List of Federal and Minnesota State Statutes and Conditions of Participation

MN State Statute 144.291- 144.293 Minnesota Health Records Act (H)

https://www.revisor.mn.gov/statutes/?id=144.291

MN State Statute 144.55 Subd 3- Licensure Requirements for Hospitals follow Federal Regulations (H)

https://www.revisor.mn.gov/statutes/?id=144.55

MN State Statute 176.231- Report of death or injury to OSHA (H & LE)

https://www.revisor.mn.gov/statutes/?id=176.231

MN State Statute 243.55 Subd 1- Contraband in Correctional Facilities (LE)

https://www.revisor.mn.gov/statutes/?id=243.55

MN State Statute 244.07- In Custody Furlough (LE)

https://www.revisor.mn.gov/statutes/?id=244.07

MN State Statute 245D.061 – Emergency Use of Manual Restraint (H)

https://www.revisor.mn.gov/statutes/?id=245D.061

MN State Statutes 253B.045, 253B.05, and 253B.07- Mental Health Holds (H &LE)

https://www.revisor.mn.gov/statutes/?id=253B

MN State Statute 253B.10 – Mental Health Commitment Rule "48 hr Rule" (H & LE)

https://www.revisor.mn.gov/statutes/?id=253B

MN State Statute 260C.175 Taking child into custody (LE)

https://www.revisor.mn.gov/statutes/?id=260C.175

MN State Statute 260C.176 Release and Detention (LE)

https://www.revisor.mn.gov/statutes/?id=260C.176

MN State Statute 260C.177 Parental and Law Enforcement Notification (LE)

https://www.revisor.mn.gov/statutes/?id=260C.177

MN State Statute 260C.181 Place of Temporary Custody; Shelter Care Facility (LE)

https://www.revisor.mn.gov/statutes/?id=260C.181

MN State Statute 260C.188 Children in Custody; Responsibility for Medical Care (LE)

https://www.revisor.mn.gov/statutes/?id=260C.188

MN State Statute 260C.301 Termination of Parental Rights (LE)

https://www.revisor.mn.gov/statutes/?id=260C.301

MN State Statute 260C.307 Procedures in Terminating Parental Rights (LE)

https://www.revisor.mn.gov/statutes/?id=260C.307

MN State Statute 260C.139 Give Life a Chance: Safe Place for Newborns (LE)

https://www.revisor.mn.gov/statutes/?id=260C.139

MN State Statute 466.101 – Medical Expenses connected with arrests (LE)

https://www.revisor.mn.gov/statutes/?id=466.101

MN State Statute 609.2231 Subdivision 1 a., b., c., Assault in Forth Degree (LE)

https://www.revisor.mn.gov/statutes/?id=609.2231

MN State Statute 624.714 Subd 17- Posting Requirements for Banning Guns on premises (H & LE)

https://www.revisor.mn.gov/statutes/?id=624.714

MN State Statute 626.52 Subd 2- Immediate report to local police re., injury related to firearms (H & LE)

https://www.revisor.mn.gov/statutes/?id=626.52

MN State Statute 626.5572 Subd 15-21- Definitions of Maltreatment/Neglect/Vulnerable Adult (H)

https://www.revisor.mn.gov/statutes/?id=626.5572

42 USC 1395 dd- EMTALA (H)

https://www.cms.gov/Regulations-and-Guidance/Legislation/EMTALA/

42 CFR Part 160 – HIPAA (Health Insurance Portability and Accountability Act) (H)

https://www.hhs.gov/hipaa/for-professionals/privacy/index.html

CMS appendix A for Acute Care Hospitals

https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_a_hospitals.pdf

482.12 CFR (A-0043)- Governing Body Condition for Acute Hospitals (H)

482.13 CFR (A-0115 and A-0144)- Pt's Rights to Safe Environment including freedom from restraint (H)

482.22 CFR (A-0338) Medical Staff Condition for Acute Hospitals (H)

482.55 CFR (A-1100-1102) Emergency Services Condition for Acute Hospitals (H)

CMS appendix W for Critical Access Hospitals (CAH)

https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_w_cah.pdf

485.618 (C-0200) Emergency Services Condition for Critical Access Hospitals (H)

485.625 (C-0241) Governing Body Requirements for Critical Access Hospitals (H)

485.635 (C-0270 and C-0271) Patient Care Policies Requirements for Critical Access Hospitals (H)

CMS Appendix Z- (Emergency Preparedness Requirements)

https://www.cms.gov/Medicare/Provider-Enrollment-and-certification/SurveyCertEmergPrep/Emergency-Prep-Rule.html

144.291 MINNESOTA HEALTH RECORDS ACT.

Subdivision 1.**Short title.**

Sections 144.291 to 144.298 may be cited as the "Minnesota Health Records Act."

Subd. 2.**Definitions.**

For the purposes of sections 144.291 to 144.298, the following terms have the meanings given.

(a) "Group purchaser" has the meaning given in section 62J.03, subdivision 6.

(b) "Health information exchange" means a legal arrangement between health care providers and group purchasers to enable and oversee the business and legal issues involved in the electronic exchange of health records between the entities for the delivery of patient care.

(c) "Health record" means any information, whether oral or recorded in any form or medium, that relates to the past, present, or future physical or mental health or condition of a patient; the provision of health care to a patient; or the past, present, or future payment for the provision of health care to a patient.

(d) "Identifying information" means the patient's name, address, date of birth, gender, parent's or guardian's name regardless of the age of the patient, and other nonclinical data which can be used to uniquely identify a patient.

(e) "Individually identifiable form" means a form in which the patient is or can be identified as the subject of the health records.

(f) "Medical emergency" means medically necessary care which is immediately needed to preserve life, prevent serious impairment to bodily functions, organs, or parts, or prevent placing the physical or mental health of the patient in serious jeopardy.

(g) "Patient" means a natural person who has received health care services from a provider for treatment or examination of a medical, psychiatric, or mental condition, the surviving spouse and parents of a deceased patient, or a person the patient appoints in writing as a representative, including a health care agent acting according to chapter 145C, unless the authority of the agent has been limited by the principal in the principal's health care directive. Except for minors who have received health care services under sections 144.341 to 144.347, in the case of a minor, patient includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian.

(h) "Patient information service" means a service providing the following query options: a record locator service as defined in paragraph (j) or a master patient index or clinical data repository as defined in section 62J.498, subdivision 1.

(i) "Provider" means:

(1) any person who furnishes health care services and is regulated to furnish the services under chapter 147, 147A, 147B, 147C, 147D, 148, 148B, 148D, 148F, 150A, 151, 153, or 153A;

(2) a home care provider licensed under section 144A.471;

(3) a health care facility licensed under this chapter or chapter 144A; and

(4) a physician assistant registered under chapter 147A.

(j) "Record locator service" means an electronic index of patient identifying information that directs providers in a health information exchange to the location of patient health records held by providers and group purchasers.

(k) "Related health care entity" means an affiliate, as defined in section 144.6521, subdivision 3, paragraph (b), of the provider releasing the health records.

144.292 PATIENT RIGHTS.

Subdivision 1.**Scope.**

Patients have the rights specified in this section regarding the treatment the patient receives and the patient's health record.

Subd. 4.**Notice of rights; information on release.**

Subd. 7.**Withholding health records from patient.**

(a) If a provider, as defined in section 144.291, subdivision 2, paragraph (h), clause (1), reasonably determines that the information is detrimental to the physical or mental health of the patient, or is likely to cause the patient to inflict self harm, or to harm another, the provider may withhold the information from the patient and may supply the information to an appropriate third party or to another provider, as defined in section 144.291, subdivision 2, paragraph (h), clause (1). The other provider or third party may release the information to the patient.

(b) A provider, as defined in section 144.291, subdivision 2, paragraph (h), clause (3), shall release information upon written request unless, prior to the request, a provider, as defined in section 144.291, subdivision 2, paragraph (h), clause (1), has designated and described a specific basis for withholding the information as authorized by paragraph (a).

§

144.293 RELEASE OR DISCLOSURE OF HEALTH RECORDS.

Subdivision 1.**Release or disclosure of health records.**

Health records can be released or disclosed as specified in subdivisions 2 to 9 and sections 144.294 and 144.295.

Subd. 2.**Patient consent to release of records.**

A provider, or a person who receives health records from a provider, may not release a patient's health records to a person without:

(1) a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release;

(2) specific authorization in law; or

(3) a representation from a provider that holds a signed and dated consent from the patient authorizing the release.

144.55 LICENSES; ISSUANCE, SUSPENSION AND REVOCATION.

§ Subd. 3.**Standards for licensure.**

(a) Notwithstanding the provisions of section 144.56, for the purpose of hospital licensure, the commissioner of health shall use as minimum standards the hospital certification regulations promulgated pursuant to Title XVIII of the Social Security Act, United States Code, title 42, section 1395, et seq. The commissioner may use as minimum standards changes in the federal hospital certification regulations promulgated after May 7, 1981, if the commissioner finds that such changes are reasonably necessary to protect public health and safety. The commissioner shall also promulgate in rules additional minimum standards for new construction.

