

# HOUSE RESEARCH

## Bill Summary

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### Overview

This bill contains the Department of Human Services (DHS) policy initiatives for child care assistance, adoption and child placement, child welfare, economic supports, mental health, continuing care for the elderly, and health care.

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#### Article 1: Child Care; Assistance Programs

### Overview

This article contains the DHS child care assistance policy initiatives, including, simplifying the child care assistance application process, modifying the allocation formula, modifying legal nonlicensed provider authorization, and modifying eligibility for child care services grants. This article also reinstates the at-home infant child care program.

- 1 1** **Child care fund.** Amends § 119B.011, subd. 6. Makes conforming changes related to the reinstatement of the at-home infant child care program. Makes this section effective July 1, 2004.

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- 2 2** **Income.** Amends § 119B.011, subd. 15. Makes conforming changes related to the reinstatement of the at-home infant child care program. Makes this section effective July 1, 2004.
- 3 3** **Universal application form.** Amends § 119B.02, subd. 4. Allows the commissioner to develop and make available to all counties a child care addendum form to be used to supplement the combined application form for MFIP, DWP, or Food Support, or to supplement other statewide application forms for public assistance programs for families applying for one of these programs in addition to child care assistance.
- 4 4** **Factors which must be verified.** Amends § 119B.025, subd. 1. Makes conforming changes related to the child care addendum form. Requires child care eligibility to be redetermined at least every six months. Requires the county to recalculate eligibility without requiring verification of any eligibility factor that did not change, if a family reports a change in an eligibility factor before the next regularly scheduled redetermination. Requires the commissioner to develop a redetermination form and a change report form.
- 5 5** **Allocation formula.** Amends § 119B.03, subd. 6. Adds an additional factor (the reinstatement list of those families whose assistance was terminated with the approval of the commissioner) to the child care fund allocation formula.
- 6 6** **At-home infant child care program.** Adds § 119B.035.

**Subd. 1. Establishment.** Allows families in which a parent provides care for the family's infant to receive a subsidy in lieu of assistance if the family is eligible for, or is receiving assistance under the Basic Sliding Fee (BSF) program. Specifies general eligibility requirements. Requires the commissioner to establish a pool of up to 7 percent of the annual appropriation for the BSF program to provide assistance under the at-home infant child care program. Allows the commissioner to carry forward any unspent funds under this section to the next fiscal year within the same biennium for assistance under the BSF program.

**Subd. 2. Eligible families.** Specifies eligibility requirements for families.

**Subd. 3. Eligible parent.** Makes families eligible for assistance under this section if one parent cares for the family's eligible child. Specifies the eligibility requirements the parent who stays home with the child must meet.

**Subd. 4. Assistance.** (a) Limits families to a lifetime total of 12 months of assistance under the at-home infant child care program. Sets the maximum rate of assistance. Establishes on what a family's annual income must be based for purposes of determining eligibility.

(b) Requires participating families to report income and other family changes as specified in the county plan.

(c) Provides that families who are admitted to the at-home infant child care program retain their position in any BSF program or on any waiting list attained at the time of admittance. If a family is on the waiting list, they must advance as if they had not been admitted to the at-home infant child care program. Provides that families leaving the at-home infant child care program re-enter the BSF program at the position they would

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have occupied or the waiting list at the position to which they would have advanced.

(d) Provides that assistance under this section does not establish an employer-employee relationship between any member of the assisted family and the county or state.

**Subd. 5. Implementation.** Requires the commissioner to implement the at-home infant child care program through counties that administer the BSF program. Requires the commissioner to develop and distribute consumer information on the at-home infant child care program to assist parents of infants or expectant parents in making informed child care decisions.

Makes this section effective July 1, 2004.

