

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 3953

(SENATE AUTHORS: NELSON)

DATE
04/12/2018

D-PG

Introduction and first reading
Referred to E-12 Policy

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to education; codifying teacher code of ethics; requiring background

1.3 checks; expanding mandatory reporting; expanding grounds for teacher discharge;

1.4 expanding criminal sexual conduct offenses for persons in current or recent

1.5 positions of authority over juveniles; amending Minnesota Statutes 2016, sections

1.6 171.02, subdivision 2a; 299C.17; 609.095; 631.40, subdivision 1a; Minnesota

1.7 Statutes 2017 Supplement, sections 122A.09, subdivision 2; 122A.187, by adding

1.8 a subdivision; 122A.20, subdivisions 1, 2; 122A.40, subdivision 13; 122A.41,

1.9 subdivision 6; 123B.03, subdivision 1; 171.02, subdivision 2b; 171.3215,

1.10 subdivisions 2, 3; 626.556, subdivisions 3, 10e; proposing coding for new law in

1.11 Minnesota Statutes, chapters 122A; 299C; repealing Minnesota Statutes 2017

1.12 Supplement, section 122A.09, subdivision 1; Minnesota Rules, part 8710.2100,

1.13 subparts 1, 2.

1.14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.15 Section 1. 122A.051] CODE OF ETHICS.

1.16 Subdivision 1. Scope. Each teacher, upon entering the teaching profession, assumes a

1.17 number of obligations, one of which is to adhere to a set of principles that defines professional

1.18 conduct. These principles are reflected in the code of ethics, which sets forth to the education

1.19 profession and the public it serves standards of professional conduct. This code applies to

1.20 all persons licensed according to rules established by the Professional Educator Licensing

1.21 and Standards Board.

1.22 Subd. 2. Standards of professional conduct. (a) A teacher must provide professional

1.23 education services in a nondiscriminatory manner.

1.24 (b) A teacher must make reasonable effort to protect students from conditions harmful

1.25 to health and safety.

2.1 (c) In accordance with state and federal laws, a teacher must disclose confidential
2.2 information about individuals only when a compelling professional purpose is served or
2.3 when required by law.

2.4 (d) A teacher must take reasonable disciplinary action in exercising the authority to
2.5 provide an atmosphere conducive to learning.

2.6 (e) A teacher must not use professional relationships with students, parents, and
2.7 colleagues to personal advantage.

2.8 (f) A teacher must delegate authority for teaching responsibilities only to licensed
2.9 personnel or as otherwise provided by law.

2.10 (g) A teacher must not deliberately suppress or distort subject matter.

2.11 (h) A teacher must not knowingly falsify or misrepresent records or facts relating to that
2.12 teacher's own qualifications or to other teachers' qualifications.

2.13 (i) A teacher must not knowingly make false or malicious statements about students or
2.14 colleagues.

2.15 (j) A teacher must accept a contract for a teaching position that requires licensing only
2.16 if properly or provisionally licensed for that position.

2.17 (k) A teacher must not engage in any sexual contact with a student.

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

2.19 Sec. 2. Minnesota Statutes 2017 Supplement, section 122A.09, subdivision 2, is amended
2.20 to read:

2.21 Subd. 2. **Advise members of profession.** The Professional Educator Licensing and
2.22 Standards Board must act in an advisory capacity to members of the profession in matters
2.23 of interpretation of the code of ethics in section 122A.051.

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

2.25 Sec. 3. Minnesota Statutes 2017 Supplement, section 122A.187, is amended by adding a
2.26 subdivision to read:

2.27 Subd. 7. **Background check.** The Professional Educator Licensing and Standards Board
2.28 must request a criminal history background check from the superintendent of the Bureau
2.29 of Criminal Apprehension on a licensed teacher applying for a renewal license who has not

3.1 had a background check consistent with section 122A.18, subdivision 8, within the preceding
 3.2 five years.

3.3 **EFFECTIVE DATE.** This section is effective July 1, 2018.

3.4 Sec. 4. Minnesota Statutes 2017 Supplement, section 122A.20, subdivision 1, is amended
 3.5 to read:

3.6 Subdivision 1. **Grounds for revocation, suspension, or denial.** (a) The Professional
 3.7 Educator Licensing and Standards Board or Board of School Administrators, whichever
 3.8 has jurisdiction over a teacher's licensure, may, on the written complaint of the school board
 3.9 employing a teacher, a teacher organization, or any other interested person, refuse to issue,
 3.10 refuse to renew, suspend, or revoke a teacher's license to teach for any of the following
 3.11 causes:

3.12 (1) immoral character or conduct;

3.13 (2) failure, without justifiable cause, to teach for the term of the teacher's contract;

3.14 (3) gross inefficiency or willful neglect of duty;

3.15 (4) failure to meet licensure requirements; or

3.16 (5) fraud or misrepresentation in obtaining a license.

3.17 The written complaint must specify the nature and character of the charges.

3.18 (b) The Professional Educator Licensing and Standards Board or Board of School
 3.19 Administrators, whichever has jurisdiction over a teacher's licensure, ~~shall~~ must refuse to
 3.20 issue, refuse to renew, or automatically revoke a teacher's license to teach without the right
 3.21 to a hearing upon receiving a certified copy of a conviction or a stay of adjudication showing
 3.22 that the teacher has been convicted of, or received a stay of adjudication for:

3.23 (1) a qualified domestic violence-related offense, as defined in section 609.02, subdivision
 3.24 16;

3.25 (2) child abuse, as defined in section 609.185;

3.26 (3) domestic assault under section 609.2242;

3.27 (4) sex trafficking in the first degree under section 609.322, subdivision 1;

3.28 (5) sex trafficking in the second degree under section 609.322, subdivision 1a;

3.29 (6) engaging in hiring, or agreeing to hire a minor to engage in prostitution under section
 3.30 609.324, subdivision subdivisions 1, sexual-abuse 1a, and 2;

4.1 (7) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, 609.3451,
4.2 subdivision 3, or 617.23, subdivision 3₂;

4.3 (8) solicitation of children to engage in sexual conduct or communication of sexually
4.4 explicit materials to children under section 609.352₂;

4.5 (9) embezzlement of public funds under section 609.54;

4.6 (10) interference with privacy under section 609.746 or stalking under section 609.749
4.7 and the victim was a minor₂;

4.8 (11) using minors in a sexual performance under section 617.246₂;

4.9 (12) possessing pornographic works involving a minor under section 617.247₂; or

4.10 (13) any other offense not listed in this paragraph that requires the person to register as
4.11 a predatory offender under section 243.166, or a crime under a similar law of another state
4.12 or the United States.

4.13 The board ~~shall~~ must send notice of this licensing action to the district in which the teacher
4.14 is currently employed.