176.231 REPORT OF DEATH OR INJURY TO COMMISSIONER OF DEPARTMENT OF LABOR AND INDUSTRY.

Subdivision 1.**Time limitation.**

Where death or serious injury occurs to an employee during the course of employment, the employer shall report the injury or death to the commissioner and insurer within 48 hours after its occurrence. Where any other injury occurs which wholly or partly incapacitates the employee from performing labor or service for more than three calendar days, the employer shall report the injury to the insurer on a form prescribed by the commissioner within ten days from its occurrence. An insurer and self-insured employer shall report the injury to the commissioner no later than 14 days from its occurrence. Where an injury has once been reported but subsequently death ensues, the employer shall report the death to the commissioner and insurer within 48 hours after the employer receives notice of this fact. An employer who provides notice to the Occupational Safety and Health Division of the Department of Labor and Industry of a fatality within the eight-hour time frame required by law, or of an inpatient hospitalization within the 24-hour time frame required by law, has satisfied the employer's obligation under this section.

243.55 CONTRABAND ARTICLES; EXCEPTIONS; PENALTY.

Subdivision 1.**Contraband; bringing into correctional facility; felony.**

Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or state hospital, or within or upon the grounds belonging to or land or controlled by any such facility or hospital, or is found in possession of any controlled substance as defined in section 152.01, subdivision 4, or any firearms, weapons or explosives of any kind, without the consent of the chief executive officer thereof, shall be guilty of a felony and, upon conviction thereof, punished by imprisonment for a term of not more than ten years. Any person who brings, sends, or in any manner causes to be introduced into any state

correctional facility or within or upon the grounds belonging to or land controlled by the facility, or is found in the possession of any intoxicating or alcoholic liquor or malt beverage of any kind without the consent of the chief executive officer thereof, shall be guilty of a gross misdemeanor. The provisions of this section shall not apply to physicians carrying drugs or introducing any of the above described liquors into such facilities for use in the practice of their profession; nor to sheriffs or other peace officers carrying revolvers or firearms as such officers in the discharge of duties.

Subd. 3.**State hospital or hospital; definition.**

As used in this section, "state hospital" or "hospital" means any state-operated facility or hospital under the authority of the commissioner of human services for (a) persons with mental illness, developmental disabilities, or chemical dependency, (b) sex offenders, (c) persons with a sexual psychopathic personality, or (d) sexually dangerous person.

244.07 FURLOUGHS.

Subdivision 1.**Authority.**

If consistent with the public interest, the commissioner may, under rules prescribed by the commissioner, furlough any inmate in custody to any point within the state for up to five days. A furlough may be granted to assist the inmate with family needs, personal health needs, or reintegration into society. No inmate may receive more than three furloughs under this section within any 12-month period. The provisions of this section shall also apply to those inmates convicted of offenses prior to May 1, 1980.

Subd. 2.**Health care.**

Notwithstanding the provisions of subdivision 1, if the commissioner determines that the inmate requires health care not available at the state correctional institution, the commissioner may grant the inmate the furloughs necessary to provide appropriate noninstitutional or extrainstitutional health care.

245D.061 EMERGENCY USE OF MANUAL RESTRAINTS.

§

Subdivision 1.**Standards for emergency use of manual restraints.**

The license holder must ensure that emergency use of manual restraints complies with the requirements of this chapter and the license holder's policy and procedures as required under subdivision 9.

Subd. 2.**Conditions for emergency use of manual restraint.**

Emergency use of manual restraint must meet the following conditions:

(1) immediate intervention must be needed to protect the person or others from imminent risk of physical harm; and

(2) the type of manual restraint used must be the least restrictive intervention to eliminate the immediate risk of harm and effectively achieve safety. The manual restraint must end when the threat of harm ends.

Subd. 3.

[Repealed, 2015 c 78 art 6 s 32]

Subd. 4.**Monitoring emergency use of manual restraint.**

The license holder shall monitor a person's health and welfare during an emergency use of a manual restraint. Staff monitoring the procedure must not be the staff implementing the procedure when possible. The license holder shall complete a monitoring form, approved by the commissioner, for each incident involving the emergency use of a manual restraint.

Subd. 5.**Reporting emergency use of manual restraint incident.**

(a) Within three calendar days after an emergency use of a manual restraint, the staff person who implemented the emergency use must report in writing to the designated coordinator the following information about the emergency use:

(1) the staff and persons receiving services who were involved in the incident leading up to the emergency use of manual restraint;

(2) a description of the physical and social environment, including who was present before and during the incident leading up to the emergency use of manual restraint;

(3) a description of what less restrictive alternative measures were attempted to de-escalate the incident and maintain safety before the manual restraint was implemented that identifies when, how, and how long the alternative measures were attempted before manual restraint was implemented;

(4) a description of the mental, physical, and emotional condition of the person who was restrained, and other persons involved in the incident leading up to, during, and following the manual restraint;

(5) whether there was any injury to the person who was restrained or other persons involved in the incident, including staff, before or as a result of the use of manual restraint;

(6) whether there was a debriefing with the staff, and, if not contraindicated, with the person who was restrained and other persons who were involved in or who witnessed the restraint, following the incident and the outcome of the debriefing. If the debriefing was not conducted at the time the incident report was made, the report should identify whether a debriefing is planned; and

(7) a copy of the report must be maintained in the person's service recipient record.

(b) Each single incident of emergency use of manual restraint must be reported separately. For the purposes of this subdivision, an incident of emergency use of manual restraint is a single incident when the following conditions have been met:

(1) after implementing the manual restraint, staff attempt to release the person at the moment staff believe the person's conduct no longer poses an imminent risk of physical harm to self or others and less restrictive strategies can be implemented to maintain safety;

(2) upon the attempt to release the restraint, the person's behavior immediately re-escalates; and

(3) staff must immediately re-implement the restraint in order to maintain safety.

Subd. 6.**Internal review of emergency use of manual restraint.**

(a) Within five working days of the emergency use of manual restraint, the license holder must complete and document an internal review of each report of emergency use of manual restraint. The review must include an evaluation of whether:

(1) the person's service and support strategies developed according to sections 245D.07 and 245D.071 need to be revised;

(2) related policies and procedures were followed;

(3) the policies and procedures were adequate;

(4) there is a need for additional staff training;

(5) the reported event is similar to past events with the persons, staff, or the services involved; and

(6) there is a need for corrective action by the license holder to protect the health and welfare of persons.

(b) Based on the results of the internal review, the license holder must develop, document, and implement a corrective action plan for the program designed to correct current lapses and prevent future lapses in performance by individuals or the license holder, if any. The corrective action plan, if any, must be implemented within 30 days of the internal review being completed.

(c) The license holder must maintain a copy of the internal review and the corrective action plan, if any, in the person's service recipient record.

Subd. 9.**Emergency use of manual restraints policy and procedures.**

The license holder must develop, document, and implement a policy and procedures that promote service recipient rights and protect health and welfare during the emergency use of manual restraints. The policy and procedures must comply with the requirements of this section and must specify the following:

(1) a description of the positive support strategies and techniques staff must use to attempt to de-escalate a person's behavior before it poses an imminent risk of physical harm to self or others;

(2) a description of the types of manual restraints the license holder allows staff to use on an emergency basis, if any. If the license holder will not allow the emergency use of manual restraint, the policy and procedure must identify the alternative measures the license holder will require staff to use when a person's conduct poses an imminent risk of physical harm to self or others and less restrictive strategies would not achieve safety;

(3) instructions for safe and correct implementation of the allowed manual restraint procedures;

(4) the training that staff must complete and the timelines for completion, before they may implement an emergency use of manual restraint. In addition to the training on this policy and procedure and the orientation and annual training required in section 245D.09, subdivision 4, the training for emergency use of manual restraint must incorporate the following subjects:

(i) alternatives to manual restraint procedures, including techniques to identify events and environmental factors that may escalate conduct that poses an imminent risk of physical harm to self or others;

(ii) de-escalation methods, positive support strategies, and how to avoid power struggles;

(iii) simulated experiences of administering and receiving manual restraint procedures allowed by the license holder on an emergency basis;

(iv) how to properly identify thresholds for implementing and ceasing restrictive procedures;

(v) how to recognize, monitor, and respond to the person's physical signs of distress, including positional asphyxia;

(vi) the physiological and psychological impact on the person and the staff when restrictive procedures are used;

(vii) the communicative intent of behaviors; and

(viii) relationship building;

253B.045 TEMPORARY CONFINEMENT.

Subdivision 1.**Restriction.**

Except when ordered by the court pursuant to a finding of necessity to protect the life of the proposed patient or others or as provided under subdivision 1a, no person subject to the provisions of this chapter shall be confined in a jail or correctional institution, except pursuant to chapter 242 or 244.

Subd. 2.**Facilities.**

(a) Each county or a group of counties shall maintain or provide by contract a facility for confinement of persons held temporarily for observation, evaluation, diagnosis, treatment, and care. When the temporary confinement is provided at a regional treatment center, the commissioner shall charge the county of financial responsibility for the costs of confinement of persons hospitalized under section 253B.05, subdivisions 1 and 2, and section 253B.07, subdivision 2b, except that the commissioner shall bill the responsible health plan first. Any charges not covered, including co-pays and deductibles shall be the responsibility of the county. If the person has health plan coverage, but the hospitalization does not meet the criteria in subdivision 6 or section 62M.07, 62Q.53, or 62Q.535, the county is responsible. When a person is temporarily confined in a Department of Corrections facility solely under subdivision 1a, and not based on any separate correctional authority:

(1) the commissioner of corrections may charge the county of financial responsibility for the costs of confinement; and

(2) the Department of Human Services shall use existing appropriations to fund all remaining nonconfinement costs. The funds received by the commissioner for the confinement and nonconfinement costs are appropriated to the department for these purposes.