- 7 7 **Eligibility; annual income; calculation.** Amends § 119B.09, subd. 4. Makes a conforming change.
- 8 8 **Date of eligibility for assistance.** Amends § 119B.09, subd. 7. Establishes the date of eligibility for the at-home infant child care program. Requires payment to cease for a family receiving at-home infant child care assistance when the family has used the maximum of 12 months of assistance. Makes this section effective July 1, 2004.
- 9 9 **Authorization.** Amends § 119B.125, subd. 1. Requires providers to be reauthorized every two years. Requires legal, nonlicensed providers to be reauthorized when another person over the age of 13 joins the household, a current household member turns 13, or there is reason to believe that a household member has a factor that prevents authorization. Requires providers to report all changes that would require reauthorization. Establishes which county is responsible for reauthorization when a provider is authorized to provide care for families in more than one county.
- 10 10 **Persons who cannot be authorized.** Amends § 119B.125, subd. 2. Requires the county to request information about the provider from the Bureau of Criminal Apprehension, the juvenile courts, and social service agencies to determine if a provider may be authorized. Allows a provider who has been authorized in one county to provide care for a family in another county without the second county conducting a new background investigation on the provider, unless certain conditions exist. Makes technical changes.
- 11 11 **Child care services grants.** Amends § 119B.21, subd. 5. Allows legal, nonlicensed providers to receive child care services grants. Providers in the process of being licensed and legal, nonlicensed providers are limited in how they can use these grants.
- 12 12 **Professional certification.** Amends § 256D.02, subd. 17. Modifies the definition of "professional certification" for the certification of disabilities in the General Assistance (GA) program.

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### Article 2: Adoption and Child Placement

#### Overview

This article expands the scope of the relative custody assistance program by including cases in which a tribal court orders legal and physical custody of a child with a relative; clarifies adoption venue and recordkeeping requirements; and makes various changes to the child protection statutes and maltreatment of minors act to improve state compliance with federal child welfare and foster care standards.

- 1 1 **Relationship to other standards governing services for persons with mental retardation or related conditions.** Amends § 245B.03, subd. 2. Updates cross-reference.
- 2 2 **Scope.** Amends § 257.85, subd. 2. Expands the scope of the relative custody assistance program to include situations in which a tribal court orders legal and physical custody of a child with a relative or important friend.
- 3 3 **Definitions.** Amends § 257.85, subd. 3. Adds the tribal social services agency to the definition of "local agency" in the relative custody assistance program. Corrects cross-reference.
- 4 4 **Venue.** Amends § 259.23, subd. 1. Specifies the proper venue for the adoption of children committed to the guardianship of the Commissioner of Human Services and the procedures for transfer of venue.
- 5 5 **Contents of petition.** Amends § 259.23, subd. 2. Modifies requirements for the contents of an adoption petition.
- 6 6 **Background check; affidavit of history.** Amends § 259.41, subd. 3. Modifies background study requirements for adoptive parents and families so that the requirements are consistent with the background study requirements for foster care providers.
- 7 7 **Content.** Amends § 259.79, subd. 1. Requires the Commissioner of Human Services to maintain a permanent record of all adoptions granted in Minnesota. Specifies content of each adoption record.
- 8 8 **Duty to ensure placement prevention and family reunification; reasonable efforts.** Amends § 260.012. Defines "reasonable efforts to finalize the permanent placement plan for the child" and "reasonable efforts to prevent placement" standards for purposes of child protection cases. Makes the state's reasonable efforts requirements consistent with federal requirements. Clarifies permanency hearing requirements.
- 9 9 **Permanency and termination of parental rights.** Amends § 260C.001, subd. 3. Clarifies the purpose statement in the child protection statutes for laws regarding permanency and termination of parental rights. Specifies circumstances in which reasonable efforts to reunify a child with a parent or guardian are not required.
- 10 10 **Child-placing agency.** Amends § 260C.007, subd. 7. Clarifies the definition of "child-placing agency" in the child protection statutes.
- 11 11 **Compelling reasons.** Amends § 260C.007, subd. 8. Modifies the definition of "compelling reasons" in the child protection statutes.
- 12 12 **Foster care.** Amends § 260C.007, subd. 18. Modifies the definition of "foster care" in the child protection statutes.

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- 13 13**     **Legal custody.** Amends § 260C.007, subd. 22. Modifies the definition of "legal custody" in the child protection statutes.
- 14 14**     **Relative.** Amends § 260C.007, subd. 27. Modifies the definition of "relative" in the child protection statutes.
- 15 15**     **Immediate custody.** Amends § 260C.151, subd. 6. Authorizes the responsible social services agency to assume responsibility for a child's care, custody, and control under certain circumstances.
- 16 16**     **Emergency removal hearing.** Amends § 260C.178.

