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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **3276**

02/13/2020 Authored by Moran and Lesch

The bill was read for the first time and referred to the Committee on Health and Human Services Policy

03/04/2020 Adoption of Report: Amended and re-referred to the Judiciary Finance and Civil Law Division

- 1.1 A bill for an act
- 1.2 relating to child welfare; modifying provisions governing out-of-home placement
- 1.3 cost of care, examination, and treatment; requiring an initial phone call between
- 1.4 the foster parent and child's parent or legal guardian; amending Minnesota Statutes
- 1.5 2018, sections 242.19, subdivision 2; 260B.331, subdivision 1; 260C.219;
- 1.6 260C.331, subdivision 1; 518A.43, subdivision 1.
- 1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.8 Section 1. Minnesota Statutes 2018, section 242.19, subdivision 2, is amended to read:
- 1.9 Subd. 2. **Dispositions.** When a child has been committed to the commissioner of
- 1.10 corrections by a juvenile court, upon a finding of delinquency, the commissioner may for
- 1.11 the purposes of treatment and rehabilitation:
- 1.12 (1) order the child's confinement to the Minnesota Correctional Facility-Red Wing,
- 1.13 which shall accept the child, or to a group foster home under the control of the commissioner
- 1.14 of corrections, or to private facilities or facilities established by law or incorporated under
- 1.15 the laws of this state that may care for delinquent children;
- 1.16 (2) order the child's release on parole under such supervisions and conditions as the
- 1.17 commissioner believes conducive to law-abiding conduct, treatment and rehabilitation;
- 1.18 (3) order reconfinement or renewed parole as often as the commissioner believes to be
- 1.19 desirable;
- 1.20 (4) revoke or modify any order, except an order of discharge, as often as the commissioner
- 1.21 believes to be desirable;
- 1.22 (5) discharge the child when the commissioner is satisfied that the child has been
- 1.23 rehabilitated and that such discharge is consistent with the protection of the public;

2.1 (6) if the commissioner finds that the child is eligible for probation or parole and it  
2.2 appears from the commissioner's investigation that conditions in the child's or the guardian's  
2.3 home are not conducive to the child's treatment, rehabilitation, or law-abiding conduct, refer  
2.4 the child, together with the commissioner's findings, to a local social services agency or a  
2.5 licensed child-placing agency for placement in a foster care or, when appropriate, for  
2.6 initiation of child in need of protection or services proceedings as provided in sections  
2.7 260C.001 to 260C.421. The commissioner of corrections shall reimburse local social services  
2.8 agencies for foster care costs they incur for the child while on probation or parole to the  
2.9 extent that funds for this purpose are made available to the commissioner by the legislature.  
2.10 The juvenile court shall order the parents of a child on probation or parole to pay the costs  
2.11 of foster care under section 260B.331, subdivision 1, if the local social services agency has  
2.12 determined that requiring reimbursement is in the child's best interest, according to their  
2.13 ability to pay, and to the extent that the commissioner of corrections has not reimbursed the  
2.14 local social services agency.

2.15 Sec. 2. Minnesota Statutes 2018, section 260B.331, subdivision 1, is amended to read:

2.16 Subdivision 1. **Care, examination, or treatment.** (a)(1) Whenever legal custody of a  
2.17 child is transferred by the court to a local social services agency, or

2.18 (2) whenever legal custody is transferred to a person other than the local social services  
2.19 agency, but under the supervision of the local social services agency, and

2.20 (3) whenever a child is given physical or mental examinations or treatment under order  
2.21 of the court, and no provision is otherwise made by law for payment for the care,  
2.22 examination, or treatment of the child, these costs are a charge upon the welfare funds of  
2.23 the county in which proceedings are held upon certification of the judge of juvenile court.

