

The power so granted is subject to the provisions of Laws 1984, chapter 603 sections 3 to 27.

Sec. 22. **REPEALER.**

Minnesota Statutes 1984, sections 51A.26; 528.02, subdivisions 3 and 15; and 528.12 are repealed.

Approved June 4, 1985

---

**CHAPTER 293 — H.F.No. 213**

*An act relating to the maltreatment of minors or vulnerable adults in certain licensed facilities; providing for notification of parents or guardians after reports of alleged abuse; clarifying certain provisions; amending Minnesota Statutes 1984, sections 13.46, subdivisions 3 and 4; 626.556, subdivisions 10b, 11, and by adding a subdivision; and 626.557, subdivision 12, and by adding a subdivision.*

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

Section 1. Minnesota Statutes 1984, section 13.46, subdivision 3, is amended to read:

Subd. 3. **INVESTIGATIVE DATA.** Data on persons, including data on vendors of services and data on licensees, that is collected, maintained, used, or disseminated by the welfare system in an investigation, authorized by statute and relating to the enforcement of rules or law, is confidential data on individuals pursuant to section 13.02, subdivision 3, or protected nonpublic data not on individuals pursuant to section 13.02, subdivision 13, and shall not be disclosed except:

- (a) pursuant to section 13.05;
- (b) pursuant to statute or valid court order;
- (c) to a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense; or
- (d) to provide the notices required and permitted by sections 3, 4, and 6.

The data referred to in this subdivision shall be classified as public data upon its submission to an administrative law judge or court in an administrative or judicial proceeding.

Sec. 2. Minnesota Statutes 1984, section 13.46, subdivision 4, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 4. **LICENSING DATA.** All data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered under the authority of the commissioner of human services, except for personal and personal financial data about applicants and licensees under the family day care program and the family foster care program and data generated in the course of licensing investigations that are in response to a complaint of a rule or statutory violation, are public data. Personal and personal financial data on family day care program and family foster care program applicants and licensees are private data pursuant to section 13.02, subdivision 12. Data generated in the course of licensing investigations that are in response to a complaint of a rule or statutory violation are investigative data pursuant to section 13.46, subdivision 3.

Sec. 3. Minnesota Statutes 1984, section 626.556, subdivision 10b, is amended to read:

Subd. 10b. **DUTIES OF COMMISSIONER; NEGLECT OR ABUSE IN A FACILITY.** (a) If the report alleges that a child in the care of a facility as defined in subdivision 2 is neglected, physically abused, or sexually abused by an individual in that facility, the commissioner shall immediately investigate. The commissioner shall arrange for the transmittal to him of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians.

(b) Prior to any interview, the commissioner or local welfare agency shall provide the following information to the parent, guardian, or legal custodian of a child who will be interviewed: the name of the facility; the fact that a report alleging neglect, physical abuse, or sexual abuse of a child in the facility has been received; the nature of the alleged neglect, physical abuse, or sexual abuse; that the agency is conducting an investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed. If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview.

Sec. 4. Minnesota Statutes 1984, section 626.556, is amended by adding a subdivision to read:

Subd. 10d. **NOTIFICATION OF NEGLECT OR ABUSE IN A FACILITY.** (a) When a report is received that alleges neglect, physical abuse, or

Changes or additions are indicated by underline, deletions by strikeout.

sexual abuse of a child while in the care of a facility required to be licensed pursuant to sections 245.781 to 245.812, the commissioner or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, or sexually abused: the name of the facility; the fact that a report alleging neglect, physical abuse, or sexual abuse of a child in the facility has been received; the nature of the alleged neglect, physical abuse, or sexual abuse; that the agency is conducting an investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) The commissioner or local welfare agency may also provide the information in paragraph (a) to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, or sexual abuse has occurred. In determining whether to exercise this authority, the commissioner or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, or sexual abuse; the number of children allegedly neglected, physically abused, or sexually abused; the number of alleged perpetrators; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner or local welfare agency has completed its investigation, every parent, guardian, or legal custodian notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, or sexual abuse; the investigator's name; a summary of the investigation findings; a statement whether the report was found to be substantiated, inconclusive, or false; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. The commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility if the report is substantiated. The commissioner or local welfare agency may also provide the written memorandum to the parent, guardian, or legal custodian of any other child in the facility if the investigation is inconclusive. The facility shall be notified whenever this discretionary authority is exercised.