**Subd. 1. Hearing and release requirements.** Updates terminology, renaming the "detention" hearing the "emergency removal" hearing. Authorizes the court to order a child into foster care for purposes of protective care under certain circumstances. Requires the court to make findings that a responsible social services agency made reasonable efforts to prevent the child's placement or whether reasonable efforts to prevent placement are not required. Also clarifies the findings a court must make at the emergency removal hearing and permanency hearing requirements. Makes other terminology changes.

**Subd. 2. Duration.** Strikes language from current law regarding the duration of a child's detention.

**Subd. 3. Parental visitation.** Updates terminology.

**Subd. 4. Mental health treatment.** Updates terminology.

**Subd. 5. Copies of order.** Updates terminology. Strikes provision from current law related to the content of the notice provided to the parties.

**Subd. 6. Review.** Requires periodic court review of a child's placement when the child is placed in foster care. Updates terminology.

**Subd. 7. Out-of-home placement plan.** Modifies requirements relating to the out-of-placement plan. Specifies the procedures to be followed if the plan has been jointly developed with the parent or if a parent refuse to cooperate in the development of the plan.

- 17 17**     **Dispositions.** Amends § 260C.201, subd. 1. Updates cross-reference. Authorizes the court to order a trial home visit when the agency has legal custody of a child. Specifies the agency's responsibilities during the trial home visit and the procedures that must be followed if the agency terminates the trial home visit.

- 18 18**     **Written findings.** Amends § 260C.201, subd. 2. Clarifies the written findings a court must make to support the disposition in a child protection case.

- 19 19**     **Case plan.** Amends § 260C.201, subd. 6. Updates terminology.

- 20 20**     **Court review of foster care.** Amends § 260C.201, subd. 10. Requires court review of court-ordered foster care at least every 90 days. Updates terminology.

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- 21 21**     **Review of court ordered placements; permanent placement determinations.** Amends § 260C.201, subd. 11. (a) Clarifies requirements for court review of a child's foster care placement.
- (b) Specifies requirements for a permanency hearing when the responsible social services agency recommends permanent placement of the child away from the parents.
- (c) Modifies provisions regarding what a court may order at the conclusion of a hearing or trial on the permanency or termination of parental rights petition.
- (d) Modifies provisions regarding the dispositions a court may order when the child is not returned home, including provisions related to termination of parental rights, long-term foster care, foster care for a specified time period, and guardianship and legal custody to the Commissioner of Human Services.
- (g) Modifies provisions regarding court reviews of long-term foster care placements, including the agency's efforts to finalize the permanent plan for the child.
- (h) Requires cases in which a child has been ordered into foster care for a specified period of time exceeding one year to return to court not later than 12 months after the order for a court review of the appropriateness of continuing the foster care placement and the agency's reasonable efforts to finalize a permanent plan for the child.
- (i) Makes conforming changes.
- (j) Specifies circumstances in which a court may vacate an order for long-term foster care and enter a different order for permanent placement of the child.
- 22 22**     **Relative search; nature.** Amends § 260C.212, subd. 5. (a) Requires the responsible social services agency to consider placement with a relative without delay after identifying the need for a child's placement in foster care. Requires the agency's relative search to be comprehensive in scope. Also requires the agency's relative search to include both maternal relatives of the child and paternal relatives of the child, if paternity is adjudicated. Also provides that a relative's decision not to be a placement resource at the beginning of a child protection case shall not affect whether the relative is later considered for placement of the child.
- (b) Strikes language authorizing the agency to determine whether a parent's refusal to give the agency information sufficient to identify the child's maternal and paternal relatives is in the child's best interest. Instead, if a parent refuses to cooperate with the agency's relative search, the agency must ask the juvenile court to order the parent to provide the necessary information to conduct a relative search.
- (e) Requires the Department of Human Services to develop a best practices guide and staff training to assist agencies in performing and complying with the relative search requirements under this subdivision.
- 23 23**     **Disposition; parental rights not terminated.** Amends § 260C.312. Makes conforming changes.