2.24 (b) The court ~~shall~~ may order, and the local social services agency ~~shall~~ may require,  
2.25 the parents or custodian of a child, while the child is under the age of 18, to use ~~the total~~  
2.26 income and resources attributable to the child for the period of care, examination, or  
2.27 treatment, except for clothing and personal needs allowance as provided in section 256B.35,  
2.28 to reimburse the county for the cost of care, examination, or treatment. Income and resources  
2.29 attributable to the child include, but are not limited to, Social Security benefits, Supplemental  
2.30 Security Income (SSI), veterans benefits, railroad retirement benefits and child support.  
2.31 When the child is over the age of 18, and continues to receive care, examination, or treatment,  
2.32 the court ~~shall~~ may order, and the local social services agency ~~shall~~ may require,  
2.33 reimbursement from the child for the cost of care, examination, or treatment from the income  
2.34 and resources attributable to the child less the clothing and personal needs allowance. The

3.1 local social services agency shall determine whether requiring reimbursement, either through  
3.2 child support or parental fees, for the cost of care, examination, or treatment from income  
3.3 and resources attributable to the child is in the child's best interest. In determining whether  
3.4 to require reimbursement, the local social services agency shall consider:

3.5 (1) whether requiring reimbursement would compromise the parent's ability to meet the  
3.6 child's treatment and rehabilitation needs prior to the child's return home;

3.7 (2) whether requiring reimbursement would compromise the parent's ability to meet the  
3.8 child's needs after the child returns home; and

3.9 (3) whether redirecting existing child support payments or changing the representative  
3.10 payee of social security benefits to the local social services agency would limit the parent's  
3.11 ability to maintain financial stability for the child upon the child's return home.

3.12 (c) If the income and resources attributable to the child are not enough to reimburse the  
3.13 county for the full cost of the care, examination, or treatment, the court ~~shall~~ may inquire  
3.14 into the ability of the parents to ~~support the child~~ reimburse the county for the cost of care,  
3.15 examination, or treatment and, after giving the parents a reasonable opportunity to be heard,  
3.16 the court ~~shall~~ may order, and the local social services agency ~~shall~~ may require, the parents  
3.17 to contribute to the cost of care, examination, or treatment of the child. ~~Except in delinquency~~  
3.18 ~~eases where the victim is a member of the child's immediate family,~~ When determining the  
3.19 amount to be contributed by the parents, the court shall use a fee schedule based upon ability  
3.20 to pay that is established by the local social services agency and approved by the  
3.21 commissioner of human services. ~~In delinquency cases where the victim is a member of the~~  
3.22 ~~child's immediate family,~~ The court shall ~~use the fee schedule but may also take into account~~  
3.23 ~~the seriousness of the offense and any expenses which the parents have incurred as a result~~  
3.24 ~~of the offense~~ any expenses the parents may have incurred as a result of the offense, including  
3.25 but not limited to co-payments for mental health treatment and attorney's fees. The income  
3.26 of a stepparent who has not adopted a child shall be excluded in calculating the parental  
3.27 contribution under this section. The local social services agency shall determine whether  
3.28 requiring reimbursement from the parents, either through child support or parental fees, for  
3.29 the cost of care, examination, or treatment from income and resources attributable to the  
3.30 child is in the child's best interest. In determining whether to require reimbursement, the  
3.31 local social services agency shall consider:

3.32 (1) whether requiring reimbursement would compromise the parent's ability to meet the  
3.33 child's treatment and rehabilitation needs prior to the child's return home;

4.1 (2) whether requiring reimbursement would compromise the parent's ability to meet the  
4.2 child's needs after the child returns home; and

4.3 (3) whether requiring reimbursement would compromise the parent's ability to meet his  
4.4 or her family's needs.

4.5 (d) If the local social services agency determines that requiring reimbursement is in the  
4.6 child's best interest, the court shall order the amount of reimbursement attributable to the  
4.7 parents or custodian, or attributable to the child, or attributable to both sources, withheld  
4.8 under chapter 518A from the income of the parents or the custodian of the child. A parent  
4.9 or custodian who fails to pay without good reason may be proceeded against for contempt,  
4.10 or the court may inform the county attorney, who shall proceed to collect the unpaid sums,  
4.11 or both procedures may be used.

4.12 (e) If the court orders a physical or mental examination for a child, the examination is  
4.13 a medically necessary service for purposes of determining whether the service is covered  
4.14 by a health insurance policy, health maintenance contract, or other health coverage plan.  
4.15 Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical  
4.16 necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of  
4.17 coverage, co-payments or deductibles, provider restrictions, or other requirements in the  
4.18 policy, contract, or plan that relate to coverage of other medically necessary services.