(b) For the purposes of this subdivision, "county of financial responsibility" has the meaning specified in section 253B.02, subdivision 4c, or, if the person has no residence in this state, the county which initiated the confinement. The charge for confinement in a facility operated by the commissioner of human services shall be based on the commissioner's determination of the cost of care pursuant to section 246.50, subdivision 5. When there is a dispute as to which county is the county of financial responsibility, the county charged for the costs of confinement shall pay for them pending final determination of the dispute over financial responsibility.

Subd. 3.**Cost of care.**

Notwithstanding subdivision 2, a county shall be responsible for the cost of care as specified under section 246.54 for persons hospitalized at a regional treatment center in accordance with section253B.09 and the person's legal status has been changed to a

court hold under section 253B.07, subdivision 2b, pending a judicial determination regarding continued commitment pursuant to sections 253B.12 and 253B.13.

Subd. 4.**Treatment.**

The designated agency shall take reasonable measures to assure proper care and treatment of a person temporarily confined pursuant to this section.

253B.05 EMERGENCY ADMISSION.

Subdivision 1.**Emergency hold.**

(a) Any person may be admitted or held for emergency care and treatment in a treatment facility, except to a facility operated by the Minnesota sex offender program, with the consent of the head of the treatment facility upon a written statement by an examiner that:

(1) the examiner has examined the person not more than 15 days prior to admission;

(2) the examiner is of the opinion, for stated reasons, that the person is mentally ill, developmentally disabled, or chemically dependent, and is in danger of causing injury to self or others if not immediately detained; and

(3) an order of the court cannot be obtained in time to prevent the anticipated injury.

(b) If the proposed patient has been brought to the treatment facility by another person, the examiner shall make a good faith effort to obtain a statement of information that is available from that person, which must be taken into consideration in deciding whether to place the proposed patient on an emergency hold. The statement of information must include, to the extent available, direct observations of the proposed patient's behaviors, reliable knowledge of recent and past behavior, and information regarding psychiatric history, past treatment, and current mental health providers. The examiner shall also inquire into the existence of health care directives under chapter 145, and advance psychiatric directives under section 253B.03, subdivision 6d.

(c) The examiner's statement shall be: (1) sufficient authority for a peace or health officer to transport a patient to a treatment facility, (2) stated in behavioral terms and not in conclusory language, and (3) of sufficient specificity to provide an adequate record for review. If danger to specific individuals is a basis for the emergency hold, the statement must identify those individuals, to the extent practicable. A copy of the examiner's statement shall be personally served on the person immediately upon admission and a copy shall be maintained by the treatment facility.

(d) A patient must not be allowed or required to consent to nor participate in a clinical drug trial during an emergency admission or hold under this subdivision or subdivision 2. A consent given during a period of an emergency admission or hold is void and unenforceable. This paragraph does not prohibit a patient from continuing participation in a clinical drug trial if the patient was participating in the drug trial at the time of the emergency admission or hold.

Subd. 2.**Peace or health officer authority.**

(a) A peace or health officer may take a person into custody and transport the person to a licensed physician or treatment facility if the officer has reason to believe, either through direct observation of the person's behavior, or upon reliable information of the person's recent behavior and knowledge of the person's past behavior or psychiatric treatment, that the person is mentally ill or developmentally disabled and in danger of injuring self or others if not immediately detained. A peace or health officer or a person working under such officer's supervision, may take a person who is believed to be chemically dependent or is intoxicated in public into custody and transport the person to a treatment facility. If the person is intoxicated in public or is believed to be chemically dependent and is not in danger of causing self-harm or harm to any person or property, the peace or health officer may transport the person home. The peace or health officer shall make written application for admission of the person to the treatment facility. The application shall contain the peace or health officer's statement specifying the reasons for and circumstances under which the person was taken into custody. If danger to specific individuals is a basis for the emergency hold, the statement must include identifying information on those individuals, to the extent practicable. A copy of the statement shall be made available to the person taken into custody. The peace or health officer who makes the application shall provide the officer's name, the agency that employs the officer, and the telephone number or other contact information for purposes of receiving notice under subdivision 3, paragraph (d).

(b) As far as is practicable, a peace officer who provides transportation for a person placed in a facility under this subdivision may not be in uniform and may not use a vehicle visibly marked as a law enforcement vehicle.

(c) A person may be admitted to a treatment facility for emergency care and treatment under this subdivision with the consent of the head of the facility under the following circumstances: (1) a written statement shall only be made by the following individuals

who are knowledgeable, trained, and practicing in the diagnosis and treatment of mental illness or developmental disability; the medical officer, or the officer's designee on duty at the facility, including a licensed physician, a licensed physician assistant, or an advanced practice registered nurse who after preliminary examination has determined that the person has symptoms of mental illness or developmental disability and appears to be in danger of harming self or others if not immediately detained; or (2) a written statement is made by the institution program director or the director's designee on duty at the facility after preliminary examination that the person has symptoms of chemical dependency and appears to be in danger of harming self or others if not immediately detained or is intoxicated in public.

Subd. 2a.

[Repealed, 1997 c 217 art 1 s 118]

Subd. 2b.**Notice.**

Every person held pursuant to this section must be informed in writing at the time of admission of the right to leave after 72 hours, to a medical examination within 48 hours, and to request a change to voluntary status. The treatment facility shall, upon request, assist the person in exercising the rights granted in this subdivision.

Subd. 3.**Duration of hold.**

(a) Any person held pursuant to this section may be held up to 72 hours, exclusive of Saturdays, Sundays, and legal holidays after admission. If a petition for the commitment of the person is filed in the district court in the county of financial responsibility or of the county in which the treatment facility is located, the court may issue a judicial hold order pursuant to section 253B.07, subdivision 2b.

(b) During the 72-hour hold period, a court may not release a person held under this section unless the court has received a written petition for release and held a summary hearing regarding the release. The petition must include the name of the person being held, the basis for and location of the hold, and a statement as to why the hold is improper. The petition also must include copies of any written documentation under subdivision 1 or 2 in support of the hold, unless the person holding the petitioner refuses to supply the documentation. The hearing must be held as soon as practicable and may be conducted by means of a telephone conference call or similar method by which the participants are able to simultaneously hear each other. If the court decides to release the person, the court shall direct the release and shall issue written findings supporting the decision. The release may not be delayed pending the written order. Before deciding to release the person, the court shall make every reasonable effort to provide notice of the proposed release to:

(1) any specific individuals identified in a statement under subdivision 1 or 2 or individuals identified in the record who might be endangered if the person was not held;

(2) the examiner whose written statement was a basis for a hold under subdivision 1; and

(3) the peace or health officer who applied for a hold under subdivision 2.

(c) If a person is intoxicated in public and held under this section for detoxification, a treatment facility may release the person without providing notice under paragraph (d) as soon as the treatment facility determines the person is no longer a danger to themselves or others. Notice must be provided to the peace officer or health officer who transported the person, or the appropriate law enforcement agency, if the officer or agency requests notification.

(d) Notwithstanding section 144.293, subdivisions 2 and 4, if a treatment facility releases or discharges a person during the 72-hour hold period or if the person leaves the facility without the consent of the treating health care provider, the head of the treatment facility shall immediately notify the agency which employs the peace or health officer who transported the person to the treatment facility under this section.

(e) A person held under a 72-hour emergency hold must be released by the facility within 72 hours unless a court order to hold the person is obtained. A consecutive emergency hold order under this section may not be issued.

253B.07 JUDICIAL COMMITMENT; PRELIMINARY PROCEDURES.

Subdivision 1.**Prepetition screening.**

(a) Prior to filing a petition for commitment of or early intervention for a proposed patient, an interested person shall apply to the designated agency in the county of financial responsibility or the county where the proposed patient is present for conduct of a preliminary investigation, except when the proposed patient has been acquitted of a crime under section 611.026 and the county attorney is required to file a petition for commitment. The designated agency shall appoint a screening team to conduct an investigation. The petitioner may not be a member of the screening team. The investigation must include:

(1) a personal interview with the proposed patient and other individuals who appear to have knowledge of the condition of the proposed patient. If the proposed patient is not interviewed, specific reasons must be documented;

(2) identification and investigation of specific alleged conduct which is the basis for application;

(3) identification, exploration, and listing of the specific reasons for rejecting or recommending alternatives to involuntary placement;

(4) in the case of a commitment based on mental illness, the following information, if it is known or available, that may be relevant to the administration of neuroleptic medications, including the existence of a declaration under section 253B.03, subdivision 6d, or a health care directive under chapter 145C or a guardian, conservator, proxy, or agent with authority to make health care decisions for the proposed patient; information regarding the capacity of the proposed patient to make decisions regarding administration of neuroleptic medication; and whether the proposed patient is likely to consent or refuse consent to administration of the medication;

(5) seeking input from the proposed patient's health plan company to provide the court with information about services the enrollee needs and the least restrictive alternatives; and

(6) in the case of a commitment based on mental illness, information listed in clause (4) for other purposes relevant to treatment.

