

1.1 moves to amend H.F. No. 2294, the third engrossment, in conference
1.2 committee, as follows:

1.3 On R2, Article 4, House language, (H2294-3)

1.4 Page 70, delete section 2, and insert:

1.5 "Sec. Minnesota Statutes 2010, section 144A.351, is amended to read:

1.6 **144A.351 BALANCING LONG-TERM CARE: REPORT REQUIRED.**

1.7 The commissioners of health and human services, with the cooperation of counties
1.8 and in consultation with stakeholders, including persons who need or are using long-term
1.9 care services and supports, lead agencies, regional entities, senior, disability, and mental
1.10 health organization representatives, service providers, and community members shall
1.11 prepare a report to the legislature by August 15, ~~2004~~ 2013, and biennially thereafter,
1.12 regarding the status of the full range of long-term care services and supports for the
1.13 elderly and children and adults with disabilities and mental illnesses in Minnesota. The
1.14 report shall address:

1.15 (1) demographics and need for long-term care services and supports in Minnesota;

1.16 (2) summary of county and regional reports on long-term care gaps, surpluses,
1.17 imbalances, and corrective action plans;

1.18 (3) status of long-term care services and related mental health services, housing
1.19 options, and supports by county and region including:

1.20 (i) changes in availability of the range of long-term care services and housing
1.21 options;

1.22 (ii) access problems, including access to the least restrictive and most integrated
1.23 services and settings, regarding long-term care services; and

1.24 (iii) comparative measures of long-term care services availability, including serving
1.25 people in their home areas near family, and ~~progress~~ changes over time; and

1.26 (4) recommendations regarding goals for the future of long-term care services and
1.27 supports, policy and fiscal changes, and resource development and transition needs."

2.1 On R5, Article 4, House language
 2.2 Page 73, delete section 5
 2.3 On R42, Article 4, House language
 2.4 Page 99, delete section 23
 2.5 On R51, Article 4, House language
 2.6 Page 105, delete section 30
 2.7 On R55, Article 4, Senate language (UEH2294-1)
 2.8 Page 90, delete section 33
 2.9 On R2, Article 7, Senate language
 2.10 Page 137, delete section 3 and insert:

2.11 "Sec. Minnesota Statutes 2011 Supplement, section 245A.03, subdivision 7, is
 2.12 amended to read:

2.13 Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an
 2.14 initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to
 2.15 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to
 2.16 9555.6265, under this chapter for a physical location that will not be the primary residence
 2.17 of the license holder for the entire period of licensure. If a license is issued during this
 2.18 moratorium, and the license holder changes the license holder's primary residence away
 2.19 from the physical location of the foster care license, the commissioner shall revoke the
 2.20 license according to section 245A.07. Exceptions to the moratorium include:

2.21 (1) foster care settings that are required to be registered under chapter 144D;

2.22 (2) foster care licenses replacing foster care licenses in existence on May 15, 2009,
 2.23 and determined to be needed by the commissioner under paragraph (b);

2.24 (3) new foster care licenses determined to be needed by the commissioner under
 2.25 paragraph (b) for the closure of a nursing facility, ICF/MR, or regional treatment center, or
 2.26 restructuring of state-operated services that limits the capacity of state-operated facilities;

2.27 (4) new foster care licenses determined to be needed by the commissioner under
 2.28 paragraph (b) for persons requiring hospital level care; or

2.29 (5) new foster care licenses determined to be needed by the commissioner for the
 2.30 transition of people from personal care assistance to the home and community-based
 2.31 services.

2.32 (b) The commissioner shall determine the need for newly licensed foster care homes
 2.33 as defined under this subdivision using the resource needs determination process described
 2.34 in paragraph (e). As part of the determination, the commissioner shall consider the
 2.35 availability of foster care capacity in the area in which the licensee seeks to operate, ~~and~~
 2.36 ~~the recommendation of the local county board. The determination by the commissioner~~

3.1 ~~must be final. A determination of need is not required for a change in ownership at~~
3.2 ~~the same address and other data and information, including the report on the status of~~
3.3 ~~long-term care services required under section 144A.351.~~

3.4 ~~(e) Residential settings that would otherwise be subject to the moratorium established~~
3.5 ~~in paragraph (a), that are in the process of receiving an adult or child foster care license as~~
3.6 ~~of July 1, 2009, shall be allowed to continue to complete the process of receiving an adult~~
3.7 ~~or child foster care license. For this paragraph, all of the following conditions must be met~~
3.8 ~~to be considered in the process of receiving an adult or child foster care license:~~