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- 24 24**     **Order; retention of jurisdiction.** Amends § 260C.317, subd. 3. Authorizes the responsible social services agency to make a determination of compelling reasons for a child to be in long-term foster care under certain circumstances. Also authorizes the court to order the child placed in long-term foster care and specifies the review requirements for the placement.
- 25 25**     **Duties of local welfare agency and local law enforcement agency upon receipt of a report.** Amends § 626.556, subd. 10. Requires the agency assessing or investigating a child maltreatment report to inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the reporter.
- 26 26**     **Revisor's instruction.** Instructs the revisor to change "residential facility" to "foster care" or "foster care facility" in the child protection statutes (chapter 260C).

## Article 3: Child Welfare

### Overview

This article codifies the provisions of the alternative response program for child protection assessments or investigations in the maltreatment of minors act. Under current law, a county may voluntarily establish a program that uses alternative responses to reports of child maltreatment. This article would require all counties to implement the alternative response program.

- 1 1**     **Public policy.** Amends § 626.556, subd. 1. Modifies the public policy statement in the maltreatment of minors act. Provides that families are best served by interventions to protect children and address immediate safety concerns, ongoing risks of child maltreatment, and threats to family wellbeing. Makes a family assessment the preferred response to reports not alleging substantial child endangerment. Requires an investigation if a report alleges substantial child endangerment. Also requires providing family support and family preservation services when needed.
- 2 2**     **Definitions.** Amends § 626.556, subd. 2. Adds definitions of "family assessment," "investigation," and "substantial child endangerment" to the maltreatment of minors act. Removes the definition of "assessment."
- 3 3**     **Persons mandated to report.** Amends § 626.556, subd. 3. Requires that mandated reporters who have made a maltreatment report receive a summary of the disposition of the family assessment or investigation related to the report.
- 4 4**     **Authority to interview.** Amends § 626.556, by adding subd. 3d. Authorizes the agency responsible for assessing or investigating a report of child maltreatment to interview certain individuals regarding the report.
- 5 5**     **Duties of local welfare agency and local law enforcement agency upon receipt of a report.** Amends § 626.556, subd. 10. Requires the local welfare agency to determine whether to conduct a family assessment or an investigation upon receipt of a report of child maltreatment. Specifies the duties of the local welfare agency regarding investigations and family assessments, including requirements related to interviewing the child, collecting information, and the notice given to the alleged offender. Updates cross-references.
- 6 6**     **Duties of commissioner; neglect or abuse in facility.** Amends § 626.556, subd. 10b. Updates cross-reference.
- 7 7**     **Determinations.** Amends § 626.556, subd. 10e. Requires the local welfare agency to determine, after conducting a family assessment, whether services are needed. Also clarifies

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the determinations the local welfare agency must make after conducting an investigation.  
Updates cross references.

**8 8 Notice of determinations.** Amends § 626.556, subd. 10f. Requires the local welfare agency to notify the child's parent or guardian of the result of the family assessment within ten working days of the conclusion of the assessment.

**9 9 Administrative reconsideration of final determination of maltreatment and disqualification based on serious or recurring maltreatment; review panel.** Amends § 626.556, subd. 10i. Provides that administrative reconsideration does not apply to family assessments because there is no determination regarding maltreatment.

**10 10 Documentation.** Amends § 626.556, by adding subd. 10l. Requires the local welfare agency to document the outcome of a family assessment or investigation when a case is closed.

**11 11 Records.** Amends § 626.556, subd. 11. Updates cross-reference.

**12 12 Welfare, court services agency, and school records maintained.** Amends § 626.556, subd. 11c. Clarifies the records retention requirements for family assessment cases and cases where an investigation results in no determination of maltreatment or need for child protective services.

**13 13 Repealer.** Repeals § 626.5551, subdivisions 1 to 5 (alternative response programs for child protection assessments or investigations); and Minnesota Rules, part 9560.0220, subpart 6, item B (response to reports of maltreatment within the family unit; local agency determinations of need for child protective services).