(b) In conducting the investigation required by this subdivision, the screening team shall have access to all relevant medical records of proposed patients currently in treatment facilities. The interviewer shall inform the proposed patient that any information provided by the proposed patient may be included in the prepetition screening report and may be considered in the commitment proceedings. Data collected pursuant to this clause shall be considered private data on individuals. The prepetition screening report is not admissible as evidence except by agreement of counsel or as permitted by this chapter or the rules of court and is not admissible in any court proceedings unrelated to the commitment proceedings.

(c) The prepetition screening team shall provide a notice, written in easily understood language, to the proposed patient, the petitioner, persons named in a declaration under chapter 145C or section 253B.03, subdivision 6d, and, with the proposed patient's consent, other interested parties. The team shall ask the patient if the patient wants the notice read and shall read the notice to the patient upon request. The notice must contain information regarding the process, purpose, and legal effects of civil commitment and early intervention. The notice must inform the proposed patient that:

(1) if a petition is filed, the patient has certain rights, including the right to a court-appointed attorney, the right to request a second examiner, the right to attend hearings, and the right to oppose the proceeding and to present and contest evidence; and

(2) if the proposed patient is committed to a state regional treatment center or group home, the patient may be billed for the cost of care and the state has the right to make a claim against the patient's estate for this cost.

The ombudsman for mental health and developmental disabilities shall develop a form for the notice which includes the requirements of this paragraph.

(d) When the prepetition screening team recommends commitment, a written report shall be sent to the county attorney for the county in which the petition is to be filed. The statement of facts contained in the written report must meet the requirements of subdivision 2, paragraph (b).

(e) The prepetition screening team shall refuse to support a petition if the investigation does not disclose evidence sufficient to support commitment. Notice of the prepetition screening team's decision shall be provided to the prospective petitioner and to the proposed patient.

(f) If the interested person wishes to proceed with a petition contrary to the recommendation of the prepetition screening team, application may be made directly to the county attorney, who shall determine whether or not to proceed with the petition. Notice of the county attorney's determination shall be provided to the interested party.

(g) If the proposed patient has been acquitted of a crime under section 611.026, the county attorney shall apply to the designated county agency in the county in which the acquittal took place for a preliminary investigation unless substantially the same information relevant to the proposed patient's current mental condition, as could be obtained by a preliminary investigation, is part of the court record in the criminal proceeding or is contained in the report of a mental examination conducted in connection with the criminal proceeding. If a court petitions for commitment pursuant to the Rules of Criminal or Juvenile Procedure or a county attorney petitions pursuant to acquittal of a criminal charge under section 611.026, the prepetition investigation, if required by this section, shall be completed within seven days after the filing of the petition.

Subd. 2.**The petition.**

(a) Any interested person, except a member of the prepetition screening team, may file a petition for commitment in the district court of the county of financial responsibility or the county where the proposed patient is present. If the head of the treatment facility believes that commitment is required and no petition has been filed, the head of the treatment facility shall petition for the commitment of the person.

(b) The petition shall set forth the name and address of the proposed patient, the name and address of the patient's nearest relatives, and the reasons for the petition. The petition must contain factual descriptions of the proposed patient's recent behavior, including a description of the behavior, where it occurred, and the time period over which it occurred. Each factual allegation must be supported by observations of witnesses named in the petition. Petitions shall be stated in behavioral terms and shall not contain judgmental or conclusory statements.

(c) The petition shall be accompanied by a written statement by an examiner stating that the examiner has examined the proposed patient within the 15 days preceding the filing of the petition and is of the opinion that the proposed patient is suffering a designated disability and should be committed to a treatment facility. The statement shall include the reasons for the opinion. In the case of a commitment based on mental illness, the petition and the examiner's statement shall include, to the extent this information is available, a statement and opinion regarding the proposed patient's need for treatment with neuroleptic medication and the patient's capacity to make decisions regarding the administration of neuroleptic medications, and the reasons for the opinion. If use of neuroleptic medications is recommended by the treating physician, the petition for commitment must, if applicable, include or be accompanied by a request for proceedings under section 253B.092. Failure to include the required information regarding neuroleptic medications in the examiner's statement, or to include a request for an order regarding neuroleptic medications with the commitment petition, is not a basis for dismissing the commitment petition. If a petitioner has been unable to secure a statement from an examiner, the petition shall include documentation that a reasonable effort has been made to secure the supporting statement.

Subd. 2a.**Petition originating from criminal proceedings.**

(a) If criminal charges are pending against a defendant, the court shall order simultaneous competency and civil commitment examinations in accordance with Minnesota Rules of Criminal Procedure, rule 20.04, when the following conditions are met:

(1) the prosecutor or defense counsel doubts the defendant's competency and a motion is made challenging competency, or the court on its initiative raises the issue under rule 20.01; and

(2) the prosecutor and defense counsel agree simultaneous examinations are appropriate.

No additional examination under subdivision 3 is required in a subsequent civil commitment proceeding unless a second examination is requested by defense counsel appointed following the filing of any petition for commitment.

(b) Following an acquittal of a person of a criminal charge under section 611.026, the petition shall be filed by the county attorney of the county in which the acquittal took place and the petition shall be filed with the court in which the acquittal took place, and that court shall be the committing court for purposes of this chapter. When a petition is filed pursuant to subdivision 2 with the court in which acquittal of a criminal charge took place, the court shall assign the judge before whom the acquittal took place to hear the commitment proceedings unless that judge is unavailable.

Subd. 2b.**Apprehend and hold orders.**

(a) The court may order the treatment facility to hold the person in a treatment facility or direct a health officer, peace officer, or other person to take the proposed patient into custody and transport the proposed patient to a treatment facility for observation, evaluation, diagnosis, care, treatment, and, if necessary, confinement, when:

(1) there has been a particularized showing by the petitioner that serious physical harm to the proposed patient or others is likely unless the proposed patient is immediately apprehended;

(2) the proposed patient has not voluntarily appeared for the examination or the commitment hearing pursuant to the summons; or

(3) a person is held pursuant to section 253B.05 and a request for a petition for commitment has been filed.

(b) The order of the court may be executed on any day and at any time by the use of all necessary means including the imposition of necessary restraint upon the proposed patient. Where possible, a peace officer taking the proposed patient into custody pursuant to this subdivision shall not be in uniform and shall not use a motor vehicle visibly marked as a police vehicle. Except as provided in section 253D.10, subdivision 2, in the case of an individual on a judicial hold due to a petition for civil commitment under chapter 253D, assignment of custody during the hold is to the commissioner of human services. The commissioner is responsible for determining the appropriate placement within a secure treatment facility under the authority of the commissioner.

(c) A proposed patient must not be allowed or required to consent to nor participate in a clinical drug trial while an order is in effect under this subdivision. A consent given while an order is in effect is void and unenforceable. This paragraph does not prohibit a patient from continuing participation in a clinical drug trial if the patient was participating in the drug trial at the time the order was issued under this subdivision.

Subd. 2c.**Right to counsel.**

A patient has the right to be represented by counsel at any proceeding under this chapter. The court shall appoint a qualified attorney to represent the proposed patient if neither the proposed patient nor others provide counsel. The attorney shall be appointed at the time a petition for commitment is filed or when simultaneous competency and civil commitment examinations are ordered under subdivision 2a, whichever is sooner. In all proceedings under this chapter, the attorney shall:

(1) consult with the person prior to any hearing;

(2) be given adequate time and access to records to prepare for all hearings;

(3) continue to represent the person throughout any proceedings under this chapter unless released as counsel by the court; and

(4) be a vigorous advocate on behalf of the person.

Subd. 2d.**Change of venue.**

Either party may move to have the venue of the petition changed to the district court of the Minnesota county where the person currently lives, whether independently or pursuant to a placement. The court shall grant the motion if it determines that the transfer is appropriate and is in the interests of justice. If the petition has been filed pursuant to the Rules of Criminal or Juvenile Procedure, venue may not be changed without the approval of the court in which the juvenile or criminal proceedings are pending.

Subd. 3.**Examiners.**

After a petition has been filed, the court shall appoint an examiner. Prior to the hearing, the court shall inform the proposed patient of the right to an independent second examination. At the proposed patient's request, the court shall appoint a second examiner of the patient's choosing to be paid for by the county at a rate of compensation fixed by the court.

Subd. 4.**Prehearing examination; notice and summons procedure.**

(a) A summons to appear for a prehearing examination and the commitment hearing shall be served upon the proposed patient. A plain language notice of the proceedings and notice of the filing of the petition shall be given to the proposed patient, patient's counsel, the petitioner, any interested person, and any other persons as the court directs.

(b) The prepetition screening report, the petition, and the examiner's supporting statement shall be distributed to the petitioner, the proposed patient, the patient's counsel, the county attorney, any person authorized by the patient, and any other person as the court directs.

(c) All papers shall be served personally on the proposed patient. Unless otherwise ordered by the court, the notice shall be served on the proposed patient by a nonuniformed person.

Subd. 5.**Prehearing examination; report.**

The examination shall be held at a treatment facility or other suitable place the court determines is not likely to harm the health of the proposed patient. The county attorney and the patient's attorney may be present during the examination. Either party may waive this right. Unless otherwise agreed by the parties, a court-appointed examiner shall file the report with the court not less than 48 hours prior to the commitment hearing. The court shall ensure that copies of the examiner's report are provided to the county attorney, the proposed patient, and the patient's counsel.