4.15 (c) A person whose license to teach has been revoked, not issued, or not renewed under
4.16 paragraph (b), may petition the board to reconsider the licensing action if the person's
4.17 conviction for child abuse or sexual abuse is reversed by a final decision of the Court of
4.18 Appeals or the Supreme Court or if the person has received a pardon for the offense. The
4.19 petitioner ~~shall~~ must attach a certified copy of the appellate court's final decision or the
4.20 pardon to the petition. Upon receiving the petition and its attachment, the board ~~shall~~ must
4.21 schedule and hold a disciplinary hearing on the matter under section 214.10, subdivision 2,
4.22 unless the petitioner waives the right to a hearing. If the board finds that, notwithstanding
4.23 the reversal of the petitioner's criminal conviction or the issuance of a pardon, the petitioner
4.24 is disqualified from teaching under paragraph (a), clause (1), the board ~~shall~~ must affirm
4.25 its previous licensing action. If the board finds that the petitioner is not disqualified from
4.26 teaching under paragraph (a), clause (1), it ~~shall~~ must reverse its previous licensing action.

4.27 (d) The Professional Educator Licensing and Standards Board or Board of School
4.28 Administrators, whichever has jurisdiction over a teacher's licensure, must refuse to issue,
4.29 refuse to renew, or revoke a teacher's license to teach if the teacher has been convicted of
4.30 either a felony or a gross misdemeanor involving a minor. A person whose license to teach
4.31 has been revoked, not issued, or not renewed under this paragraph may petition the board
4.32 to reconsider for good cause shown, in accordance with procedures adopted by the board.

5.1 (e) The Professional Educator Licensing and Standards Board or Board of School
 5.2 Administrators, whichever has jurisdiction over a teacher's licensure, must refuse to issue,
 5.3 refuse to renew, or revoke a teacher's license to teach if the teacher has engaged in sexual
 5.4 penetration as defined in section 609.321, subdivision 11, with a student enrolled in a school
 5.5 where the teacher works or volunteers.

5.6 (f) A decision by the Professional Educator Licensing and Standards Board to refuse to
 5.7 issue, refuse to renew, suspend, or revoke a license under this subdivision is not subject to
 5.8 review under section 122A.188.

5.9 ~~(d)~~ (g) For purposes of this subdivision, the Professional Educator Licensing and
 5.10 Standards Board is delegated the authority to suspend or revoke coaching licenses.

5.11 **EFFECTIVE DATE.** This section is effective July 1, 2018.

5.12 Sec. 5. Minnesota Statutes 2017 Supplement, section 122A.20, subdivision 2, is amended
 5.13 to read:

5.14 Subd. 2. **Mandatory reporting.** (a) A school board must report to the Professional
 5.15 Educator Licensing and Standards Board, the Board of School Administrators, or the Board
 5.16 of Trustees of the Minnesota State Colleges and Universities, whichever has jurisdiction
 5.17 over the teacher's or administrator's license, when its teacher or administrator is discharged
 5.18 or resigns from employment after a charge is filed with the school board under section
 5.19 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7, or after charges are filed that are
 5.20 grounds for discharge under section 122A.40, subdivision 13, paragraph (a), clauses (1) to
 5.21 (5), or when a teacher or administrator is suspended or resigns while an investigation is
 5.22 pending under section 122A.40, subdivision 13, paragraph (a), clauses (1) to (5); 122A.41,
 5.23 subdivisions 6, clauses (1), (2), and (3), and 7; or 626.556, or when a teacher or administrator
 5.24 is suspended without an investigation under section 122A.41, subdivisions 6, paragraph (a),
 5.25 clauses (1), (2), and (3), and 7; or 626.556. The report must be made to the appropriate
 5.26 licensing board within ten days after the discharge, suspension, or resignation has occurred.
 5.27 The licensing board to which the report is made must investigate the report for violation of
 5.28 subdivision 1 and the reporting board must cooperate in the investigation. Notwithstanding
 5.29 any provision in chapter 13 or any law to the contrary, upon written request from the licensing
 5.30 board having jurisdiction over the license, a board or school superintendent ~~shall~~ must
 5.31 provide the licensing board with information about the teacher or administrator from the
 5.32 district's files, any termination or disciplinary proceeding, any settlement or compromise,
 5.33 or any investigative file. Upon written request from the appropriate licensing board, a board
 5.34 or school superintendent may, at the discretion of the board or school superintendent, solicit

6.1 the written consent of a student and the student's parent to provide the licensing board with
6.2 information that may aid the licensing board in its investigation and license proceedings.
6.3 The licensing board's request need not identify a student or parent by name. The consent
6.4 of the student and the student's parent must meet the requirements of chapter 13 and Code
6.5 of Federal Regulations, title 34, section 99.30. The licensing board may provide a consent
6.6 form to the district. Any data transmitted to any board under this section is private data
6.7 under section 13.02, subdivision 12, notwithstanding any other classification of the data
6.8 when it was in the possession of any other agency.

6.9 (b) The licensing board to which a report is made must transmit to the Attorney General's
6.10 Office any record or data it receives under this subdivision for the sole purpose of having
6.11 the Attorney General's Office assist that board in its investigation. When the Attorney
6.12 General's Office has informed an employee of the appropriate licensing board in writing
6.13 that grounds exist to suspend or revoke a teacher's license to teach, that licensing board
6.14 must consider suspending or revoking or decline to suspend or revoke the teacher's or
6.15 administrator's license within 45 days of receiving a stipulation executed by the teacher or
6.16 administrator under investigation or a recommendation from an administrative law judge
6.17 that disciplinary action be taken.

6.18 (c) The Professional Educator Licensing and Standards Board and Board of School
6.19 Administrators must report to the appropriate law enforcement authorities a revocation,
6.20 suspension, or agreement involving a loss of license, relating to a teacher or administrator's
6.21 inappropriate sexual conduct with a minor. For purposes of this section, "law enforcement
6.22 authority" means a police department, county sheriff, or tribal police department. A report
6.23 by the Professional Educator Licensing and Standards Board or the Board of School
6.24 Administrators to appropriate law enforcement authorities does not diminish, modify, or
6.25 otherwise affect the responsibilities of a licensing board, school board, or any person
6.26 mandated to report abuse under section 626.556.

6.27 (d) The Professional Educator Licensing and Standards Board and Board of School
6.28 Administrators must, immediately upon receiving information that gives the board reason
6.29 to believe a child has at any time been neglected or physically or sexually abused, as defined
6.30 in section 626.556, subdivision 2, report the information to:

6.31 (1) the local welfare agency, agency responsible for assessing or investigating the report,
6.32 or tribal social services agency; and

6.33 (2) the police department, county sheriff, or tribal police department.

7.1 A report under this paragraph does not diminish, modify, or otherwise affect the
 7.2 responsibilities of a licensing board under section 626.556.

7.3 **EFFECTIVE DATE.** This section is effective July 1, 2018.