4.19 Sec. 3. Minnesota Statutes 2018, section 260C.219, is amended to read:

4.20 **260C.219 AGENCY RESPONSIBILITIES FOR PARENTS AND CHILDREN IN**  
4.21 **PLACEMENT.**

4.22 Subdivision 1. Responsibilities for parents; noncustodial parents. (a) When a child  
4.23 is in foster care, the responsible social services agency shall make diligent efforts to identify,  
4.24 locate, and, where appropriate, offer services to both parents of the child.

4.25 ~~(1)~~ (b) The responsible social services agency shall assess whether a noncustodial or  
4.26 nonadjudicated parent is willing and capable of providing for the day-to-day care of the  
4.27 child temporarily or permanently. An assessment under this ~~clause~~ paragraph may include,  
4.28 but is not limited to, obtaining information under section 260C.209. If after assessment, the  
4.29 responsible social services agency determines that a noncustodial or nonadjudicated parent  
4.30 is willing and capable of providing day-to-day care of the child, the responsible social  
4.31 services agency may seek authority from the custodial parent or the court to have that parent  
4.32 assume day-to-day care of the child. If a parent is not an adjudicated parent, the responsible

5.1 social services agency shall require the nonadjudicated parent to cooperate with paternity  
5.2 establishment procedures as part of the case plan.

5.3 ~~(2)~~ (c) If, after assessment, the responsible social services agency determines that the  
5.4 child cannot be in the day-to-day care of either parent, the agency shall:

5.5 ~~(i)~~ (1) prepare an out-of-home placement plan addressing the conditions that each parent  
5.6 must meet before the child can be in that parent's day-to-day care; and

5.7 ~~(ii)~~ (2) provide a parent who is the subject of a background study under section 260C.209  
5.8 15 days' notice that it intends to use the study to recommend against putting the child with  
5.9 that parent, and the court shall afford the parent an opportunity to be heard concerning the  
5.10 study.

5.11 The results of a background study of a noncustodial parent shall not be used by the agency  
5.12 to determine that the parent is incapable of providing day-to-day care of the child unless  
5.13 the agency reasonably believes that placement of the child into the home of that parent  
5.14 would endanger the child's health, safety, or welfare.

5.15 ~~(3)~~ (d) If, after the provision of services following an out-of-home placement plan under  
5.16 this ~~section~~ subdivision, the child cannot return to the care of the parent from whom the  
5.17 child was removed or who had legal custody at the time the child was placed in foster care,  
5.18 the agency may petition on behalf of a noncustodial parent to establish legal custody with  
5.19 that parent under section 260C.515, subdivision 4. If paternity has not already been  
5.20 established, it may be established in the same proceeding in the manner provided for under  
5.21 chapter 257.

5.22 ~~(4)~~ (e) The responsible social services agency may be relieved of the requirement to  
5.23 locate and offer services to both parents by the juvenile court upon a finding of good cause  
5.24 after the filing of a petition under section 260C.141.

5.25 **Subd. 2. Notice to parent or guardian.** ~~(b)~~ The responsible social services agency shall  
5.26 give notice to the parent or guardian of each child in foster care, other than a child in  
5.27 voluntary foster care for treatment under chapter 260D, of the following information:

5.28 (1) that the child's placement in foster care may result in termination of parental rights  
5.29 or an order permanently placing the child out of the custody of the parent, but only after  
5.30 notice and a hearing as required under this chapter and the juvenile court rules;

5.31 (2) time limits on the length of placement and of reunification services, including the  
5.32 date on which the child is expected to be returned to and safely maintained in the home of

6.1 the parent or parents or placed for adoption or otherwise permanently removed from the  
6.2 care of the parent by court order;

6.3 (3) the nature of the services available to the parent;

6.4 (4) the consequences to the parent and the child if the parent fails or is unable to use  
6.5 services to correct the circumstances that led to the child's placement;

6.6 (5) the first consideration for placement with relatives;

6.7 (6) the benefit to the child in getting the child out of foster care as soon as possible,  
6.8 preferably by returning the child home, but if that is not possible, through a permanent legal  
6.9 placement of the child away from the parent;

6.10 (7) when safe for the child, the benefits to the child and the parent of maintaining  
6.11 visitation with the child as soon as possible in the course of the case and, in any event,  
6.12 according to the visitation plan under this section; and

6.13 (8) the financial responsibilities and obligations, if any, of the parent or parents for the  
6.14 support of the child during the period the child is in foster care.