Subd. 6.

[Repealed, 1997 c 217 art 1 s 118]

Subd. 7.**Preliminary hearing.**

(a) No proposed patient may be held in a treatment facility under a judicial hold pursuant to subdivision 2b longer than 72 hours, exclusive of Saturdays, Sundays, and legal holidays, unless the court holds a preliminary hearing and determines that the standard is met to hold the person.

(b) The proposed patient, patient's counsel, the petitioner, the county attorney, and any other persons as the court directs shall be given at least 24 hours written notice of the preliminary hearing. The notice shall include the alleged grounds for confinement. The proposed patient shall be represented at the preliminary hearing by counsel. The court may admit reliable hearsay evidence, including written reports, for the purpose of the preliminary hearing.

(c) The court, on its motion or on the motion of any party, may exclude or excuse a proposed patient who is seriously disruptive or who is incapable of comprehending and participating in the proceedings. In such instances, the court shall, with specificity on the record, state the behavior of the proposed patient or other circumstances which justify proceeding in the absence of the proposed patient.

(d) The court may continue the judicial hold of the proposed patient if it finds, by a preponderance of the evidence, that serious physical harm to the proposed patient or others is likely if the proposed patient is not immediately confined. If a proposed patient was acquitted of a crime against the person under section 611.026 immediately preceding the filing of the petition, the court may presume that serious physical harm to the patient or others is likely if the proposed patient is not immediately confined.

(e) Upon a showing that a person subject to a petition for commitment may need treatment with neuroleptic medications and that the person may lack capacity to make decisions regarding that treatment, the court may appoint a substitute decision-maker as provided in section 253B.092, subdivision 6. The substitute decision-maker shall meet with the proposed patient and provider and make a report to the court at the hearing under section 253B.08 regarding whether the administration of neuroleptic medications is appropriate under the criteria of section 253B.092, subdivision 7. If the substitute decision-maker consents to treatment with neuroleptic medications and the proposed patient does not refuse the medication, neuroleptic medication may be administered to the patient. If the substitute decision-maker does not consent or the patient refuses, neuroleptic medication may not be administered without a court order, or in an emergency as set forth in section 253B.092, subdivision 3.

253B.10 PROCEDURES UPON COMMITMENT.

Subdivision 1.**Administrative requirements.**

(a) When a person is committed, the court shall issue a warrant or an order committing the patient to the custody of the head of the treatment facility. The warrant or order shall state that the patient meets the statutory criteria for civil commitment.

(b) The commissioner shall prioritize patients being admitted from jail or a correctional institution who are:

(1) ordered confined in a state hospital for an examination under Minnesota Rules of Criminal Procedure, rules 20.01, subdivision 4, paragraph (a), and 20.02, subdivision 2;

(2) under civil commitment for competency treatment and continuing supervision under Minnesota Rules of Criminal Procedure, rule 20.01, subdivision 7;

(3) found not guilty by reason of mental illness under Minnesota Rules of Criminal Procedure, rule 20.02, subdivision 8, and under civil commitment or are ordered to be detained in a state hospital or other facility pending completion of the civil commitment proceedings; or

(4) committed under this chapter to the commissioner after dismissal of the patient's criminal charges.

Patients described in this paragraph must be admitted to a service operated by the commissioner within 48 hours. The commitment must be ordered by the court as provided in section 253B.09, subdivision 1, paragraph (c).

(c) Upon the arrival of a patient at the designated treatment facility, the head of the facility shall retain the duplicate of the warrant and endorse receipt upon the original warrant or acknowledge receipt of the order. The endorsed receipt or acknowledgment must be filed in the court of commitment. After arrival, the patient shall be under the control and custody of the head of the treatment facility.

(d) Copies of the petition for commitment, the court's findings of fact and conclusions of law, the court order committing the patient, the report of the examiners, and the prepetition report shall be provided promptly to the treatment facility.

Subd. 2.**Transportation.**

When a patient is about to be placed in a treatment facility, the court may order the designated agency, the treatment facility, or any responsible adult to transport the patient to the treatment facility. Whenever possible, a peace officer who provides the

transportation shall not be in uniform and shall not use a vehicle visibly marked as a police vehicle. The proposed patient may be accompanied by one or more interested persons.

When a patient who is at a regional treatment center requests a hearing for adjudication of a patient's status pursuant to section 253B.17, the commissioner shall provide transportation.

Subd. 3.**Notice of admission.**

Whenever a committed person has been admitted to a treatment facility under the provisions of section 253B.09 or 253B.18, the head of the treatment facility shall immediately notify the patient's spouse, health care agent, or parent and the county of financial responsibility if the county may be liable for a portion of the cost of treatment. If the committed person was admitted upon the petition of a spouse, health care agent, or parent the head of the treatment facility shall notify an interested person other than the petitioner.

Subd. 4.**Private treatment.**

Patients or other responsible persons are required to pay the necessary charges for patients committed or transferred to private treatment facilities. Private treatment facilities may not refuse to accept a committed person solely based on the person's court-ordered status. Insurers must provide treatment and services as ordered by the court under section 253B.045, subdivision 6, or as required under chapter 62M.

§

Subd. 5.**Transfer to voluntary status.**

At any time prior to the expiration of the initial commitment period, a patient who has not been committed as mentally ill and dangerous to the public or as a sexually dangerous person or as a sexual psychopathic personality may be transferred to voluntary status upon the patient's application in writing with the consent of the head of the facility. Upon transfer, the head of the treatment facility shall immediately notify the court in writing and the court shall terminate the proceedings.

260C.139 GIVE LIFE A CHANCE; SAFE PLACE FOR NEWBORNS.

Subdivision 1.**Duty to attempt reunification, duty to search for relatives, and preferences not applicable.**

A responsible social service agency with responsibility for a child pursuant to subdivision 4 is not required to attempt to reunify the child with the child's parents. Additionally, the agency is not required to search for relatives of the child as a placement or permanency option under section 260C.221, or to implement other placement requirements that give a preference to relatives if the agency does not have information as to the identity of the child, the child's mother, or the child's father.

Subd. 2.**Definition.**

For purposes of this section, "safe place" has the meaning given in section 145.902.

Subd. 3.**Status of child.**

For purposes of proceedings under this chapter and adoption proceedings, a newborn left at a safe place, pursuant to subdivision 3 and section 145.902, is considered an abandoned child under section 626.556, subdivision 2, paragraph (o), clause (2). The child is abandoned under sections260C.007, subdivision 6, clause (1), and 260C.301, subdivision 1, paragraph (b), clause (1).

Subd. 4.**Relinquishment of a newborn.**

A mother or any person, with the mother's permission, may bring a newborn infant to a safe place during its hours of operation and leave the infant in the care of an employee of the safe place. The mother or a person with the mother's permission may call 911 to request to have an ambulance dispatched to an agreed-upon location to relinquish a newborn infant into the custody of ambulance personnel.

§

Subd. 5.**Placement of newborn.**

The agency contacted by a safe place pursuant to section 145.902, subdivision 2, shall have legal responsibility for the placement of the newborn infant in foster care for 72 hours during which time the agency shall file a petition under section 260C.141 and ask the court to order continued placement of the child in foster care. The agency shall immediately begin planning for adoptive placement of the newborn.

260C.175 TAKING CHILD INTO CUSTODY.

Subdivision 1.**Immediate custody.**

No child may be taken into immediate custody except:

(1) with an order issued by the court in accordance with the provisions of section 260C.151, subdivision 6, or Laws 1997, chapter 239, article 10, section 10, paragraph (a), clause (3), or 12, paragraph (a), clause (3), or by a warrant issued in accordance with the provisions of section 260C.154;

(2) by a peace officer:

(i) when a child has run away from a parent, guardian, or custodian, or when the peace officer reasonably believes the child has run away from a parent, guardian, or custodian, but only for the purpose of transporting the child home, to the home of a relative, or to another safe place, which may include a shelter care facility; or

(ii) when a child is found in surroundings or conditions which endanger the child's health or welfare or which such peace officer reasonably believes will endanger the child's health or welfare. If an Indian child is a resident of a reservation or is domiciled on a reservation but temporarily located off the reservation, the taking of the child into custody under this clause shall be consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1922;

(3) by a peace officer or probation or parole officer when it is reasonably believed that the child has violated the terms of probation, parole, or other field supervision; or

(4) by a peace officer or probation officer under section 260C.143, subdivision 1 or 4.

Subd. 2.**Notice to parent or custodian.**

Whenever a peace officer takes a child into custody for shelter care or relative placement pursuant to subdivision 1, section 260C.151, subdivision 5, or section 260C.154, the officer shall notify the parent or custodian that under section 260C.181, subdivision 2, the parent or custodian may request that the child be placed with a relative or a designated caregiver under chapter 257A instead of in a shelter care facility. The officer also shall give the parent or custodian of the child a list of names, addresses, and telephone numbers of social services agencies that offer child welfare services. If the parent or custodian was not present when the child was removed from the residence, the list shall be left with an adult on the premises or left in a conspicuous place on the premises if no adult is present. If the officer has reason to believe the parent or custodian is not able to read and understand English, the officer must provide a list that is written in the language of the parent or custodian. The list shall be prepared by the commissioner of human services. The commissioner shall prepare lists for each county and provide each county with copies of the list without charge. The list shall be reviewed annually by the commissioner and updated if it is no longer accurate. Neither the commissioner nor any peace officer or the officer's employer shall be liable to any person for mistakes or omissions in the list. The list does not constitute a promise that any agency listed will in fact assist the parent or custodian.