3.9 ~~(1) participants have made decisions to move into the residential setting, including~~
3.10 ~~documentation in each participant's care plan;~~

3.11 ~~(2) the provider has purchased housing or has made a financial investment in the~~
3.12 ~~property;~~

3.13 ~~(3) the lead agency has approved the plans, including costs for the residential setting~~
3.14 ~~for each individual;~~

3.15 ~~(4) the completion of the licensing process, including all necessary inspections, is~~
3.16 ~~the only remaining component prior to being able to provide services; and~~

3.17 ~~(5) the needs of the individuals cannot be met within the existing capacity in that~~
3.18 ~~county.~~

3.19 ~~To qualify for the process under this paragraph, the lead agency must submit~~
3.20 ~~documentation to the commissioner by August 1, 2009, that all of the above criteria are~~
3.21 ~~met.~~

3.22 ~~(d) The commissioner shall study the effects of the license moratorium under this~~
3.23 ~~subdivision and shall report back to the legislature by January 15, 2011. This study shall~~
3.24 ~~include, but is not limited to the following:~~

3.25 ~~(1) the overall capacity and utilization of foster care beds where the physical location~~
3.26 ~~is not the primary residence of the license holder prior to and after implementation~~
3.27 ~~of the moratorium;~~

3.28 ~~(2) the overall capacity and utilization of foster care beds where the physical~~
3.29 ~~location is the primary residence of the license holder prior to and after implementation~~
3.30 ~~of the moratorium; and~~

3.31 ~~(3) the number of licensed and occupied ICF/MR beds prior to and after~~
3.32 ~~implementation of the moratorium.~~

3.33 ~~(e) When a foster care recipient moves out of a foster home that is not the primary~~
3.34 ~~residence of the license holder according to section 256B.49, subdivision 15, paragraph~~
3.35 ~~(f), the county shall immediately inform the Department of Human Services Licensing~~
3.36 ~~Division, and (c) the department commissioner shall immediately decrease reduce~~

4.1 the licensed bed capacity for the home, if the planned closures described in section
4.2 256B.492 and other changes are not sufficient to meet the savings required by Laws 2011,
4.3 First Special Session chapter 9, article 7, sections 1 and 40, paragraph (f); 256B.092,
4.4 subdivision 1h; and 256B.49, subdivision 15, paragraph (f), reductions in licensed bed
4.5 capacity by December 31, 2013. If necessary, the commissioner shall use the needs
4.6 determination process described in paragraph (e), and shall specifically target counties
4.7 and geographic areas with need for other types of services, need for specialized services,
4.8 or higher than average per capita use of foster care settings where the license holder
4.9 does not reside and shall delicense any additional beds required to achieve the savings
4.10 by June 30, 2014. Under this paragraph, the commissioner has the authority to eliminate
4.11 unused capacity from the system and to reduce unused licensed capacity of a current foster
4.12 care program to accomplish the consolidation or closure of settings or close or relocate
4.13 other unoccupied beds, consistent with the information gathered through the needs
4.14 determination process. Beds used for emergency crisis purposes under section 245A.11,
4.15 subdivision 2a, paragraph (d), are not subject to this provision. A decreased licensed
4.16 capacity according to this paragraph is not subject to appeal under this chapter.

4.17 (d) Residential settings that would otherwise be subject to the reduced license
4.18 capacity established in paragraph (c) shall be exempt under the following circumstances:

4.19 (1) until August 1, 2013, the license holder's beds are occupied by residents whose
4.20 primary diagnosis is mental illness and the license holder is:

4.21 (i) a provider of assertive community treatment (ACT) or adult rehabilitative mental
4.22 health services (ARMHS) as defined in section 256B.0623;

4.23 (ii) a mental health center certified under Minnesota Rules, parts 9520.0750 to
4.24 9520.0870;

4.25 (iii) a mental health clinic certified under Minnesota Rules, parts 9520.0750 to
4.26 9520.0870; or

4.27 (iv) a provider of intensive residential treatment services (IRTS) licensed under
4.28 Minnesota Rules, parts 9520.0500 to 9520.0670; or

4.29 (2) the license holder is certified under the requirements in subdivision 6a.