## Article 4: Economic Supports

### Overview

This article contains the DHS policy initiatives for the economic support programs, including, General Assistance (GA), MFIP, and the Diversionary Work Program (DWP). This article also contains a WIC provision.

**1 1 Eligibility; requirements.** Amends § 256D.06, subd. 5. Makes technical and conforming changes. Broadens the definition of who may be served by the SSI advocacy and support program. Removes obsolete language.

**2 2 Fair hearings.** Amends § 256J.40. Makes technical changes.

**3 3 Status of disqualified participants.** Amends § 256J.425, subd. 7. Aligns sanctions for noncompliance for cases that have been closed and then reopened.

**4 4 Participants not complying with program requirements.** Amends § 256J.46, subd. 1. Makes technical changes. Amends verb tense to coincide with the elimination of exemption categories effective July 1, 2004.

**5 5 Employment plan; contents.** Amends § 256J.521, subd. 2. Requires that all job search activities be structured and supervised. Current law only requires job search activities that continue after six weeks to be structured and supervised. Makes technical changes.

**6 6 Base allocation to counties and tribes.** Amends § 256J.626, subd. 6. Makes conforming changes. Modifies the consolidated fund allocation effective January 1, 2006. Adds county caseload as a factor in computing allocation amounts. This change will be phased in over three years. With the commencement of a new or expanded tribal TANF program, creates an

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allocation mechanism to allocate funds that are part of the consolidated fund among affected counties to the tribe.

- 7 7 **Performance base funds.** Amends § 256J.626, subd. 7. Modifies the performance based allocation formula and phases in the changes.
- 8 8 **Establishing the community work experience program.** Amends § 256J.67, subd. 1. Allows for participation in the Community Work Experience Program work activity without requiring it to be used only as a last resort.
- 9 9 **Employment options.** Amends § 256J.67, subd. 3. Modifies the conditions for placing a caregiver in the Community Work Experience Program. No longer requires the county agency to provide the caregiver the opportunity for placement in subsidized employment or on the job training.
- 10 10 **Diversionary work program grant.** Amends § 256J.95, subd. 10. Removes language requiring a person unlikely to benefit from DWP to complete and sign a DWP employment plan. Modifies the manner in which changes in family income and family size are handled for purposes of calculating DWP benefits. Removes obsolete language.
- 11 11 **Conversion or referral to MFIP.** Amends § 256J.95, subd. 12. Changes internal references in order to clarify program policies and eliminate duplication with participants transitioning from DWP to MFIP.
- 12 12 **WIC home delivery.** Requires the commissioner of health to seek federal approval for an amendment to the WIC state plan to allow home delivery of supplemental foods. Specifies provisions the amendment must include.

## Article 5: Mental Health

### Overview

This article contains the DHS policy initiatives for mental health, including, modifying the definition of "mental health professional," allowing for public-private partnerships for the provision of mental health services, and expanding allowable MA payments for intensive rehabilitative mental health services.

- 1 1 **Mental health professional.** Amends § 245.462, subd. 18. Modifies the definition of "mental health professional."
- 2 2 **Public-private partnerships.** Amends § 245.464, by adding a subdivision. Allows the commissioner to establish a mechanism by which counties, DHS, hospitals, health plans, consumers, and others may enter into agreements that allow for capacity building and oversight of any agreed-upon entity that is developed through these partnerships. The purpose of these partnerships is the development and effective, efficient, and accessible provision of mental health services.
- 3 3 **Duties of county board.** Amends § 245.4874. Clarifies that county boards are required to provide children's mental health screening to certain children within the limits of legislative appropriations.
- 4 4 **Medical assistance payment for intensive rehabilitative mental health services.** Amends § 256B.0622, subd. 8. Expands allowable medical assistance payments to include staff travel time to provide rehabilitative services and nonresidential crisis stabilization services. Includes case management in the rate for intensive rehabilitative mental health services. Removes language requiring the county to allocate costs which are reimbursable under this

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section versus costs which are reimbursable through case management or other reimbursement.