§

Subd. 3.**Protective pat-down search of child authorized.**

(a) A peace officer who takes a child of any age or gender into custody under the provisions of this section is authorized to perform a protective pat-down search of the child in order to protect the officer's safety.

(b) A peace officer also may perform a protective pat-down search of a child in order to protect the officer's safety in circumstances where the officer does not intend to take the child into custody, if this section authorizes the officer to take the child into custody.

(c) Evidence discovered in the course of a lawful search under this section is admissible.

260C.176 RELEASE OR DETENTION.

Subdivision 1.**Notice; release.**

If a child is taken into custody as provided in section 260C.175, the parent, guardian, or custodian of the child shall be notified as soon as possible. Unless there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, or other suitable relative. When a child is taken into custody by a peace officer under section 260C.175, subdivision 1, clause (2), item (ii), release from detention may be authorized by the detaining officer, the detaining officer's supervisor, the county attorney, or the social services agency, provided that the agency has conducted an assessment and with the family has developed

and implemented a safety plan for the child, if needed. The person to whom the child is released shall promise to bring the child to the court, if necessary, at the time the court may direct. If the person taking the child into custody believes it desirable, that person may request the parent, guardian, custodian, or other person designated by the court to sign a written promise to bring the child to court as provided above. The intentional violation of such a promise, whether given orally or in writing, shall be punishable as contempt of court.

The court may require the parent, guardian, custodian, or other person to whom the child is released, to post any reasonable bail or bond required by the court which shall be forfeited to the court if the child does not appear as directed. The court may also release the child on the child's own promise to appear in juvenile court.

Subd. 2.**Reasons for detention.**

(a) If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for detention.

(b) No child taken into custody and placed in a shelter care facility or relative's home by a peace officer pursuant to section 260C.175, subdivision 1, clause (1) or (2), item (ii), may be held in custody longer than 72 hours, excluding Saturdays, Sundays and holidays, unless a petition has been filed and the judge or referee determines pursuant to section 260C.178 that the child shall remain in custody or unless the court has made a finding of domestic abuse perpetrated by a minor after a hearing under Laws 1997, chapter 239, article 10, sections 2 to 26, in which case the court may extend the period of detention for an additional seven days, within which time the social services agency shall conduct an assessment and shall provide recommendations to the court regarding voluntary services or file a child in need of protection or services petition.

Subd. 3.**Advisement if detained.**

If the person who has taken the child into custody determines that the child should be placed in a secure detention facility or a shelter care facility, that person shall advise the child and as soon as is possible, the child's parent, guardian, or custodian:

(1) of the reasons why the child has been taken into custody and why the child is being placed in a juvenile secure detention facility or a shelter care facility;

(2) of the location of the juvenile secure detention facility or a shelter care facility. If there is reason to believe that disclosure of the location of the shelter care facility would place the child's health and welfare in immediate endangerment, disclosure of the location of the shelter care facility shall not be made;

(3) that the child's parent, guardian, or custodian and attorney or guardian ad litem may make an initial visit to the juvenile secure detention facility or shelter care facility at any time. Subsequent visits by a parent, guardian, or custodian may be made on a reasonable basis during visiting hours and by the child's attorney or guardian ad litem at reasonable hours;

(4) that the child may telephone parents and an attorney or guardian ad litem from the juvenile secure detention facility or shelter care facility immediately after being admitted to the facility and thereafter on a reasonable basis to be determined by the director of the facility;

(5) that the child may not be detained pursuant to section 260C.175, subdivision 1, clause (1) or (2), item (ii), at a shelter care facility longer than 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition has been filed within that time and the court orders the child's continued detention, pursuant to section 260C.178;

(6) of the date, time, and place of the detention hearing, if this information is available to the person who has taken the child into custody; and

(7) that the child and the child's parent, guardian, or custodian have the right to be present and to be represented by counsel at the detention hearing, and that if they cannot afford counsel, counsel will be appointed at public expense for the child, or for any party, if it is a child in need of protection or services, neglected and in foster care, or termination of parental rights matter.

Subd. 4.**Transportation.**

If a child is to be detained in a secure detention facility or a shelter care facility, the child shall be promptly transported to the facility in a manner approved by the facility or by securing a written transportation order from the court authorizing transportation by the sheriff or other qualified person. The person who has determined that the child should be detained shall deliver to the court and the supervisor of the secure detention facility or shelter care facility where the child is placed, a signed report, setting forth:

(1) the time the child was taken into custody;

(2) the time the child was delivered for transportation to the secure detention facility or shelter care facility;

(3) the reasons why the child was taken into custody;

(4) the reasons why the child has been placed in detention;

(5) a statement that the child and the child's parent have received the notification required by subdivision 3 or the reasons why they have not been so notified; and

(6) any instructions required by subdivision 5.

Subd. 5.**Shelter care; notice to parent.**

When a child is to be placed in a shelter care facility, the person taking the child into custody or the court shall determine whether or not there is reason to believe that disclosure of the shelter care facility's location to the child's parent, guardian, or custodian would immediately endanger the health and welfare of the child. If there is reason to believe that the child's health and welfare would be immediately endangered, disclosure of the location shall not be made. This determination shall be included in the report required by subdivision 4, along with instructions to the shelter care facility to notify or withhold notification.

Subd. 6.**Report.**

(a) When a child has been delivered to a secure detention facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child and a parent, guardian, or custodian has received the notification required by subdivision 3. If the child or a parent, guardian, or custodian, or both, have not been so notified, the supervisor of the facility shall immediately make the notification and shall include in the report to the court a statement that notification has been received or the reasons why it has not.

(b) When a child has been delivered to a shelter care facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child's parent, guardian or custodian has been notified of the placement of the child at the shelter care facility and its location, and the supervisor shall follow any instructions concerning notification contained in that report.

260C.177 PARENTAL AND LAW ENFORCEMENT NOTIFICATION.

An emergency shelter and its agents, employees, and volunteers must comply with court orders, section 626.556, this chapter, and all other applicable laws. In any event, unless other legal requirements require earlier or different notification or actions, an emergency shelter must attempt to notify a runaway's parent or legal guardian of the runaway's location and status within 72 hours. The notification must include a description of the runaway's physical and emotional condition and the circumstances surrounding the runaway's admission to the emergency shelter, unless there are compelling reasons not to provide the parent or legal guardian with this information. Compelling reasons may include circumstances in which the runaway is or has been exposed to domestic violence or a victim of abuse, neglect, or abandonment.

260C.181 PLACE OF TEMPORARY CUSTODY; SHELTER CARE FACILITY.

Subdivision 1.**Temporary custody.**

A child taken into custody pursuant to section 260C.175 may be detained for up to 24 hours in a shelter care facility, secure detention facility, or, if there is no secure detention facility available for use by the county having jurisdiction over the child, in a jail or other facility for the confinement of adults who have been charged with or convicted of a crime in quarters separate from any adult confined in the facility which has been approved for the detention of juveniles by the commissioner of corrections. At the end of the 24-hour detention any child requiring further detention may be detained only as provided in this section.

Subd. 2.**Least restrictive setting.**

Notwithstanding the provisions of subdivision 1, if the child had been taken into custody pursuant to section 260C.175, subdivision 1, clause (1) or (2), item (ii), and is not alleged to be delinquent, the child shall be detained in the least restrictive setting consistent with the child's health and welfare and in closest proximity to the child's family as possible. Placement may be with a child's relative, a designated caregiver under chapter 257A, or in a shelter care facility. The placing officer shall comply with this section and shall document why a less restrictive setting will or will not be in the best interests of the child for placement purposes. §

Subd. 3.**Placement.**

If the child had been taken into custody and detained as one who is alleged to be in need of protection or services under section 260C.007, subdivision 6, clause (13) or (14), by reason of having been adjudicated, in need of protection or services under section 260C.007, subdivision 6, clause (13) or (14), or conditionally released by the juvenile court without adjudication, has violated probation, parole, or other field supervision under which the child had been placed as a result of behavior described in this subdivision, the child may be placed only in a shelter care facility.

260C.188 CHILDREN IN CUSTODY; RESPONSIBILITY FOR MEDICAL CARE.

Subdivision 1.**Medical aid.**

If a child is taken into custody as provided in section 260C.175 and detained in a local juvenile secure detention facility or a shelter care facility, the child's county of residence shall pay the costs of medical services provided to the child during the period of time the child is residing in the facility. The county of residence is entitled to reimbursement from the child or the child's family for payment of medical bills to the extent that the child or the child's family has the ability to pay for the medical services. If there is a disagreement between the county and the child or the child's family concerning the ability to pay or whether the medical services were necessary, the court with jurisdiction over the child shall determine the extent, if any, of the child's or the family's ability to pay for the medical services or whether the services are necessary. If the child is covered by health or medical insurance or a health plan when medical services are provided, the county paying the costs of medical services has a right of subrogation to be reimbursed by the insurance carrier or health plan for all amounts spent by it for medical services to the child that are covered by the insurance policy or health plan, in accordance with the benefits, limitations, exclusions, provider restrictions, and other provisions of the policy or health plan. The county may maintain an action to enforce this subrogation right. The county does not have a right of subrogation against the medical assistance program or the MinnesotaCare program.