7.4 Sec. 6. Minnesota Statutes 2017 Supplement, section 122A.40, subdivision 13, is amended
 7.5 to read:

7.6 Subd. 13. **Immediate discharge.** (a) Except as otherwise provided in paragraph (b), a
 7.7 board may discharge a continuing-contract teacher, effective immediately, upon any of the
 7.8 following grounds:

7.9 (1) immoral conduct, insubordination, or conviction of a felony;

7.10 (2) conduct unbecoming a teacher which requires the immediate removal of the teacher
 7.11 from classroom or other duties;

7.12 (3) failure without justifiable cause to teach without first securing the written release of
 7.13 the school board;

7.14 (4) gross inefficiency which the teacher has failed to correct after reasonable written
 7.15 notice;

7.16 (5) willful neglect of duty; or

7.17 (6) continuing physical or mental disability subsequent to a 12 months leave of absence
 7.18 and inability to qualify for reinstatement in accordance with subdivision 12.

7.19 For purposes of this paragraph, conduct unbecoming a teacher includes an unfair
 7.20 discriminatory practice described in section 363A.13.

7.21 Prior to discharging a teacher under this paragraph, the board must notify the teacher in
 7.22 writing and state its ground for the proposed discharge in reasonable detail. Within ten days
 7.23 after receipt of this notification the teacher may make a written request for a hearing before
 7.24 the board and it ~~shall~~ must be granted before final action is taken. The board may suspend
 7.25 a teacher with pay pending the conclusion of the hearing and determination of the issues
 7.26 raised in the hearing after charges have been filed which constitute ground for discharge.
 7.27 If a teacher has been charged with a felony and the underlying conduct that is the subject
 7.28 of the felony charge is a ground for a proposed immediate discharge, the suspension pending
 7.29 the conclusion of the hearing and determination of the issues may be without pay. If a
 7.30 hearing under this paragraph is held, the board must reimburse the teacher for any salary
 7.31 or compensation withheld if the final decision of the board or the arbitrator does not result
 7.32 in a penalty to or suspension, termination, or discharge of the teacher.

8.1 (b) A board must discharge a continuing-contract teacher, effective immediately, upon
8.2 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
8.3 license has been revoked due to a conviction or stay of adjudication for:

8.4 (1) child abuse, as defined in section 609.185;

8.5 (2) sex trafficking in the first degree under section 609.322, subdivision 1;

8.6 (3) sex trafficking in the second degree under section 609.322, subdivision 1a;

8.7 (4) engaging in hiring or agreeing to hire a minor to engage in prostitution under section
8.8 609.324, subdivision 1;

8.9 (5) sexual abuse under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision
8.10 3, or 617.23, subdivision 3;

8.11 (6) solicitation of children to engage in sexual conduct or communication of sexually
8.12 explicit materials to children under section 609.352;

8.13 (7) interference with privacy under section 609.746 or stalking under section 609.749
8.14 and the victim was a minor;

8.15 (8) using minors in a sexual performance under section 617.246;

8.16 (9) possessing pornographic works involving a minor under section 617.247; ~~or~~

8.17 (10) any other offense not listed in this paragraph that requires the person to register as
8.18 a predatory offender under section 243.166, or a crime under a similar law of another state
8.19 or the United States; or

8.20 (11) any other offense not listed in this paragraph that requires notice of a licensing
8.21 action to the district in accordance with section 122A.20, subdivision 1, paragraph (b).

8.22 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes
8.23 a final determination of child maltreatment involving a teacher under section 626.556,
8.24 subdivision 11, the school principal or other person having administrative control of the
8.25 school must include in the teacher's employment record the information contained in the
8.26 record of the disciplinary action or the final maltreatment determination, consistent with
8.27 the definition of public data under section 13.41, subdivision 5, and must provide the
8.28 Professional Educator Licensing and Standards Board and the licensing division at the
8.29 department with the necessary and relevant information to enable the Professional Educator
8.30 Licensing and Standards Board and the department's licensing division to fulfill their statutory
8.31 and administrative duties related to issuing, renewing, suspending, or revoking a teacher's
8.32 license. Information received by the Professional Educator Licensing and Standards Board

9.1 or the licensing division at the department under this paragraph is governed by section 13.41
 9.2 or other applicable law governing data of the receiving entity. In addition to the background
 9.3 check required under section 123B.03, a school board or other school hiring authority must
 9.4 contact the Professional Educator Licensing and Standards Board and the department to
 9.5 determine whether the teacher's license has been suspended or revoked, consistent with the
 9.6 discharge and final maltreatment determinations identified in this paragraph. Unless restricted
 9.7 by federal or state data practices law or by the terms of a collective bargaining agreement,
 9.8 the responsible authority for a school district must disseminate to another school district
 9.9 private personnel data on a current or former teacher employee or contractor of the district,
 9.10 including the results of background investigations, if the requesting school district seeks
 9.11 the information because the subject of the data has applied for employment with the
 9.12 requesting school district.

9.13 **EFFECTIVE DATE.** This section is effective for the 2018-2019 school year and later.

9.14 Sec. 7. Minnesota Statutes 2017 Supplement, section 122A.41, subdivision 6, is amended
 9.15 to read:

9.16 Subd. 6. **Grounds for discharge or demotion.** (a) Except as otherwise provided in
 9.17 paragraph (b), causes for the discharge or demotion of a teacher either during or after the
 9.18 probationary period must be:

9.19 (1) immoral character, conduct unbecoming a teacher, or insubordination;

9.20 (2) failure without justifiable cause to teach without first securing the written release of
 9.21 the school board having the care, management, or control of the school in which the teacher
 9.22 is employed;

9.23 (3) inefficiency in teaching or in the management of a school, consistent with subdivision
 9.24 5, paragraph (b);

9.25 (4) affliction with a communicable disease must be considered as cause for removal or
 9.26 suspension while the teacher is suffering from such disability; or

9.27 (5) discontinuance of position or lack of pupils.

9.28 For purposes of this paragraph, conduct unbecoming a teacher includes an unfair
 9.29 discriminatory practice described in section 363A.13.