Sec. 5. Minnesota Statutes 1984, section 626.556, subdivision 11, is amended to read:

Subd. 11. **RECORDS.** All records concerning individuals maintained by a local welfare agency under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

or the county sheriff, and except as otherwise provided in sections 3 and 4. Report records maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority. The welfare board shall make available to the investigating, petitioning, or prosecuting authority any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation. After the assessment or investigation is completed, the name of the reporter shall be confidential but shall be accessible to the individual subject of the record upon court order.

Notwithstanding section 138.163, records maintained by local welfare agencies, the police department or county sheriff under this section shall be destroyed as described in clauses (a) to (c):

(a) If upon assessment or investigation a report is found to be ~~unsubstantiated false~~, notice of intent to destroy records of the report shall be mailed to the individual subject of the report. At the subject's request the records shall be maintained as private data. If no request from the subject is received within 30 days of mailing the notice of intent to destroy, the records shall be destroyed.

(b) All records relating to reports which, upon assessment or investigation, are found to be substantiated shall be destroyed seven years after the date of the final entry in the case record.

(c) All records of reports which, upon initial assessment or investigation, cannot be substantiated or disproved to the satisfaction of the local welfare agency, local police department or county sheriff may be kept for a period of one year. If the local welfare agency, local police department or county sheriff is unable to substantiate the report within that period, each agency unable to substantiate the report shall destroy its records relating to the report in the manner provided by clause (a).

Sec. 6. Minnesota Statutes 1984, section 626.557, is amended by adding a subdivision to read:

Subd. 10a. NOTIFICATION OF NEGLECT OR ABUSE IN A FACILITY. (a) When a report is received that alleges neglect, physical abuse, or sexual abuse of a vulnerable adult while in the care of a facility required to be licensed under section 144A.02 or sections 245.781 to 245.812, the local welfare agency investigating the report shall notify the guardian or conservator of the person of a vulnerable adult under guardianship or conservatorship of the person

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

who is alleged to have been abused or neglected. The local welfare agency shall notify the person, if any, designated to be notified in case of an emergency by a vulnerable adult not under guardianship or conservatorship of the person who is alleged to have been abused or neglected, unless consent is denied by the vulnerable adult. The notice shall contain the following information: the name of the facility; the fact that a report of alleged abuse or neglect of a vulnerable adult in the facility has been received; the nature of the alleged abuse or neglect; that the agency is conducting an investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) In a case of alleged neglect, physical abuse, or sexual abuse of a vulnerable adult while in the care of a facility required to be licensed under sections 245.781 to 245.812, the local welfare agency may also provide the information in paragraph (a) to the guardian or conservator of the person of any other vulnerable adult in the facility who is under guardianship or conservatorship of the person, to any other vulnerable adult in the facility who is not under guardianship or conservatorship of the person, and to the person, if any, designated to be notified in case of an emergency by any other vulnerable adult in the facility who is not under guardianship or conservatorship of the person, unless consent is denied by the vulnerable adult, if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, or sexual abuse has occurred.

(c) When the investigation required under subdivision 10 is completed, the local welfare agency shall provide a written memorandum containing the following information to every guardian or conservator of the person or other person notified by the agency of the investigation under paragraph (a) or (b): the name of the facility investigated; the nature of the alleged neglect, physical abuse, or sexual abuse; the investigator's name; a summary of the investigative findings; a statement of whether the report was found to be substantiated, inconclusive, or false; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the alleged victim and shall not contain the name or, to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation.

(d) In a case of neglect, physical abuse, or sexual abuse of a vulnerable adult while in the care of a facility required to be licensed under sections 245.781 to 245.812, the local welfare agency may also provide the written memorandum to the guardian or conservator of the person of any other vulnerable adult in the facility who is under guardianship or conservatorship of the person, to any other vulnerable adult in the facility who is not under guardianship or conservatorship of the person, and to the person, if any, designated to be notified in case of an emergency by any other vulnerable adult in the facility who is not under guardianship or conservatorship of the person, unless consent is denied by the

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

vulnerable adult, if the report is substantiated or if the investigation is inconclusive and the report is a second or subsequent report of neglect, physical abuse, or sexual abuse of a vulnerable adult while in the care of the facility.