6.15 **Subd. 3. Information for a parent considering voluntary placement.** ~~(e)~~ The  
6.16 responsible social services agency shall inform a parent considering voluntary placement  
6.17 of a child under section 260C.227 of the following information:

6.18 (1) the parent and the child each has a right to separate legal counsel before signing a  
6.19 voluntary placement agreement, but not to counsel appointed at public expense;

6.20 (2) the parent is not required to agree to the voluntary placement, and a parent who enters  
6.21 a voluntary placement agreement may at any time request that the agency return the child.  
6.22 If the parent so requests, the child must be returned within 24 hours of the receipt of the  
6.23 request;

6.24 (3) evidence gathered during the time the child is voluntarily placed may be used at a  
6.25 later time as the basis for a petition alleging that the child is in need of protection or services  
6.26 or as the basis for a petition seeking termination of parental rights or other permanent  
6.27 placement of the child away from the parent;

6.28 (4) if the responsible social services agency files a petition alleging that the child is in  
6.29 need of protection or services or a petition seeking the termination of parental rights or other  
6.30 permanent placement of the child away from the parent, the parent would have the right to  
6.31 appointment of separate legal counsel and the child would have a right to the appointment

7.1 of counsel and a guardian ad litem as provided by law, and that counsel will be appointed  
7.2 at public expense if they are unable to afford counsel; and

7.3 (5) the timelines and procedures for review of voluntary placements under section  
7.4 260C.212, subdivision 3, and the effect the time spent in voluntary placement on the  
7.5 scheduling of a permanent placement determination hearing under sections 260C.503 to  
7.6 260C.521.

7.7 **Subd. 4. Medical examinations.** ~~(d)~~ When an agency accepts a child for placement, the  
7.8 agency shall determine whether the child has had a physical examination by or under the  
7.9 direction of a licensed physician within the 12 months immediately preceding the date when  
7.10 the child came into the agency's care. If there is documentation that the child has had an  
7.11 examination within the last 12 months, the agency is responsible for seeing that the child  
7.12 has another physical examination within one year of the documented examination and  
7.13 annually in subsequent years. If the agency determines that the child has not had a physical  
7.14 examination within the 12 months immediately preceding placement, the agency shall ensure  
7.15 that the child has an examination within 30 days of coming into the agency's care and once  
7.16 a year in subsequent years.

7.17 **Subd. 5. Children reaching age of majority; copies of records.** ~~(e)~~ Whether under  
7.18 state guardianship or not, if a child leaves foster care by reason of having attained the age  
7.19 of majority under state law, the child must be given at no cost a copy of the child's social  
7.20 and medical history, as defined in section 259.43, and education report.

7.21 **Subd. 6. Initial foster care phone call.** ~~(a)~~ When a child enters foster care or moves to  
7.22 a new foster care placement, the responsible social services agency shall:

7.23 (1) coordinate a phone call between the foster parent or facility and the child's parent or  
7.24 legal guardian to establish a connection and encourage ongoing information sharing between  
7.25 the child's parent or legal guardian and the foster parent or facility; and

7.26 (2) provide an opportunity to share any information regarding the child, the child's needs,  
7.27 or the child's care that would facilitate the child's adjustment to the foster home, promote  
7.28 stability, reduce the risk of trauma, or otherwise improve the quality of the child's care.

7.29 (b) The responsible social services agency shall coordinate the phone call in paragraph  
7.30 (a) as soon as practicable after the child arrives at the placement but no later than 48 hours  
7.31 after the child's placement. If the responsible social services agency determines that the  
7.32 phone call is not in the child's best interests, or if the agency is unable to identify, locate,  
7.33 or contact the child's parent or legal guardian despite reasonable efforts, or despite active  
7.34 efforts if the child is an American Indian child, the agency may delay the phone call until

8.1 up to 48 hours after the agency determines that the phone call is in the child's best interests,  
8.2 or up to 48 hours after the child's parent or legal guardian is located or becomes available  
8.3 for the phone call.