9.30 (b) A probationary or continuing-contract teacher must be discharged immediately upon
 9.31 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
 9.32 license has been revoked due to a conviction or stay of adjudication for;

- 10.1 (1) child abuse, as defined in section 609.185;
- 10.2 (2) sex trafficking in the first degree under section 609.322, subdivision 1;
- 10.3 (3) sex trafficking in the second degree under section 609.322, subdivision 1a;
- 10.4 (4) engaging in hiring or agreeing to hire a minor to engage in prostitution under section
10.5 609.324, subdivision 1;
- 10.6 (5) sexual abuse under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision
10.7 3, or 617.23, subdivision 3;
- 10.8 (6) solicitation of children to engage in sexual conduct or communication of sexually
10.9 explicit materials to children under section 609.352;
- 10.10 (7) interference with privacy under section 609.746 or stalking under section 609.749
10.11 and the victim was a minor;
- 10.12 (8) using minors in a sexual performance under section 617.246;
- 10.13 (9) possessing pornographic works involving a minor under section 617.247; ~~or~~
- 10.14 (10) any other offense not listed in this paragraph that requires the person to register as
10.15 a predatory offender under section 243.166, or a crime under a similar law of another state
10.16 or the United States; or
- 10.17 (11) any other offense not listed in this paragraph that requires notice of a licensing
10.18 action to the district in accordance with section 122A.20, subdivision 1, paragraph (b).
- 10.19 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes
10.20 a final determination of child maltreatment involving a teacher under section 626.556,
10.21 subdivision 11, the school principal or other person having administrative control of the
10.22 school must include in the teacher's employment record the information contained in the
10.23 record of the disciplinary action or the final maltreatment determination, consistent with
10.24 the definition of public data under section 13.41, subdivision 5, and must provide the
10.25 Professional Educator Licensing and Standards Board and the licensing division at the
10.26 department with the necessary and relevant information to enable the Professional Educator
10.27 Licensing and Standards Board and the department's licensing division to fulfill their statutory
10.28 and administrative duties related to issuing, renewing, suspending, or revoking a teacher's
10.29 license. Information received by the Professional Educator Licensing and Standards Board
10.30 or the licensing division at the department under this paragraph is governed by section 13.41
10.31 or other applicable law governing data of the receiving entity. In addition to the background
10.32 check required under section 123B.03, a school board or other school hiring authority must

11.1 contact the Professional Educator Licensing and Standards Board and the department to
 11.2 determine whether the teacher's license has been suspended or revoked, consistent with the
 11.3 discharge and final maltreatment determinations identified in this paragraph. Unless restricted
 11.4 by federal or state data practices law or by the terms of a collective bargaining agreement,
 11.5 the responsible authority for a school district must disseminate to another school district
 11.6 private personnel data on a current or former teacher employee or contractor of the district,
 11.7 including the results of background investigations, if the requesting school district seeks
 11.8 the information because the subject of the data has applied for employment with the
 11.9 requesting school district.

11.10 **EFFECTIVE DATE.** This section is effective for the 2018-2019 school year and later.

11.11 Sec. 8. Minnesota Statutes 2017 Supplement, section 123B.03, subdivision 1, is amended
 11.12 to read:

11.13 Subdivision 1. **Background check required.** (a) A school hiring authority ~~shall~~ must
 11.14 request a criminal history background check from the superintendent of the Bureau of
 11.15 Criminal Apprehension on all individuals who are offered employment in a school and on
 11.16 all individuals, except enrolled student volunteers, who are offered the opportunity to provide
 11.17 athletic coaching services or other extracurricular academic coaching services to a school,
 11.18 regardless of whether any compensation is paid. In order for an individual to be eligible for
 11.19 employment or to provide the services, the individual must provide an executed criminal
 11.20 history consent form and a money order or check payable to either the Bureau of Criminal
 11.21 Apprehension or the school hiring authority, at the discretion of the school hiring authority,
 11.22 in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school
 11.23 district of conducting the criminal history background check. A school hiring authority
 11.24 deciding to receive payment may, at its discretion, accept payment in the form of a negotiable
 11.25 instrument other than a money order or check and shall pay the superintendent of the Bureau
 11.26 of Criminal Apprehension directly to conduct the background check. The superintendent
 11.27 of the Bureau of Criminal Apprehension shall conduct the background check by retrieving
 11.28 criminal history data as defined in section 13.87. A school hiring authority, at its discretion,
 11.29 may decide not to request a criminal history background check on an individual who holds
 11.30 an initial entrance license issued by the Professional Educator Licensing and Standards
 11.31 Board or the commissioner of education within the 12 months preceding an offer of
 11.32 employment.

11.33 (b) A school hiring authority may use the results of a criminal background check
 11.34 conducted at the request of another school hiring authority if:

12.1 (1) the results of the criminal background check are on file with the other school hiring
12.2 authority or otherwise accessible;

12.3 (2) the other school hiring authority conducted a criminal background check within the
12.4 previous 12 months;

12.5 (3) the individual who is the subject of the criminal background check executes a written
12.6 consent form giving a school hiring authority access to the results of the check; and

12.7 (4) there is no reason to believe that the individual has committed an act subsequent to
12.8 the check that would disqualify the individual for employment.

12.9 (c) A school hiring authority may, at its discretion, request a criminal history background
12.10 check from the superintendent of the Bureau of Criminal Apprehension on any individual
12.11 who seeks to enter a school or its grounds for the purpose of serving as a school volunteer
12.12 or working as an independent contractor or student employee. In order for an individual to
12.13 enter a school or its grounds under this paragraph when the school hiring authority decides
12.14 to request a criminal history background check on the individual, the individual first must
12.15 provide an executed criminal history consent form and a money order, check, or other
12.16 negotiable instrument payable to the school district in an amount equal to the actual cost to
12.17 the Bureau of Criminal Apprehension and the school district of conducting the criminal
12.18 history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the
12.19 criminal history background check under this paragraph is the responsibility of the individual
12.20 unless a school hiring authority decides to pay the costs of conducting a background check
12.21 under this paragraph. If the school hiring authority pays the costs, the individual who is the
12.22 subject of the background check need not pay for it.

12.23 (d) In addition to the initial background check required for all individuals offered
12.24 employment in accordance with paragraph (a), a school hiring authority must request a new
12.25 criminal history background check from the superintendent of the Bureau of Criminal
12.26 Apprehension on all employees every three years. Notwithstanding any law to the contrary,
12.27 in order for an individual to be eligible for continued employment, an individual must
12.28 provide an executed criminal history consent form and a money order or check payable to
12.29 either the Bureau of Criminal Apprehension or the school hiring authority, at the discretion
12.30 of the school hiring authority, in an amount equal to the actual cost to the Bureau of Criminal
12.31 Apprehension and the school district of conducting the criminal history background check.
12.32 A school hiring authority deciding to receive payment may, at its discretion, accept payment
12.33 in the form of a negotiable instrument other than a money order or check and shall pay the
12.34 superintendent of the Bureau of Criminal Apprehension directly to conduct the background

13.1 check. A school hiring authority, at its discretion, may decide not to request a criminal
 13.2 history background check on an employee who provides the hiring authority with a copy
 13.3 of the results of a criminal history background check conducted within the previous 36
 13.4 months. A school hiring authority may, at its discretion, decide to pay the costs of conducting
 13.5 a background check under this paragraph.

13.6 ~~(d)~~ (e) For all nonstate residents who are offered employment in a school, a school hiring
 13.7 authority shall request a criminal history background check on such individuals from the
 13.8 superintendent of the Bureau of Criminal Apprehension and from the government agency
 13.9 performing the same function in the resident state or, if no government entity performs the
 13.10 same function in the resident state, from the Federal Bureau of Investigation. Such individuals
 13.11 must provide an executed criminal history consent form and a money order, check, or other
 13.12 negotiable instrument payable to the school hiring authority in an amount equal to the actual
 13.13 cost to the government agencies and the school district of conducting the criminal history
 13.14 background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal
 13.15 history background check under this paragraph is the responsibility of the individual.

