of value, including a kickback or bribe, in exchange for: (1) referring an individual to receive an item or service for which payment is made under a federal health care program; or (2) purchasing, leasing, ordering, or arranging for a good, service, or item for which payment is made in whole or in part under a federal health care program. Excludes remuneration and payment practices exempted under federal law.</p> <p><b>Subd. 3. Illegal remunerations in the child care assistance program.</b> Establishes new criminal offenses for soliciting, receiving, offering, or paying anything of value, including a kickback or bribe, in exchange for: (1) referring an individual to receive an item or service for which payment is made under chapter 119B (child care programs); or (2) purchasing, leasing, ordering, or arranging for a good, service, or item for which payment is made in whole or in part under chapter 119B (child care programs). Excludes payments made by an employer to an employee for providing covered items or services under chapter 119B while the person is acting in the course and scope of employment, and marketing or promotional offerings that directly benefit an eligible individual’s child for whom the child care provider is providing services.</p> <p><b>Subd. 4. Penalties for solicitation of a kickback.</b> Provides that a person convicted of violating subdivision 2 or 3 may be sentenced pursuant to a violation of the theft statute, section 609.52. Defines the term “value” for purposes of sentencing to include the amount of money solicited or received, or the amount of public funds expended. Penalties under section 609.52 include misdemeanors, gross misdemeanors, and felonies depending on the value associated with the violation. Consistent with existing law regarding theft, permits the value of all violations committed in a six-month period to be aggregated and permits prosecution of violations that occurred in multiple counties to be combined into a prosecution in a single county.</p>

**Section** **Description**

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**Subd. 5. False claims.** Provides that a violation of this section constitutes a false or fraudulent claim for purposes of the Minnesota False Claims Act.

**15** **Limitations.**

Amends § 628.26. Establishes that the statute of limitations for the new crimes created in section 14 is six years after the commission of the offense.

**16** **Repealer.**

Repeals §§ 245A.144 and 245A.175 (foster care training requirements), and Minnesota Rules, parts 2960.3070 (foster parent training) and 2960.3210 (foster residence setting staff training).



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