4.30 (e) A resource needs determination process, managed at the state level, using the
4.31 available reports required by section 144A.351, and other data and information shall be
4.32 used to determine where the reduced capacity required under paragraph (c) shall occur.
4.33 The commissioner shall consult with the stakeholders described in section 144A.351, and
4.34 employ a variety of methods to improve the state's capacity to meet long-term care service
4.35 needs within budgetary limits, including seeking proposals from service providers or
4.36 lead agencies to reduce capacity. By February 15 of each year, the commissioner shall

5.1 provide information and data on: (1) the overall capacity of licensed long-term care
 5.2 services for children, adults under age 65, and seniors; (2) an inventory of the assessed
 5.3 needs of all individuals with disabilities receiving foster care services under sections
 5.4 256B.092 and 256B.49; (3) an inventory for all those with an assessed but unmet need
 5.5 for foster care services, including those on waiting lists for services under sections
 5.6 256B.092 and 256B.49; (4) data on the ages and needs of individuals living in foster care
 5.7 settings compared to those living in other settings, including information about whether
 5.8 those in non-foster care settings live alone, with a family member, a friend, or another
 5.9 person or persons receiving services due to a disability; and (5) actions taken under this
 5.10 subdivision to manage statewide long-term care services and supports resources, and any
 5.11 recommendations for changes to the legislative committees with jurisdiction over the
 5.12 health and human services budget.

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

5.14 On R6, Article 7, Senate language

5.15 Page 140, after line 15, insert:

5.16 "Sec. Minnesota Statutes 2010, section 256B.092, is amended by adding a
 5.17 subdivision to read:

5.18 Subd. 1h. **Commissioner's authority to reduce licensed capacity of adult**
 5.19 **foster care.** At the time of reassessment, lead agency case managers shall assess
 5.20 each recipient of home and community-based services waivers for individuals with
 5.21 developmental disabilities currently residing in a licensed adult foster care home that
 5.22 is not the primary residence of the license holder, or in which the license holder is not
 5.23 the primary caregiver, to determine if that resident could appropriately be served in a
 5.24 community-living setting. If appropriate for the recipient, the case manager shall offer the
 5.25 recipient, through a person-centered planning process, the option to receive alternative
 5.26 housing and service options. The licensed capacity shall be reduced as provided in section
 5.27 245A.03, subdivision 7, paragraphs (c) and (e), or as provided under section 245A.03,
 5.28 subdivision 7, paragraph (a), clauses (3) and (4). This reassessment process shall be
 5.29 completed by July 1, 2013. The results of the assessments will be used in the statewide
 5.30 needs determination process. Implementation of the statewide licensed capacity reduction
 5.31 will begin on July 1, 2013."

5.32 On R6, article 7, Senate language

5.33 Page 140, delete section 5 and insert:

5.34 "Sec. Minnesota Statutes 2011 Supplement, section 256B.49, subdivision 15, is
 5.35 amended to read:

6.1 Subd. 15. **Individualized service plan; comprehensive transitional service plan;**
6.2 **maintenance service plan.** (a) Each recipient of home and community-based waived
6.3 services shall be provided a copy of the written service plan which:

6.4 (1) is developed and signed by the recipient within ten working days of the
6.5 completion of the assessment;

6.6 (2) meets the assessed needs of the recipient;

6.7 (3) reasonably ensures the health and safety of the recipient;

6.8 (4) promotes independence;

6.9 (5) allows for services to be provided in the most integrated settings; and

6.10 (6) provides for an informed choice, as defined in section 256B.77, subdivision 2,
6.11 paragraph (p), of service and support providers.

6.12 (b) In developing the comprehensive transitional service plan, the individual
6.13 receiving services, the case manager, and the guardian, if applicable, will identify
6.14 the transitional service plan fundamental service outcome and anticipated timeline to
6.15 achieve this outcome. Within the first 20 days following a recipient's request for an
6.16 assessment or reassessment, the transitional service planning team must be identified. A
6.17 team leader must be identified who will be responsible for assigning responsibility and
6.18 communicating with team members to ensure implementation of the transition plan and
6.19 ongoing assessment and communication process. The team leader should be an individual,
6.20 such as the case manager or guardian, who has the opportunity to follow the recipient to
6.21 the next level of service.