13.16 ~~(e)~~ (f) At the beginning of each school year or when a student enrolls, a school hiring
 13.17 authority must notify parents and guardians about the school hiring authority's policy
 13.18 requiring a criminal history background check on employees and other individuals who
 13.19 provide services to the school, and identify those positions subject to a background check
 13.20 and the extent of the hiring authority's discretion in requiring a background check. The
 13.21 school hiring authority may include the notice in the student handbook, a school policy
 13.22 guide, or other similar communication. Nothing in this paragraph affects a school hiring
 13.23 authority's ability to request a criminal history background check on an individual under
 13.24 paragraph (c).

13.25 Sec. 9. Minnesota Statutes 2016, section 171.02, subdivision 2a, is amended to read:

13.26 Subd. 2a. **Exception for certain school bus drivers.** Notwithstanding subdivision 2,
 13.27 paragraph (b), the holder of a class D driver's license, without a school bus endorsement,
 13.28 may operate a type A school bus or a multifunction school activity bus under the following
 13.29 conditions:

13.30 (a) The operator is an employee of the entity that owns, leases, or contracts for the school
 13.31 bus and is not solely hired to provide transportation services under this subdivision.

13.32 (b) The operator drives the school bus only from points of origin to points of destination,
 13.33 not including home-to-school trips to pick up or drop off students.

14.1 (c) The operator is prohibited from using the eight-light system. Violation of this
14.2 paragraph is a misdemeanor.

14.3 (d) The operator's employer has adopted and implemented a policy that provides for
14.4 annual training and certification of the operator in:

14.5 (1) safe operation of the type of school bus the operator will be driving;

14.6 (2) understanding student behavior, including issues relating to students with disabilities;

14.7 (3) encouraging orderly conduct of students on the bus and handling incidents of
14.8 misconduct appropriately;

14.9 (4) knowing and understanding relevant laws, rules of the road, and local school bus
14.10 safety policies;

14.11 (5) handling emergency situations; and

14.12 (6) safe loading and unloading of students.

14.13 (e) A background check or background investigation of the operator has been conducted
14.14 that meets the requirements under section 122A.18, subdivision 8, or 123B.03 for teachers;
14.15 section 144.057 or chapter 245C for day care employees; or section 171.321, subdivision
14.16 3, for all other persons operating a school bus under this subdivision.

14.17 (f) Operators shall submit to a physical examination as required by section 171.321,
14.18 subdivision 2.

14.19 (g) The operator's driver's license is verified annually by the entity that owns, leases, or
14.20 contracts for the school bus.

14.21 (h) A person who sustains a conviction, as defined under section 609.02, of violating
14.22 section 169A.25, 169A.26, 169A.27, 169A.31, 169A.51, or 169A.52, or a similar statute
14.23 or ordinance of another state is precluded from operating a school bus for five years from
14.24 the date of conviction.

14.25 (i) A person who has ever been convicted of, or received a stay of adjudication for, a
14.26 disqualifying offense as defined in section 171.3215, subdivision 1, paragraph (c), may not
14.27 operate a school bus under this subdivision.

14.28 (j) A person who sustains a conviction, as defined under section 609.02, of a fourth
14.29 moving offense in violation of chapter 169 is precluded from operating a school bus for one
14.30 year from the date of the last conviction.

15.1 (k) Students riding the school bus must have training required under section 123B.90,
15.2 subdivision 2.

15.3 (l) An operator must be trained in the proper use of child safety restraints as set forth in
15.4 the National Highway Traffic Safety Administration's "Guideline for the Safe Transportation
15.5 of Pre-school Age Children in School Buses," if child safety restraints are used by the
15.6 passengers.

15.7 (m) Annual certification of the requirements listed in this subdivision must be maintained
15.8 under separate file at the business location for each operator licensed under this subdivision
15.9 and subdivision 2, paragraph (b), clause (5). The business manager, school board, governing
15.10 body of a nonpublic school, or any other entity that owns, leases, or contracts for the school
15.11 bus operating under this subdivision is responsible for maintaining these files for inspection.

15.12 (n) The school bus must bear a current certificate of inspection issued under section
15.13 169.451.

15.14 (o) If the word "School" appears on the front and rear of the bus, the word "School"
15.15 must be covered by a sign that reads "Activities" when the bus is being operated under
15.16 authority of this subdivision.

15.17 (p) The type A-I school bus or multifunction school activity bus is designed to transport
15.18 15 or fewer passengers, including the driver.

15.19 (q) The school bus or multifunction school activity bus has a gross vehicle weight rating
15.20 of 14,500 pounds or less.

15.21 Sec. 10. Minnesota Statutes 2017 Supplement, section 171.02, subdivision 2b, is amended
15.22 to read:

15.23 Subd. 2b. **Exception for type III vehicle drivers.** (a) Notwithstanding subdivision 2,
15.24 the holder of a class A, B, C, or D driver's license, without a school bus endorsement, may
15.25 operate a type III vehicle described in section 169.011, subdivision 71, paragraph (h), under
15.26 the conditions in this subdivision.

15.27 (b) The operator is an employee of the entity that owns, leases, or contracts for the school
15.28 bus.

15.29 (c) The operator's employer has adopted and implemented a policy that provides for
15.30 annual training and certification of the operator in:

15.31 (1) safe operation of a type III vehicle;

15.32 (2) understanding student behavior, including issues relating to students with disabilities;

- 16.1 (3) encouraging orderly conduct of students on the bus and handling incidents of
16.2 misconduct appropriately;
- 16.3 (4) knowing and understanding relevant laws, rules of the road, and local school bus
16.4 safety policies;
- 16.5 (5) handling emergency situations;
- 16.6 (6) proper use of seat belts and child safety restraints;
- 16.7 (7) performance of pretrip vehicle inspections;
- 16.8 (8) safe loading and unloading of students, including, but not limited to:
- 16.9 (i) utilizing a safe location for loading and unloading students at the curb, on the nontraffic
16.10 side of the roadway, or at off-street loading areas, driveways, yards, and other areas to
16.11 enable the student to avoid hazardous conditions;
- 16.12 (ii) refraining from loading and unloading students in a vehicular traffic lane, on the
16.13 shoulder, in a designated turn lane, or a lane adjacent to a designated turn lane;
- 16.14 (iii) avoiding a loading or unloading location that would require a pupil to cross a road,
16.15 or ensuring that the driver or an aide personally escort the pupil across the road if it is not
16.16 reasonably feasible to avoid such a location;
- 16.17 (iv) placing the type III vehicle in "park" during loading and unloading; and
- 16.18 (v) escorting a pupil across the road under item (iii) only after the motor is stopped, the
16.19 ignition key is removed, the brakes are set, and the vehicle is otherwise rendered immobile;
16.20 and
- 16.21 (9) compliance with paragraph (k), concerning reporting certain convictions to the
16.22 employer within ten days of the date of conviction.
- 16.23 (d) A background check or background investigation of the operator has been conducted
16.24 that meets the requirements under section 122A.18, subdivision 8, or 123B.03 for school
16.25 district employees; section 144.057 or chapter 245C for day care employees; or section
16.26 171.321, subdivision 3, for all other persons operating a type III vehicle under this
16.27 subdivision.
- 16.28 (e) Operators shall submit to a physical examination as required by section 171.321,
16.29 subdivision 2.
- 16.30 (f) The operator's employer requires preemployment drug testing of applicants for
16.31 operator positions. Current operators must comply with the employer's policy under section