Subd. 2.**Intake procedure; health coverage.**

As part of its intake procedure for children, the official having custody over the child shall ask the child or the child's family, as appropriate, whether the child has health coverage. If the child has coverage under a policy of accident and health insurance regulated under chapter 62A, a health maintenance contract regulated under chapter 62D, a group subscriber contract regulated under chapter 62C, a health benefit certificate regulated under chapter 64B, a self-insured plan, or other health coverage, the child or the child's family, as appropriate, shall provide to the official having custody over the child the name of the carrier or administrator and other information and authorizations necessary for the official having custody over the child to obtain specific information about coverage.

Subd. 3.**Obtaining health care in compliance with coverage.**

A county board may authorize the officials having custody over children to fulfill the county board's obligation to provide the medical aid required by subdivision 1 in accordance with the terms of the health plan covering the child, where possible, subject to any rules and exceptions provided by the county board. The official having custody over a child has no obligation to the child or to the child's family to obtain the child's health care in accordance with the child's health coverage.

§

Subd. 4.**Scope.**

Subdivisions 1, 2, and 3 apply to any medical aid, including dental care, provided to children held in custody by the county as described in subdivision 1.

260C.301 TERMINATION OF PARENTAL RIGHTS.

Subdivision 1.**Voluntary and involuntary.**

The juvenile court may upon petition, terminate all rights of a parent to a child:

(a) with the written consent of a parent who for good cause desires to terminate parental rights; or

(b) if it finds that one or more of the following conditions exist:

(1) that the parent has abandoned the child;

(2) that the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship, including but not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development, if the parent is physically and financially able, and either reasonable efforts by the social services agency have failed to correct the conditions that formed the basis of the petition or reasonable efforts would be futile and therefore unreasonable;

(3) that a parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause. This clause shall not be construed to state a grounds for termination of parental rights of a noncustodial parent if that parent has not been ordered to or cannot financially contribute to the support of the child or aid in the child's birth;

(4) that a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that the parent's parental rights to one or more other children were involuntarily terminated or that the parent's custodial rights to another child have been involuntarily transferred to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (e), clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction;

(5) that following the child's placement out of the home, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the child's placement. It is presumed that reasonable efforts under this clause have failed upon a showing that:

(i) a child has resided out of the parental home under court order for a cumulative period of 12 months within the preceding 22 months. In the case of a child under age eight at the time the petition was filed alleging the child to be in need of protection or services, the presumption arises when the child has resided out of the parental home under court order for six months unless the parent has maintained regular contact with the child and the parent is complying with the out-of-home placement plan;

(ii) the court has approved the out-of-home placement plan required under section 260C.212 and filed with the court under section 260C.178;

(iii) conditions leading to the out-of-home placement have not been corrected. It is presumed that conditions leading to a child's out-of-home placement have not been corrected upon a showing that the parent or parents have not substantially complied with the court's orders and a reasonable case plan; and

(iv) reasonable efforts have been made by the social services agency to rehabilitate the parent and reunite the family.

This clause does not prohibit the termination of parental rights prior to one year, or in the case of a child under age eight, prior to six months after a child has been placed out of the home.

It is also presumed that reasonable efforts have failed under this clause upon a showing that:

(A) the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;

(B) the parent has been required by a case plan to participate in a chemical dependency treatment program;

(C) the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;

(D) the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and

(E) the parent continues to abuse chemicals.

(6) that a child has experienced egregious harm in the parent's care which is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care;

(7) that in the case of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born the person is not entitled to notice of an adoption hearing under section 259.49 and the person has not registered with the fathers' adoption registry under section 259.52;

(8) that the child is neglected and in foster care; or

(9) that the parent has been convicted of a crime listed in section 260.012, paragraph (g), clauses (1) to (5).

In an action involving an American Indian child, sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws.

Subd. 2.**Evidence of abandonment.**

For purposes of subdivision 1, clause (b), item (1):

(a) Abandonment is presumed when:

(1) the parent has had no contact with the child on a regular basis and not demonstrated consistent interest in the child's well-being for six months and the social services agency has made reasonable efforts to facilitate contact, unless the parent establishes that an extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent from making contact with the child. This presumption does not apply to children whose custody has been determined under chapter 257 or 518; or

(2) the child is an infant under two years of age and has been deserted by the parent under circumstances that show an intent not to return to care for the child.

The court is not prohibited from finding abandonment in the absence of the presumptions in clauses (1) and (2).

(b) The following are prima facie evidence of abandonment where there has been a showing that the person was not entitled to notice of an adoption proceeding under section 259.49:

(1) failure to register with the fathers' adoption registry under section 259.52; or

(2) if the person registered with the fathers' adoption registry under section 259.52:

(i) filing a denial of paternity within 30 days of receipt of notice under section 259.52, subdivision 8;

(ii) failing to timely file an intent to claim parental rights with entry of appearance form within 30 days of receipt of notice under section 259.52, subdivision 10; or

(iii) timely filing an intent to claim parental rights with entry of appearance form within 30 days of receipt of notice under section 259.52, subdivision 10, but failing to initiate a paternity action within 30 days of receiving the fathers' adoption registry notice where there has been no showing of good cause for the delay.

Subd. 3.

[Repealed, 2013 c 125 art 1 s 108]

Subd. 4.**Current foster care children.**

Except for cases where the child is in placement due solely to the child's developmental disability or emotional disturbance, where custody has not been transferred to the responsible social services agency, and where the court finds compelling reasons to continue placement, the county attorney shall file a termination of parental rights petition or a petition to transfer permanent legal and physical custody to a relative under section 260C.515, subdivision 4, for all children who have been in out-of-home care for 15 of the most recent 22 months. This requirement does not apply if there is a compelling reason approved by the court for determining that filing a termination of parental rights petition or other permanency petition would not be in the best interests of the child or if the responsible social services agency has not provided reasonable efforts necessary for the safe return of the child, if reasonable efforts are required.

Subd. 5.**Adoptive parent.**

For purposes of subdivision 1, clause (a), an adoptive parent may not terminate parental rights to an adopted child for a reason that would not apply to a birth parent seeking termination of parental rights to a child under subdivision 1, clause (a).

Subd. 6.**When prior finding required.**

For purposes of subdivision 1, clause (b), no prior judicial finding of need for protection or services, or neglected and in foster care is required, except as provided in subdivision 1, clause (b), item (5).

Subd. 7.**Best interests of child paramount.**

In any proceeding under this section, the best interests of the child must be the paramount consideration, provided that the conditions in subdivision 1, clause (a), or at least one condition in subdivision 1, clause (b), are found by the court. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq. Where the interests of parent and child conflict, the interests of the child are paramount.

§

Subd. 8.**Findings regarding reasonable efforts.**

In any proceeding under this section, the court shall make specific findings:

(1) that reasonable efforts to finalize the permanency plan to reunify the child and the parent were made including individualized and explicit findings regarding the nature and extent of efforts made by the social services agency to rehabilitate the parent and reunite the family; or

(2) that reasonable efforts for reunification are not required as provided under section 260.012.

260C.307 PROCEDURES IN TERMINATING PARENTAL RIGHTS.

Subdivision 1.**Who may petition.**

Any reputable person, including but not limited to any agent of the commissioner of human services, having knowledge of circumstances which indicate that the rights of a parent to a child should be terminated, may petition the juvenile court in the manner provided in section 260C.141, subdivisions 4 and 5.

Subd. 2.**Hearing requirement.**

The termination of parental rights under the provisions of section260C.301, shall be made only after a hearing before the court, in the manner provided in section 260C.163.

Subd. 3.**Notice.**

The court shall have notice of the time, place, and purpose of the hearing served on the parents, as defined in sections 257.51 to 257.74 or 259.49, subdivision 1, clause (2), and upon the child's grandparent if the child has lived with the grandparent within the two years immediately preceding the filing of the petition. Notice must be served in the manner provided in sections 260C.151 and 260C.152, except that personal service shall be made at least ten days before the day of the hearing. Published notice shall be made for three weeks, the last publication to be at least ten days before the day of the hearing; and notice sent by certified mail shall be mailed at least 20 days before the day of the hearing. A parent who consents to the termination of parental rights under the provisions of section 260C.301, subdivision 1, clause (a), may waive in writing the notice required by this subdivision; however, if the parent is a minor or incompetent the waiver shall be effective only if the parent's guardian ad litem concurs in writing.

§

Subd. 4.**Consent.**

No parental rights of a minor or incompetent parent may be terminated on consent of the parents under the provisions of section 260C.301, subdivision 1, clause (a), unless the guardian ad litem, in writing, joins in the written consent of the parent to the termination of parental rights.

466.101 LAW ENFORCEMENT COSTS.

When costs are assessed against a municipality for injuries incurred or other medical expenses connected with the arrest of individuals violating Minnesota Statutes, the municipality responsible for the hiring, firing, training, and control of the law enforcement and other employees involved in the arrest is responsible for those costs.