(e) In determining whether to exercise the discretionary authority granted under paragraphs (b) and (d), the local welfare agency shall consider the seriousness and extent of the alleged neglect, physical abuse, or sexual abuse and the impact of notification on the residents of the facility. The facility shall be notified whenever this discretion is exercised.

(f) Where federal law specifically prohibits the disclosure of patient identifying information, the local welfare agency shall not provide any notice under paragraph (a) or (b) or any memorandum under paragraph (c) or (d) unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

Sec. 7. Minnesota Statutes 1984, section 626.557, subdivision 12, is amended to read:

Subd. 12. **RECORDS.** (a) Each licensing agency shall maintain summary records of reports of ~~suspected~~ alleged abuse or neglect and ~~suspected~~ alleged violations of the requirements of this section with respect to facilities or persons licensed or credentialed by that agency. As part of these records, the agency shall prepare an investigation memorandum. Notwithstanding section 13.46, subdivision 3, the investigation memorandum shall be accessible to the public pursuant to section 13.03 and a copy shall be provided to any public agency which referred the matter to the licensing agency for investigation. It shall contain a complete review of the agency's investigation, including but not limited to: the facility's name of any facility investigated; ~~;~~ if any, a statement of the nature of the ~~suspected~~ alleged abuse or neglect or other violation of the requirements of this section; pertinent information obtained from medical or other records reviewed; the investigator's name; a summary of the investigator's findings; and a statement of any determination made or whether the report was found to be substantiated, inconclusive, or false; and a statement of any action taken by the agency. The investigation memorandum shall be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the name or, to the extent possible, the identity of the alleged perpetrator or of those interviewed during the investigation. During the licensing agency's investigation, all data collected pursuant to this section shall be classified as investigative data pursuant to section 13.39. After the licensing agency's investigation is complete, the data on individuals collected and maintained shall be private data on individuals. All data collected pursuant to this section shall be made available to prosecuting authorities and law enforcement officials, local welfare agencies, and licensing agencies investigating the alleged abuse or neglect. Notwithstanding any law to the contrary, the name of the

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

reporter shall be disclosed only upon a finding by the court that the report was false and made in bad faith.

(b) Notwithstanding the provisions of section 138.163:

(1) All data maintained by licensing agencies, treatment facilities, or other public agencies which relate to reports which, upon investigation, ~~the licensing agency finds~~ are found to be false may be destroyed two years after the finding was made;

(2) All data maintained by licensing agencies, treatment facilities, or other public agencies which relate to reports which, upon investigation, ~~the licensing agency finds~~ are found to be ~~unsubstantiated~~ inconclusive may be destroyed four years after the finding was made;

(3) All data maintained by licensing agencies, treatment facilities, or other public agencies which relate to reports which, upon investigation, ~~the licensing agency finds~~ are found to be substantiated may be destroyed seven years after the finding was made.

Approved June 4, 1985

---

## CHAPTER 294 — H.F.No. 264

*An act relating to animals; providing for a rabies control program; imposing criminal liability on persons who cause the death or substantial bodily harm of another by permitting certain animals to be unconfined or improperly confined; providing for the killing of dangerous animals; imposing penalties; amending Minnesota Statutes 1984, section 609.205; proposing coding for new law in Minnesota Statutes, chapters 346 and 609.*

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

### Section 1. [346.50] DOGS; IDENTIFICATION.

An owner or custodian of a dog who permits the dog to be uncontrolled off the owner's or custodian's premises shall have the dog identified in one of the following ways:

(1) by a device, tag, or plate attached to the dog by a collar, harness, or device giving the name, address, and telephone number of the current owner;

(2) by an electronically activated identification device within or attached to the body of the dog through which the owner can be promptly identified;

(3) by a number legibly tattooed on the thigh, abdomen, or ear of the dog through which the owner can be promptly identified using information from

Changes or additions are indicated by underline, deletions by ~~strikeout~~.