17.1 181.951, subdivisions 2, 4, and 5. Notwithstanding any law to the contrary, the operator's
17.2 employer may use a Breathalyzer or similar device to fulfill random alcohol testing
17.3 requirements.

17.4 (g) The operator's driver's license is verified annually by the entity that owns, leases, or
17.5 contracts for the type III vehicle as required under section 171.321, subdivision 5.

17.6 (h) A person who sustains a conviction, as defined under section 609.02, of violating
17.7 section 169A.25, 169A.26, 169A.27, or 169A.31, or whose driver's license is revoked under
17.8 sections 169A.50 to 169A.53 of the implied consent law or section 171.177, or who is
17.9 convicted of violating or whose driver's license is revoked under a similar statute or ordinance
17.10 of another state, is precluded from operating a type III vehicle for five years from the date
17.11 of conviction.

17.12 (i) A person who has ever been convicted of, or received a stay of adjudication for, a
17.13 disqualifying offense as defined in section 171.3215, subdivision 1, paragraph (c), may not
17.14 operate a type III vehicle under this subdivision.

17.15 (j) A person who sustains a conviction, as defined under section 609.02, of a moving
17.16 offense in violation of chapter 169 within three years of the first of three other moving
17.17 offenses is precluded from operating a type III vehicle for one year from the date of the last
17.18 conviction.

17.19 (k) An operator who sustains a conviction as described in paragraph (h), ~~(i)~~, or (j) while
17.20 employed by the entity that owns, leases, or contracts for the school bus, shall report the
17.21 conviction to the employer within ten days of the date of the conviction. An operator who
17.22 sustains a conviction or receives a stay of adjudication as described in paragraph (i) while
17.23 employed by the entity that owns, leases, or contracts for the school bus shall report the
17.24 conviction or stay of adjudication to the employer within ten days of the date of the conviction
17.25 or stay of adjudication.

17.26 (l) An operator of a type III vehicle whose driver's license is suspended, revoked,
17.27 canceled, or disqualified by Minnesota, another state, or another jurisdiction must notify
17.28 the operator's employer in writing of the suspension, revocation, cancellation, lost privilege,
17.29 or disqualification. The operator must notify the operator's employer before the end of the
17.30 business day immediately following the day the operator received notice of the suspension,
17.31 revocation, cancellation, lost privilege, or disqualification.

17.32 (m) Students riding the type III vehicle must have training required under section
17.33 123B.90, subdivision 2.

18.1 (n) Documentation of meeting the requirements listed in this subdivision must be
18.2 maintained under separate file at the business location for each type III vehicle operator.
18.3 The business manager, school board, governing body of a nonpublic school, or any other
18.4 entity that owns, leases, or contracts for the type III vehicle operating under this subdivision
18.5 is responsible for maintaining these files for inspection.

18.6 (o) The type III vehicle must bear a current certificate of inspection issued under section
18.7 169.451.

18.8 (p) An employee of a school or of a school district, who is not employed for the sole
18.9 purpose of operating a type III vehicle, is exempt from paragraphs (e) and (f).

18.10 Sec. 11. Minnesota Statutes 2017 Supplement, section 171.3215, subdivision 2, is amended
18.11 to read:

18.12 Subd. 2. **Cancellation for disqualifying and other offenses.** Within ten days of receiving
18.13 notice under section 631.40, subdivision 1a, or otherwise receiving notice for a nonresident
18.14 driver, that a school bus driver has been convicted of, or received a stay of adjudication for,
18.15 a disqualifying offense, the commissioner shall permanently cancel the school bus driver's
18.16 endorsement on the offender's driver's license and in the case of a nonresident, the driver's
18.17 privilege to operate a school bus in Minnesota. A school bus driver whose endorsement or
18.18 privilege to operate a school bus in Minnesota has been permanently canceled may not
18.19 apply for reinstatement. Within ten days of receiving notice under section 631.40, subdivision
18.20 1a, or otherwise receiving notice for a nonresident driver, that a school bus driver has been
18.21 convicted of a violation of section 169A.20, or a similar statute or ordinance from another
18.22 state, and within ten days of revoking a school bus driver's license under section 169A.52
18.23 or 171.177, the commissioner shall cancel the school bus driver's endorsement on the
18.24 offender's driver's license or the nonresident's privilege to operate a school bus in Minnesota
18.25 for five years. After five years, a school bus driver may apply to the commissioner for
18.26 reinstatement. Even after five years, cancellation of a school bus driver's endorsement or a
18.27 nonresident's privilege to operate a school bus in Minnesota for a violation under section
18.28 169A.20, sections 169A.50 to 169A.53, section 171.177, or a similar statute or ordinance
18.29 from another state, shall remain in effect until the driver provides proof of successful
18.30 completion of an alcohol or controlled substance treatment program. For a first offense,
18.31 proof of completion is required only if treatment was ordered as part of a chemical use
18.32 assessment. Within ten days of receiving notice under section 631.40, subdivision 1a, or
18.33 otherwise receiving notice for a nonresident driver, that a school bus driver has been
18.34 convicted of a fourth moving violation in the last three years, the commissioner shall cancel

19.1 the school bus driver's endorsement on the offender's driver's license or the nonresident's
19.2 privilege to operate a school bus in Minnesota until one year has elapsed since the last
19.3 conviction. A school bus driver who has no new convictions after one year may apply for
19.4 reinstatement. Upon canceling the offender's school bus driver's endorsement, the
19.5 commissioner shall immediately notify the licensed offender of the cancellation in writing,
19.6 by depositing in the United States post office a notice addressed to the licensed offender at
19.7 the licensed offender's last known address, with postage prepaid thereon.