6.22 Within ten days following an assessment, a comprehensive transitional service plan
6.23 must be developed incorporating elements of a comprehensive functional assessment and
6.24 including short-term measurable outcomes and timelines for achievement of and reporting
6.25 on these outcomes. Functional milestones must also be identified and reported according
6.26 to the timelines agreed upon by the transitional service planning team. In addition, the
6.27 comprehensive transitional service plan must identify additional supports that may assist
6.28 in the achievement of the fundamental service outcome such as the development of greater
6.29 natural community support, increased collaboration among agencies, and technological
6.30 supports.

6.31 The timelines for reporting on functional milestones will prompt a reassessment of
6.32 services provided, the units of services, rates, and appropriate service providers. It is
6.33 the responsibility of the transitional service planning team leader to review functional
6.34 milestone reporting to determine if the milestones are consistent with observable skills
6.35 and that milestone achievement prompts any needed changes to the comprehensive
6.36 transitional service plan.

7.1 For those whose fundamental transitional service outcome involves the need to
7.2 procure housing, a plan for the recipient to seek the resources necessary to secure the least
7.3 restrictive housing possible should be incorporated into the plan, including employment
7.4 and public supports such as housing access and shelter needy funding.

7.5 (c) Counties and other agencies responsible for funding community placement and
7.6 ongoing community supportive services are responsible for the implementation of the
7.7 comprehensive transitional service plans. Oversight responsibilities include both ensuring
7.8 effective transitional service delivery and efficient utilization of funding resources.

7.9 (d) Following one year of transitional services, the transitional services planning
7.10 team will make a determination as to whether or not the individual receiving services
7.11 requires the current level of continuous and consistent support in order to maintain the
7.12 recipient's current level of functioning. Recipients who are determined to have not had
7.13 a significant change in functioning for 12 months must move from a transitional to a
7.14 maintenance service plan. Recipients on a maintenance service plan must be reassessed
7.15 to determine if the recipient would benefit from a transitional service plan at least every
7.16 12 months and at other times when there has been a significant change in the recipient's
7.17 functioning. This assessment should consider any changes to technological or natural
7.18 community supports.

7.19 (e) When a county is evaluating denials, reductions, or terminations of home and
7.20 community-based services under section 256B.49 for an individual, the case manager
7.21 shall offer to meet with the individual or the individual's guardian in order to discuss the
7.22 prioritization of service needs within the individualized service plan, comprehensive
7.23 transitional service plan, or maintenance service plan. The reduction in the authorized
7.24 services for an individual due to changes in funding for waived services may not exceed
7.25 the amount needed to ensure medically necessary services to meet the individual's health,
7.26 safety, and welfare.

7.27 (f) At the time of reassessment, local agency case managers shall assess each
7.28 recipient of community alternatives for disabled individuals or traumatic brain injury
7.29 waived services currently residing in a licensed adult foster home that is not the primary
7.30 residence of the license holder, or in which the license holder is not the primary caregiver,
7.31 to determine if that recipient could appropriately be served in a community-living setting.
7.32 If appropriate for the recipient, the case manager shall offer the recipient, through a
7.33 person-centered planning process, the option to receive alternative housing and service
7.34 options. ~~In the event that the recipient chooses to transfer from the adult foster home,~~
7.35 ~~the vacated bed shall not be filled with another recipient of waiver services and group~~
7.36 ~~residential housing, unless provided under section 245A.03, subdivision 7, paragraph (a),~~

8.1 ~~clauses (3) and (4), and the licensed capacity shall be reduced accordingly. If the adult~~
 8.2 ~~foster home becomes no longer viable due to these transfers, the county agency, with~~
 8.3 ~~the assistance of the department, shall facilitate a consolidation of settings or closure.~~
 8.4 The licensed capacity shall be reduced as provided in section 245A.03, subdivision 7,
 8.5 paragraphs (c) and (e), or as provided under section 245A.03, subdivision 7, paragraph
 8.6 (a), clauses (3) and (4). This reassessment process shall be completed by ~~June 30,~~
 8.7 ~~2012~~ July 1, 2013. The results of the assessments will be used in the statewide needs
 8.8 determination process. Implementation of the statewide licensed capacity reduction will
 8.9 begin on July 1, 2013."

8.10 On R8, Article 7, Senate language

8.11 Page 142, after line 24, insert:

8.12 "Sec. **[256B.492] ADULT FOSTER CARE PLANNED CLOSURE.**

8.13 Subdivision 1. **Commissioner's duties; report.** The commissioner of human
 8.14 services shall solicit proposals for the conversion of services provided for persons with
 8.15 disabilities in settings licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, to
 8.16 other types of community settings in conjunction with the closure of identified licensed
 8.17 adult foster care settings.