609.2231 ASSAULT IN THE FOURTH DEGREE.

Subdivision 1.**Peace officers.**

(a) As used in this subdivision, "peace officer" means a person who is licensed under section 626.845, subdivision 1, and effecting a lawful arrest or executing any other duty imposed by law.

(b) Whoever physically assaults a peace officer is guilty of a gross misdemeanor.

(c) Whoever commits either of the following acts against a peace officer is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $6,000, or both: (1) physically assaults the

officer if the assault inflicts demonstrable bodily harm; or (2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the officer.

624.714 CARRYING OF WEAPONS WITHOUT PERMIT; PENALTIES.

Subd. 17.**Posting; trespass.**

(a) A person carrying a firearm on or about his or her person or clothes under a permit or otherwise who remains at a private establishment knowing that the operator of the establishment or its agent has made a reasonable request that firearms not be brought into the establishment may be ordered to leave the premises. A person who fails to leave when so requested is guilty of a petty misdemeanor. The fine for a first offense must not exceed $25. Notwithstanding section 609.531, a firearm carried in violation of this subdivision is not subject to forfeiture.

626.52 SUSPICIOUS WOUNDS; REPORTING BY HEALTH PROFESSIONALS.

Subdivision 1.**Definition.**

As used in this section, "health professional" means a physician, surgeon, person authorized to engage in the practice of healing, superintendent or manager of a hospital, nurse, or pharmacist.

Subd. 2.**Health professionals required to report.**

A health professional shall immediately report, as provided under section 626.53, to the local police department or county sheriff all bullet wounds, gunshot wounds, powder burns, or any other injury arising from, or caused by the discharge of any gun, pistol, or any other firearm, which wound the health professional is called upon to treat, dress, or bandage.

A health professional shall report to the proper police authorities any wound that the reporter has reasonable cause to believe has been inflicted on a perpetrator of a crime by a dangerous weapon other than a firearm as defined under section 609.02, subdivision 6.

626.5572 DEFINITIONS.

Subdivision 1.**Scope.**

For the purpose of section 626.557, the following terms have the meanings given them, unless otherwise specified.

Subd. 6.**Facility.**

(a) "Facility" means a hospital or other entity required to be licensed under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults under section 144A.02; a facility or service required to be licensed under chapter 245A; a home care provider licensed or required to be licensed under sections 144A.43 to 144A.482; a hospice provider licensed under sections 144A.75 to 144A.755; or a person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654, 256B.0659, or 256B.85.

(b) For services identified in paragraph (a) that are provided in the vulnerable adult's own home or in another unlicensed location, the term "facility" refers to the provider, person, or organization that offers, provides, or arranges for personal care services, and does not refer to the vulnerable adult's home or other location at which services are rendered.

Subd. 15.**Maltreatment.**

"Maltreatment" means abuse as defined in subdivision 2, neglect as defined in subdivision 17, or financial exploitation as defined in subdivision 9.

Subd. 16.**Mandated reporter.**

"Mandated reporter" means a professional or professional's delegate while engaged in: (1) social services; (2) law enforcement; (3) education; (4) the care of vulnerable adults; (5) any of the occupations referred to in section 214.01, subdivision 2; (6) an employee of a rehabilitation facility certified by the commissioner of jobs and training for vocational rehabilitation; (7) an employee or person providing services in a facility as defined in subdivision 6; or (8) a person that performs the duties of the medical examiner or coroner.

Subd. 17.**Neglect.**

"Neglect" means:

(a) The failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is:

(1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and

(2) which is not the result of an accident or therapeutic conduct.

(b) The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult.

(c) For purposes of this section, a vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult, or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; or

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult;

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:

(i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; or

(4) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult which does not result in injury or harm which reasonably requires medical or mental health care; or

(5) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult that results in injury or harm, which reasonably requires the care of a physician, and:

(i) the necessary care is provided in a timely fashion as dictated by the condition of the vulnerable adult;

(ii) if after receiving care, the health status of the vulnerable adult can be reasonably expected, as determined by the attending physician, to be restored to the vulnerable adult's preexisting condition;

(iii) the error is not part of a pattern of errors by the individual;

(iv) if in a facility, the error is immediately reported as required under section 626.557, and recorded internally in the facility;

(v) if in a facility, the facility identifies and takes corrective action and implements measures designed to reduce the risk of further occurrence of this error and similar errors; and

(vi) if in a facility, the actions required under items (iv) and (v) are sufficiently documented for review and evaluation by the facility and any applicable licensing, certification, and ombudsman agency.

(d) Nothing in this definition requires a caregiver, if regulated, to provide services in excess of those required by the caregiver's license, certification, registration, or other regulation.

(e) If the findings of an investigation by a lead investigative agency result in a determination of substantiated maltreatment for the sole reason that the actions required of a facility under paragraph (c), clause (5), item (iv), (v), or (vi), were not taken, then the facility is subject to a correction order. An individual will not be found to have neglected or maltreated the vulnerable adult based solely on the facility's not having taken the actions required under paragraph (c), clause (5), item (iv), (v), or (vi). This must not alter the lead investigative agency's determination of mitigating factors under section 626.557, subdivision 9c, paragraph (c).

Subd. 18.**Report.**

"Report" means a statement concerning all the circumstances surrounding the alleged or suspected maltreatment, as defined in this section, of a vulnerable adult which are known to the reporter at the time the statement is made.

Subd. 19.**Substantiated.**

"Substantiated" means a preponderance of the evidence shows that an act that meets the definition of maltreatment occurred.

Subd. 20.**Therapeutic conduct.**

"Therapeutic conduct" means the provision of program services, health care, or other personal care services done in good faith in the interests of the vulnerable adult by: (1) an individual, facility, or employee or person providing services in a facility under the rights, privileges and responsibilities conferred by state license, certification, or registration; or (2) a caregiver.

Subd. 21.**Vulnerable adult.**

(a) "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident or inpatient of a facility;

(2) receives services required to be licensed under chapter 245A, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is served in the Minnesota sex offender program on a court-hold order for commitment, or is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under sections 144A.43 to 144A.482; or from a person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under section 256B.0625, subdivision 19a, 256B.0651, 256B.0653, 256B.0654, 256B.0659, or 256B.85; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for care or services, the individual has an impaired ability to protect the individual's self from maltreatment.

(b) For purposes of this subdivision, "care or services" means care or services for the health, safety, welfare, or maintenance of an individual.

42 U.S. Code § 1395dd - Examination and treatment for emergency medical conditions and women in labor

(a) Medical screening requirement
In the case of a hospital that has a hospital emergency department, if any individual (whether or not eligible for benefits under this subchapter) comes to the emergency department and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital must provide for an appropriate medical screening examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition (within the meaning of subsection (e)(1)) exists.

(b) Necessary stabilizing treatment for emergency medical conditions and labor
(1) In general If any individual (whether or not eligible for benefits under this subchapter) comes to a hospital and the hospital determines that the individual has an emergency medical condition, the hospital must provide either—
(A)
within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition, or
(B)
for transfer of the individual to another medical facility in accordance with subsection (c).

42 CFR Part 160 HIPAA-

§482.12 Condition of Participation: Governing Body (A-0043)

There must be an effective governing body that is legally responsible for the conduct of the hospital.

Development and Implementation of specific Policies and Protocols to ensure safety are ultimately the Governing Body's responsibility.

§482.13 COP: Patient's Rights (A-0115)

A hospital must protect and promote each patient's rights.

(A-0144) Standard

§482.13(c)(2) - The patient has the right to receive care in a safe setting.

…each patient receives care in an environment that a reasonable person would consider to be safe… Additionally, this standard is intended to provide protection for the patient's emotional health and safety as well as his/her physical safety... Is the hospital providing appropriate security to protect patients? Are appropriate security mechanisms in place and being followed to protect patients?

A-0154

§482.13(e) Standard: Restraint or seclusion. All patients have the right to be free from physical or mental abuse, and corporal punishment. All patients have the right to be free from restraint or seclusion, of any form, imposed as a means of coercion, discipline, convenience, or retaliation by staff. Restraint or seclusion may only be imposed to ensure the immediate physical safety of the patient, a staff member, or others and must be discontinued at the earliest possible time.

A-0338

§482.22 Condition of Participation: Medical Staff

The hospital must have an organized medical staff that operates under bylaws approved by the governing body, and which is responsible for the quality of medical care provided to patients by the hospital.

A-1100

§482.55 Condition of Participation: Emergency Services

The hospital must meet the emergency needs of patients in accordance with acceptable standards of practice.

A-1102

§482.55(a) - [If emergency services are provided at the hospital --]

(1) The services must be organized under the direction of a qualified member of the medical staff;

485.618 COP- Emergency Services (C-0200)

Acceptable Standards of Practice have to be implemented and Federal, State & Local laws followed.

465.625 Governing Body (C-0241)

The CAH has a governing body or individual that assumes full legal responsibility of determining, implementing and monitoring policies governing the CAH's total operation and for ensuring that those policies are administered so as to provide quality health care in a safe environment.

485.635 COP- Provision of Services (C-0270)

This condition establishes requirements related to patient care policies

485.635 (a) Standard- Patient Care Policies (C-0271)

The CAH must have written policies governing the health care services the CAH

Furnishes and these policies must be consistent with State law.

The regulation requires the CAH to furnish its health care services in accordance

With written policies.