19.8 Sec. 12. Minnesota Statutes 2017 Supplement, section 171.3215, subdivision 3, is amended
19.9 to read:

19.10 Subd. 3. **Background check.** Before issuing or renewing a driver's license with a school
19.11 bus driver's endorsement, the commissioner shall conduct an investigation to determine if
19.12 the applicant has been convicted of, or received a stay of adjudication for, committing a
19.13 disqualifying offense, four moving violations in the previous three years, a violation of
19.14 section 169A.20 or a similar statute or ordinance from another state, a gross misdemeanor,
19.15 or if the applicant's driver's license has been revoked under section 169A.52 or 171.177.
19.16 The commissioner shall not issue a new bus driver's endorsement and shall not renew an
19.17 existing bus driver's endorsement if the applicant has been convicted of committing a
19.18 disqualifying offense. The commissioner shall not issue a new bus driver's endorsement
19.19 and shall not renew an existing bus driver's endorsement if, within the previous five years,
19.20 the applicant has been convicted of committing a violation of section 169A.20, or a similar
19.21 statute or ordinance from another state, a gross misdemeanor, or if the applicant's driver's
19.22 license has been revoked under section 169A.52 or 171.177, or if, within the previous three
19.23 years, the applicant has been convicted of four moving violations. An applicant who has
19.24 been convicted of violating section 169A.20, or a similar statute or ordinance from another
19.25 state, or who has had a license revocation under section 169A.52 or 171.177 within the
19.26 previous ten years must show proof of successful completion of an alcohol or controlled
19.27 substance treatment program in order to receive a bus driver's endorsement. For a first
19.28 offense, proof of completion is required only if treatment was ordered as part of a chemical
19.29 use assessment. A school district or contractor that employs a nonresident school bus driver
19.30 must conduct a background check of the employee's driving record and criminal history in
19.31 both Minnesota and the driver's state of residence. Convictions for disqualifying offenses,
19.32 gross misdemeanors, a fourth moving violation within the previous three years, or violations
19.33 of section 169A.20, or a similar statute or ordinance in another state, must be reported to
19.34 the Department of Public Safety.

20.1 Sec. 13. Minnesota Statutes 2016, section 299C.17, is amended to read:

20.2 **299C.17 REPORT BY COURT ADMINISTRATOR.**

20.3 The superintendent shall require the court administrator of every court which (1) sentences
20.4 a defendant for a felony, gross misdemeanor, or targeted misdemeanor, or (2) grants a stay
20.5 of adjudication pursuant to section 609.095, paragraph (b), clause (2), to electronically
20.6 transmit within 24 hours of the disposition of the case a report, in a form prescribed by the
20.7 superintendent providing information required by the superintendent with regard to the
20.8 prosecution and disposition of criminal cases. A copy of the report shall be kept on file in
20.9 the office of the court administrator.

20.10 Sec. 14. **299C.77] BACKGROUND CHECKS; ADDITIONAL DISCLOSURE.**

20.11 The superintendent shall disclose to each applicant for a background check or background
20.12 study required or authorized under section 122A.18, subdivision 8; 123B.03; 171.02,
20.13 subdivision 2a or 2b; or 171.3215, subdivision 3, all records of stays of adjudication granted
20.14 to the subject of the background check or background study that the superintendent receives
20.15 pursuant to section 299C.17, clause (2). The data required to be disclosed under this section
20.16 is in addition to other data on the subject of the background check or background study that
20.17 the superintendent is mandated to disclose.

20.18 Sec. 15. Minnesota Statutes 2016, section 609.095, is amended to read:

20.19 **609.095 LIMITS OF SENTENCES.**

20.20 (a) The legislature has the exclusive authority to define crimes and offenses and the
20.21 range of the sentences or punishments for their violation. No other or different sentence or
20.22 punishment shall be imposed for the commission of a crime than is authorized by this chapter
20.23 or other applicable law.

20.24 (b) Except as provided in:

20.25 (1) section 152.18 or 609.375₂; or

20.26 (2) upon agreement of the parties, a court may not refuse to adjudicate the guilt of a
20.27 defendant who tenders a guilty plea in accordance with Minnesota Rules of Criminal
20.28 Procedure, rule 15, or who has been found guilty by a court or jury following a trial.

20.29 A stay of adjudication granted under clause (2) must be reported to the superintendent of
20.30 the Bureau of Criminal Apprehension pursuant to section 299C.17.

20.31 (c) Paragraph (b) does not supersede Minnesota Rules of Criminal Procedure, rule 26.04.

21.1 Sec. 16. Minnesota Statutes 2017 Supplement, section 626.556, subdivision 3, is amended
21.2 to read:

21.3 Subd. 3. **Persons mandated to report; persons voluntarily reporting.** (a) A person
21.4 who knows or has reason to believe a child is being neglected or physically or sexually
21.5 abused, as defined in subdivision 2, or has been neglected or physically or sexually abused
21.6 within the preceding three years, shall immediately report the information to the local welfare
21.7 agency, agency responsible for assessing or investigating the report, police department,
21.8 county sheriff, tribal social services agency, or tribal police department if the person is:

21.9 (1) a professional or professional's delegate who is engaged in the practice of the healing
21.10 arts, social services, hospital administration, psychological or psychiatric treatment, child
21.11 care, education, correctional supervision, probation and correctional services, or law
21.12 enforcement; ~~or~~

21.13 (2) employed as a member of the clergy and received the information while engaged in
21.14 ministerial duties, provided that a member of the clergy is not required by this subdivision
21.15 to report information that is otherwise privileged under section 595.02, subdivision 1,
21.16 paragraph (c); or

21.17 (3) a member of a board or other entity whose licensees perform work within a school
21.18 facility.

21.19 (b) Any person may voluntarily report to the local welfare agency, agency responsible
21.20 for assessing or investigating the report, police department, county sheriff, tribal social
21.21 services agency, or tribal police department if the person knows, has reason to believe, or
21.22 suspects a child is being or has been neglected or subjected to physical or sexual abuse.

21.23 (c) A person mandated to report physical or sexual child abuse or neglect occurring
21.24 within a licensed facility shall report the information to the agency responsible for licensing
21.25 or certifying the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16;
21.26 or chapter 144H, 245D, or 245H; or a nonlicensed personal care provider organization as
21.27 defined in section 256B.0625, subdivision 19a. A health or corrections agency receiving a
21.28 report may request the local welfare agency to provide assistance pursuant to subdivisions
21.29 10, 10a, and 10b. A board or other entity whose licensees perform work within a school
21.30 facility, upon receiving a complaint of alleged maltreatment, shall provide information about
21.31 the circumstances of the alleged maltreatment to the commissioner of education. Section
21.32 13.03, subdivision 4, applies to data received by the commissioner of education from a
21.33 licensing entity.

22.1 (d) Notification requirements under subdivision 10 apply to all reports received under
22.2 this section.

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

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

22.6 Sec. 17. Minnesota Statutes 2017 Supplement, section 626.556, subdivision 10e, is amended
22.7 to read:

22.8 Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family
22.9 assessment or the investigation within 45 days of the receipt of a report. The conclusion of
22.10 the assessment or investigation may be extended to permit the completion of a criminal
22.11 investigation or the receipt of expert information requested within 45 days of the receipt of
22.12 the report.