8.18 Subd. 2. **Planned closure process needs determination.** The commissioner shall
 8.19 announce and implement a program for planned closure of adult foster care homes.
 8.20 Planned closure shall be the preferred method for achieving necessary budgetary savings
 8.21 required by the 2011 and 2012 licensed bed closure budget reduction in 245A.03,
 8.22 subdivision 7, paragraph (c). If additional closures are required to achieve the necessary
 8.23 savings, the commissioner shall use the process and priorities in section 245A.03,
 8.24 subdivision 7, paragraph (c).

8.25 Subd. 3. **Application process.** (a) The commissioner shall establish a process for
 8.26 the application, review, and approval of proposals from license holders for the closure of
 8.27 adult foster care settings.

8.28 (b) When an application for a planned closure rate adjustment is submitted, the
 8.29 license holder shall provide written notification within five working days to the lead
 8.30 agencies responsible for authorizing the licensed services for the residents of the affected
 8.31 adult foster care settings. This notification shall be deemed confidential until the license
 8.32 holder has received approval of the application by the commissioner.

8.33 Subd. 4. **Review and approval process.** (a) To be considered for approval, an
 8.34 application must include:

8.35 (1) a description of the proposed closure plan, which must identify the home or
 8.36 homes, and occupied beds for which a planned closure rate adjustment is requested;

9.1 (2) the proposed timetable for any proposed closure, including the proposed dates
9.2 for notification to residents and the affected lead agencies, commencement of closure,
9.3 and completion of closure;

9.4 (3) the proposed relocation plan jointly developed by the counties of financial
9.5 responsibility, the residents and their legal representatives, if any, who wish to continue to
9.6 receive services from the provider, and the providers for current residents of any adult
9.7 foster care home designated for closure; and

9.8 (4) documentation in a format approved by the commissioner that all the adult foster
9.9 care homes receiving a planned closure rate adjustment under the plan have accepted joint
9.10 and several liability for recovery of overpayments under section 256B.0641, subdivision
9.11 2, for the facilities designated for closure under this plan.

9.12 (b) In reviewing and approving closure proposals, the commissioner shall give first
9.13 priority to proposals that:

9.14 (1) target counties and geographic areas which have:

9.15 (i) need for other types of services;

9.16 (ii) need for specialized services;

9.17 (iii) higher than average per capita use of foster care settings where the license
9.18 holder does not reside; or

9.19 (iv) residents not living in the geographic area of their choice;

9.20 (2) demonstrate savings of medical assistance expenditures; and

9.21 (3) demonstrate that alternative services are based on the recipient's choice of
9.22 provider and are consistent with federal law, state law, and federally-approved waiver
9.23 plans.

9.24 The commissioner shall also consider any information provided by service
9.25 recipients, their legal representatives, family members, or the lead agency on the impact of
9.26 the planned closure on the recipients and the services they need.

9.27 (c) The commissioner shall select proposals that best meet the criteria established in
9.28 this subdivision for planned closure of adult foster care settings. The commissioner shall
9.29 notify license holders of the selections approved by the commissioner.

9.30 (d) For each proposal approved by the commissioner, a contract must be established
9.31 between the commissioner, the counties of financial responsibility, and the participating
9.32 license holder.

9.33 Subd. 5. **Notification of approved proposal.** (a) Once the license holder receives
9.34 notification from the commissioner that the proposal has been approved, the license holder
9.35 shall provide written notification within five working days to:

10.1 (1) the lead agencies responsible for authorizing the licensed services for the
10.2 residents of the affected adult foster care settings; and

10.3 (2) current and prospective residents, any legal representatives, and family members
10.4 involved.

10.5 (b) This notification must occur at least 45 days prior to the implementation of
10.6 the closure proposal.

10.7 Subd. 6. **Adjustment to rates.** (a) For purposes of this section, the commissioner
10.8 shall establish enhanced medical assistance payment rates under sections 256B.092 and
10.9 256B.49, to facilitate an orderly transition for persons with disabilities from adult foster
10.10 care to other community-based settings.

10.11 (b) The enhanced payment rate shall be effective the day after the first resident has
10.12 moved until the day the last resident has moved, not to exceed six months."

10.13 Renumber the sections in sequence and correct the internal references

10.14 Amend the title accordingly