

CHAPTER 625—S.F.No. 2119

An act relating to child abuse reporting; classifying child abuse investigative data; clarifying the assessment duties of the local welfare agency; providing for the retention of records in certain circumstances; amending Minnesota Statutes 1986, sections 13.82, by adding a subdivision; and 626.556, subdivisions 5, 10d, and by adding subdivisions; and Minnesota Statutes 1987 Supplement, section 626.556, subdivision 11; repealing Minnesota Statutes 1986, section 626.556, subdivision 13.

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

Section 1. Minnesota Statutes 1986, section 13.82, is amended by adding a subdivision to read:

Subd. 5a. CHILD ABUSE IDENTITY DATA. Active or inactive investigative data that identify a victim of child abuse or neglect reported under section 626.556 are private data on individuals. Active or inactive investigative data that identify a reporter of child abuse or neglect under section 626.556 are confidential data on individuals, unless the subject of the report compels disclosure under section 626.556, subdivision 11.

Sec. 2. Minnesota Statutes 1986, section 626.556, subdivision 5, is amended to read:

Subd. 5. ~~FALSIFIED MALICIOUS AND RECKLESS~~ **REPORTS.** Any person who knowingly or recklessly makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury.

Sec. 3. Minnesota Statutes 1986, section 626.556, subdivision 10d, is amended to read:

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

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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~~ maltreatment 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~~ maltreatment is determined to exist.

Sec. 4. Minnesota Statutes 1986, section 626.556, is amended by adding a subdivision to read:

Subd. 10e. DETERMINATIONS. Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed.

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions committed by a person responsible for the child's care:

(1) an assault, as defined in section 609.02, subdivision 10, or any physical contact not exempted by section 609.379, where the assault or physical contact is either severe or recurring and causes either injury or significant risk of injury to the child;

(2) neglect as defined in subdivision 2, paragraph (c); or

(3) sexual abuse as defined in subdivision 2, paragraph (a).

(b) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child

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protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

Sec. 5. Minnesota Statutes 1986, section 626.556, is amended by adding a subdivision to read:

Subd. 10f. NOTICE OF DETERMINATIONS. Within ten working days of the conclusion of an assessment the local welfare agency shall notify the parent or guardian of the child of the determinations. Within ten working days of completing an investigation of a licensed facility, the local welfare agency shall notify the person alleged to be maltreating the child, the director of the facility, and the parent or guardian of the child of the determinations. In addition to the determinations, the notice shall include the length of time that the records will be kept under section 8. When there is no determination of either maltreatment or a need for services, the notice shall also include the alleged perpetrator's right to have the records destroyed.

Sec. 6. Minnesota Statutes 1987 Supplement, section 626.556, subdivision 11, is amended to read:

Subd. 11. RECORDS. Except as provided in subdivisions 10b, 10d, and 11b, 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 or the county sheriff; ~~and except as otherwise provided in subdivisions 10b and 10d.~~ 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. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. 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 except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the

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reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure.

Notwithstanding sections 138.163 and 138.17, records maintained by local welfare agencies, the police department or county sheriff under this section shall be destroyed as described in clauses (a) to (d):

(a) If upon assessment or investigation a report is found to be 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).

(d) Any notification of intent to interview which was received by a school under subdivision 10, paragraph (c), shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

Sec. 7. Minnesota Statutes 1986, section 626.556, is amended by adding a subdivision to read:

Subd. 11b. DATA RECEIVED FROM LAW ENFORCEMENT. Active law enforcement investigative data received by a local welfare agency under this section are confidential data on individuals. When this data become inactive in the law enforcement agency, the data are private data on individuals.

Sec. 8. Minnesota Statutes 1986, section 626.556, is amended by adding a subdivision to read:

Subd. 11c. RECORDS MAINTAINED. Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, county sheriffs or police departments, or schools under this section shall be destroyed as provided in paragraphs (a) to (c) by the responsible authority.

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(a) If upon assessment or investigation there is no determination of maltreatment or the need for child protective services, the records may be maintained for a period of four years. After the individual alleged to have maltreated a child is notified under section 5 of the determinations at the conclusion of the assessment or investigation, upon that individual's request, records shall be destroyed within 30 days.

(b) All records relating to reports which, upon assessment or investigation, indicate either maltreatment or a need for child protective services shall be destroyed seven years after the date of the final entry in the case record.

(c) All records regarding a report of maltreatment, including any notification of intent to interview which was received by a school under subdivision 10, paragraph (d), shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

Sec. 9. REPEALER.

Minnesota Statutes 1986, section 626.556, subdivision 13, is repealed.

Approved April 24, 1988

CHAPTER 626—S.F.No. 2137

An act relating to education; modifying certain requirements relating to school health services; amending Minnesota Statutes 1986, section 123.35, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 126; repealing Minnesota Statutes 1987 Supplement, sections 123.35, subdivision 16; and 126.201.

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

Section 1. Minnesota Statutes 1986, section 123.35, is amended by adding a subdivision to read:

Subd. 17. SCHOOL HEALTH SERVICES. (a) Every school board must provide services to promote the health of its pupils.

(b) The board of a district with 1,000 pupils or more in average daily membership in early childhood family education, preschool handicapped, elementary, and secondary programs must comply with the requirements of this paragraph. It may use one or a combination of the following methods:

(1) employ personnel, including at least one full-time equivalent licensed school nurse or continue to employ a registered nurse not yet certified as a public health nurse who is enrolled in a program that would lead to certification within four years of the effective date of this section;

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