22.13 (b) After conducting a family assessment, the local welfare agency shall determine
22.14 whether services are needed to address the safety of the child and other family members
22.15 and the risk of subsequent maltreatment.

22.16 (c) After conducting an investigation, the local welfare agency shall make two
22.17 determinations: first, whether maltreatment has occurred; and second, whether child
22.18 protective services are needed. No determination of maltreatment shall be made when the
22.19 alleged perpetrator is a child under the age of ten.

22.20 (d) If the commissioner of education conducts an assessment or investigation, the
22.21 commissioner shall determine whether maltreatment occurred and what corrective or
22.22 protective action was taken by the school facility. If a determination is made that
22.23 maltreatment has occurred, the commissioner shall report to the employer, the school board,
22.24 and any appropriate licensing entity the determination that maltreatment occurred and what
22.25 corrective or protective action was taken by the school facility. In all other cases, the
22.26 commissioner shall inform the school board or employer and any appropriate licensing
22.27 entity that a report was received, the subject of the report, the date of the initial report, the
22.28 category of maltreatment alleged as defined in paragraph (f), the fact that maltreatment was
22.29 not determined, and a summary of the specific reasons for the determination.

22.30 (e) When maltreatment is determined in an investigation involving a facility, the
22.31 investigating agency shall also determine whether the facility or individual was responsible,
22.32 or whether both the facility and the individual were responsible for the maltreatment using
22.33 the mitigating factors in paragraph (i). Determinations under this subdivision must be made

23.1 based on a preponderance of the evidence and are private data on individuals or nonpublic
23.2 data as maintained by the commissioner of education.

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

23.5 (1) physical abuse as defined in subdivision 2, paragraph (k);

23.6 (2) neglect as defined in subdivision 2, paragraph (g);

23.7 (3) sexual abuse as defined in subdivision 2, paragraph (n);

23.8 (4) mental injury as defined in subdivision 2, paragraph (f); or

23.9 (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (c).

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

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

23.23 (i) When determining whether the facility or individual is the responsible party, or
23.24 whether both the facility and the individual are responsible for determined maltreatment in
23.25 a facility, the investigating agency shall consider at least the following mitigating factors:

23.26 (1) whether the actions of the facility or the individual caregivers were according to,
23.27 and followed the terms of, an erroneous physician order, prescription, individual care plan,
23.28 or directive; however, this is not a mitigating factor when the facility or caregiver was
23.29 responsible for the issuance of the erroneous order, prescription, individual care plan, or
23.30 directive or knew or should have known of the errors and took no reasonable measures to
23.31 correct the defect before administering care;

24.1 (2) comparative responsibility between the facility, other caregivers, and requirements
24.2 placed upon an employee, including the facility's compliance with related regulatory standards
24.3 and the adequacy of facility policies and procedures, facility training, an individual's
24.4 participation in the training, the caregiver's supervision, and facility staffing levels and the
24.5 scope of the individual employee's authority and discretion; and

24.6 (3) whether the facility or individual followed professional standards in exercising
24.7 professional judgment.

24.8 The evaluation of the facility's responsibility under clause (2) must not be based on the
24.9 completeness of the risk assessment or risk reduction plan required under section 245A.66,
24.10 but must be based on the facility's compliance with the regulatory standards for policies
24.11 and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota
24.12 Rules.

24.13 (j) Notwithstanding paragraph (i), when maltreatment is determined to have been
24.14 committed by an individual who is also the facility license or certification holder, both the
24.15 individual and the facility must be determined responsible for the maltreatment, and both
24.16 the background study disqualification standards under section 245C.15, subdivision 4, and
24.17 the licensing or certification actions under section 245A.06, 245A.07, 245H.06, or 245H.07
24.18 apply.

24.19 Sec. 18. Minnesota Statutes 2016, section 631.40, subdivision 1a, is amended to read:

24.20 Subd. 1a. **Certified copy of disqualifying offense convictions sent to public safety**
24.21 **and school districts.** When a person is convicted of, or receives a stay of adjudication for,
24.22 committing a disqualifying offense, as defined in section 171.3215, subdivision 1, a gross
24.23 misdemeanor, a fourth moving violation within the previous three years, or a violation of
24.24 section 169A.20, or a similar statute or ordinance from another state, the court shall determine
24.25 whether the offender is a school bus driver as defined in section 171.3215, subdivision 1,
24.26 whether the offender possesses a school bus driver's endorsement on the offender's driver's
24.27 license and in what school districts the offender drives a school bus. If the offender is a
24.28 school bus driver or possesses a school bus driver's endorsement, the court administrator
24.29 shall send a certified copy of the conviction or stay of adjudication to the Department of
24.30 Public Safety and to the school districts in which the offender drives a school bus within
24.31 ten days after the conviction or stay of adjudication.

25.1 Sec. 19. **REPEALER.**

25.2 Minnesota Statutes 2017 Supplement, section 122A.09, subdivision 1, and Minnesota
25.3 Rules, part 8710.2100, subparts 1 and 2, are repealed.

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

APPENDIX
Repealed Minnesota Statutes: SF3953-0

122A.09 DUTIES.

Subdivision 1. **Code of ethics.** The Board of Teaching must develop by rule a code of ethics covering standards of professional teaching practices, including areas of ethical conduct and professional performance and methods of enforcement.

8710.2100 CODE OF ETHICS FOR MINNESOTA TEACHERS.

Subpart 1. **Scope.** Each teacher, upon entering the teaching profession, assumes a number of obligations, one of which is to adhere to a set of principles which defines professional conduct. These principles are reflected in the following code of ethics, which sets forth to the education profession and the public it serves standards of professional conduct and procedures for implementation.

This code shall apply to all persons licensed according to rules established by the Professional Educator Licensing and Standards Board.

8710.2100 CODE OF ETHICS FOR MINNESOTA TEACHERS.

Subp. 2. **Standards of professional conduct.** The standards of professional conduct are as follows:

- A. A teacher shall provide professional education services in a nondiscriminatory manner.
- B. A teacher shall make reasonable effort to protect the student from conditions harmful to health and safety.
- C. In accordance with state and federal laws, a teacher shall disclose confidential information about individuals only when a compelling professional purpose is served or when required by law.
- D. A teacher shall take reasonable disciplinary action in exercising the authority to provide an atmosphere conducive to learning.
- E. A teacher shall not use professional relationships with students, parents, and colleagues to private advantage.
- F. A teacher shall delegate authority for teaching responsibilities only to licensed personnel.
- G. A teacher shall not deliberately suppress or distort subject matter.
- H. A teacher shall not knowingly falsify or misrepresent records or facts relating to that teacher's own qualifications or to other teachers' qualifications.
- I. A teacher shall not knowingly make false or malicious statements about students or colleagues.
- J. A teacher shall accept a contract for a teaching position that requires licensing only if properly or provisionally licensed for that position.