8.4 (c) The responsible social services agency shall document: the date and time of the phone  
8.5 call in paragraph (a); its efforts to coordinate the phone call; its efforts to identify, locate,  
8.6 or find availability for the child's parent or legal guardian; any determination of whether  
8.7 the phone call is in the child's best interests; and any reasons that the phone call did not  
8.8 occur.

8.9 **EFFECTIVE DATE.** This section is effective for children entering out-of-home  
8.10 placement or moving between placements on or after November 1, 2020.

8.11 Sec. 4. Minnesota Statutes 2018, section 260C.331, subdivision 1, is amended to read:

8.12 Subdivision 1. **Care, examination, or treatment.** (a) Except where parental rights are  
8.13 terminated,

8.14 (1) whenever legal custody of a child is transferred by the court to a responsible social  
8.15 services agency,

8.16 (2) whenever legal custody is transferred to a person other than the responsible social  
8.17 services agency, but under the supervision of the responsible social services agency, or

8.18 (3) whenever a child is given physical or mental examinations or treatment under order  
8.19 of the court, and no provision is otherwise made by law for payment for the care,  
8.20 examination, or treatment of the child, these costs are a charge upon the welfare funds of  
8.21 the county in which proceedings are held upon certification of the judge of juvenile court.

8.22 (b) The court ~~shall~~ may order, and the responsible social services agency ~~shall~~ may  
8.23 require, the parents or custodian of a child, while the child is under the age of 18, to use ~~the~~  
8.24 ~~total~~ income and resources attributable to the child for the period of care, examination, or  
8.25 treatment, except for clothing and personal needs allowance as provided in section 256B.35,  
8.26 to reimburse the county for the cost of care, examination, or treatment. Income and resources  
8.27 attributable to the child include, but are not limited to, Social Security benefits, Supplemental  
8.28 Security Income (SSI), veterans benefits, railroad retirement benefits and child support.  
8.29 When the child is over the age of 18, and continues to receive care, examination, or treatment,  
8.30 the court ~~shall~~ may order, and the responsible social services agency ~~shall~~ may require,  
8.31 reimbursement from the child for the cost of care, examination, or treatment from the income  
8.32 and resources attributable to the child less the clothing and personal needs allowance. Income  
8.33 does not include earnings from a child over the age of 18 who is working as part of a plan



9.1 under section 260C.212, subdivision 1, paragraph (c), clause (12), to transition from foster  
9.2 care, or the income and resources ~~from sources other than Supplemental Security Income~~  
9.3 ~~and child support~~ that are needed to complete the requirements listed in section 260C.203.  
9.4 The responsible social services agency shall determine whether requiring reimbursement,  
9.5 either through child support or parental fees, for the cost of care, examination, or treatment  
9.6 from the parents or custodian of a child is in the child's best interest. In determining whether  
9.7 to require reimbursement, the responsible social services agency shall consider:

9.8 (1) whether requiring reimbursement would compromise the parent's ability to meet the  
9.9 requirements of the reunification plan;

9.10 (2) whether requiring reimbursement would compromise the parent's ability to meet the  
9.11 child's needs after reunification; and

9.12 (3) whether redirecting existing child support payments or changing the representative  
9.13 payee of social security benefits to the responsible social services agency would limit the  
9.14 parent's ability to maintain financial stability for the child when reunification is sought.

9.15 (c) If the income and resources attributable to the child are not enough to reimburse the  
9.16 county for the full cost of the care, examination, or treatment, the court ~~shall~~ may inquire  
9.17 into the ability of the parents to ~~support the child~~ reimburse the county for the cost of care,  
9.18 examination, or treatment and, after giving the parents a reasonable opportunity to be heard,  
9.19 the court ~~shall~~ may order, and the responsible social services agency ~~shall~~ may require, the  
9.20 parents to contribute to the cost of care, examination, or treatment of the child. When  
9.21 determining the amount to be contributed by the parents, the court shall use a fee schedule  
9.22 based upon ability to pay that is established by the responsible social services agency and  
9.23 approved by the commissioner of human services. The income of a stepparent who has not  
9.24 adopted a child shall be excluded in calculating the parental contribution under this section.  
9.25 In determining whether to require reimbursement, the responsible social services agency  
9.26 shall consider:

9.27 (1) whether requiring reimbursement would compromise the parent's ability to meet the  
9.28 requirements of the reunification plan;

9.29 (2) whether requiring reimbursement would compromise the parent's ability to meet the  
9.30 child's needs after reunification; and

9.31 (3) whether requiring reimbursement would compromise the parent's ability to meet his  
9.32 or her family's needs.