- 5 5 **Repealer.** Repeals Laws 2001, First Special Session chapter 9, article 9, section 52 (data regarding county commitment costs), effective the day following final enactment.

### **Article 6: Continuing Care for the Elderly**

- 1 **Definitions.** Amends § 144A.071, subd. 1a. Modifies treatment of technology and depreciable equipment costs for purposes of determining whether a building project requires a moratorium exception. This section requires technology and depreciable equipment to be included in project costs and as allowable debt, unless the facility makes a written election not to include them in the facility's appraised value. The section also adds a definition of "depreciation guidelines" and makes various clarifying changes.
- 2 **Specific powers.** Amends § 256.01, subd. 2. Requires the commissioner to designate community information and referral call centers and to incorporate claims from these centers into the federal cost reimbursement claiming process. Requires the commissioner to designate existing information and referral centers provided or represented by the Greater Twin Cities United Way, upon review and assurance that these services are accredited and in compliance with national standards. Requires the payment schedules used to be established upon final approval by the federal government or other appropriate authorities.
- 3 **Homeless services.** Amends § 256.01, by adding a subdivision. Allows the commissioner of human services to contract directly with nonprofit organizations providing homeless services in two or more counties. Makes this section effective immediately following final enactment.
- 4 **Nursing home rate increases effective July 1, 2002.** Amends § 256B.431, subd. 37. Clarifies the procedure for calculating the increase in nursing facility case mix payment rates related to the increase in the nursing facility surcharge from \$625 to \$990 per licensed nursing home bed, when a facility has both nursing home and boarding care beds. Requires the increase to be prorated to reflect the proportion of licensed nursing home beds and specifies a procedure for changing the proration when the number of beds changes.
- 5 **Nursing home rate increases effective in fiscal year 2003.** Amends § 256B.431, subd. 38. Clarifies the procedure for calculating the increase in nursing facility case mix payment rates related to the increase in the nursing facility surcharge from \$990 to \$2,815 per licensed nursing home bed, when a facility has both nursing home and boarding care beds. Requires the increase to be prorated to reflect the proportion of licensed nursing home beds and specifies a procedure for changing the proration when the number of beds changes.
- 6 **Repealer.** Repeals Laws 2003 1<sup>st</sup> Special Session chapter 14, article 3, section 56, effective immediately following final enactment. Section 3 of this article codifies the same uncodified language that is being repealed in this section.

### **Article 7: Health Care**

- 1 1 **Seasonal employees.** Amends § 62T.02, by adding a subdivision. Defines "seasonal employee." Allows purchasing alliances to define eligible employees to include seasonal employees. Specifies certain conditions which must be met if seasonal employees are included.
- 2 2 **Third party payer.** Amends § 256B.02, subd. 12. Specifies that "third-party payer" includes an entity under contract with the recipient to cover all or part of the recipient's medical costs.

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- 3**        **Notice.** Amends § 256B.056, by adding subd. 8a. Requires the state agency to be given notice of monetary claims against a person, entity, or corporation that may be liable to pay all or part of the cost of medical care, when the state agency has paid or become liable for the cost of care. Specifies procedures for notification.
- 4**        **Joinder of state in actions against third parties.** Amends § 256B.056, by adding subd. 8b. Requires an MA recipient or the recipient's legal representative asserting a claim against a third party potentially liable for the recipient's medical costs to join the state agency as a party to the claim.
- 5**        **Settlement.** Amends § 256B.056, by adding subd. 8c. Requires the state agency to be granted first recovery from a liable third party, if there is a judgment, award, or settlement of an action or claim by or on behalf of an MA recipient to recover damages from a third party potentially liable for a recipient's medical costs.
- 6**        **Cooperation in establishing third-party liability, paternity, and other medical support.** Amends § 256L.04, subd. 2. Requires MinnesotaCare enrollees to comply with the notice and settlement requirements of § 256B.056, subdivisions 8a and 8c.
- 7**        **Limitation.** Amends § 549.02, by adding subd. 3. Exempts the state agency from being liable for costs to any prevailing defendant.
- 8**        **Disbursements; taxation and allowance.** Amends § 549.04. Exempts the state agency from being liable for disbursements to any prevailing defendant.