10.1 (d) If the responsible social services agency determines that reimbursement is in the  
10.2 child's best interest, the court shall order the amount of reimbursement attributable to the  
10.3 parents or custodian, or attributable to the child, or attributable to both sources, withheld  
10.4 under chapter 518A from the income of the parents or the custodian of the child. A parent  
10.5 or custodian who fails to pay without good reason may be proceeded against for contempt,  
10.6 or the court may inform the county attorney, who shall proceed to collect the unpaid sums,  
10.7 or both procedures may be used.

10.8 (e) If the court orders a physical or mental examination for a child, the examination is  
10.9 a medically necessary service for purposes of determining whether the service is covered  
10.10 by a health insurance policy, health maintenance contract, or other health coverage plan.  
10.11 Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical  
10.12 necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of  
10.13 coverage, co-payments or deductibles, provider restrictions, or other requirements in the  
10.14 policy, contract, or plan that relate to coverage of other medically necessary services.

10.15 (f) Notwithstanding paragraph (b), (c), or (d), a parent, custodian, or guardian of the  
10.16 child is not required to use income and resources attributable to the child to reimburse the  
10.17 county for costs of care and is not required to contribute to the cost of care of the child  
10.18 during any period of time when the child is returned to the home of that parent, custodian,  
10.19 or guardian pursuant to a trial home visit under section 260C.201, subdivision 1, paragraph  
10.20 (a).

10.21 Sec. 5. Minnesota Statutes 2018, section 518A.43, subdivision 1, is amended to read:

10.22 Subdivision 1. **General factors.** Among other reasons, deviation from the presumptive  
10.23 child support obligation computed under section 518A.34 is intended to encourage prompt  
10.24 and regular payments of child support and to prevent either parent or the joint children from  
10.25 living in poverty. In addition to the child support guidelines and other factors used to calculate  
10.26 the child support obligation under section 518A.34, the court must take into consideration  
10.27 the following factors in setting or modifying child support or in determining whether to  
10.28 deviate upward or downward from the presumptive child support obligation:

10.29 (1) all earnings, income, circumstances, and resources of each parent, including real and  
10.30 personal property, but excluding income from excess employment of the obligor or obligee  
10.31 that meets the criteria of section 518A.29, paragraph (b);

10.32 (2) the extraordinary financial needs and resources, physical and emotional condition,  
10.33 and educational needs of the child to be supported;

11.1 (3) the standard of living the child would enjoy if the parents were currently living  
11.2 together, but recognizing that the parents now have separate households;

11.3 (4) whether the child resides in a foreign country for more than one year that has a  
11.4 substantially higher or lower cost of living than this country;

11.5 (5) which parent receives the income taxation dependency exemption and the financial  
11.6 benefit the parent receives from it;

11.7 (6) the parents' debts as provided in subdivision 2; ~~and~~

11.8 (7) the obligor's total payments for court-ordered child support exceed the limitations  
11.9 set forth in section 571.922; and

11.10 (8) in cases involving court-ordered out-of-home placement, whether ordering and  
11.11 redirecting a child support obligation to reimburse the county for the cost of care,  
11.12 examination, or treatment would compromise the parent's ability to meet the requirements  
11.13 of a reunification plan or the parent's ability to meet the needs of the child after reunification.

11.14 Sec. 6. **DIRECTION TO COMMISSIONER; INITIAL FOSTER CARE PHONE**  
11.15 **CALL TRAINING.**

11.16 By August 1, 2020, the commissioner of human services shall issue written guidance to  
11.17 county social services agencies, foster parents, and facilities to fully implement the initial  
11.18 foster care phone call procedures in Minnesota Statutes, section 260C.219, subdivision 6.

11.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.