

Sec. 2. **[505.33] VIOLATIONS; PENALTY.**

Any person who intentionally removes, destroys, or defaces a monument lawfully erected is guilty of a misdemeanor.

Sec. 3. **EFFECTIVE DATE.**

Section 2 is effective August 1, 1990, for violations occurring on or after that date.

Presented to the governor April 2, 1990

Signed by the governor April 4, 1990, 9:54 p.m.

CHAPTER 397—H.F.No. 2002

An act relating to veterans; repealing provisions prohibiting cemeteries near veterans home and university; repealing Minnesota Statutes 1988, sections 137.20 and 137.21.

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

Section 1. **REPEALER.**

Minnesota Statutes 1988, sections 137.20 and 137.21, are repealed.

Presented to the governor April 2, 1990

Signed by the governor April 5, 1990, 2:51 p.m.

CHAPTER 398—S.F.No. 2370

An act relating to human services; revising and clarifying the duties and powers of the ombudsman for mental health and mental retardation; amending Minnesota Statutes 1989 Supplement, section 245.94, subdivision 1.

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

Section 1. Minnesota Statutes 1989 Supplement, section 245.94, subdivision 1, is amended to read:

Subdivision 1. **POWERS.** (a) The ombudsman may prescribe the methods by which complaints to the office are to be made, reviewed, and acted upon. The ombudsman may not levy a complaint fee.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The ombudsman may mediate or advocate on behalf of a client.

(c) The ombudsman may investigate the quality of services provided to clients and determine the extent to which quality assurance mechanisms within state and county government work to promote the health, safety, and welfare of clients, other than clients in acute care facilities who are receiving services not paid for by public funds.

(d) At the request of a client, or upon receiving a complaint or other information affording reasonable grounds to believe that the rights of a client who is not capable of requesting assistance have been adversely affected, the ombudsman may gather information about and analyze, on behalf of the client, the actions of an agency, facility, or program.

(e) The ombudsman may examine, on behalf of a client, records of an agency, facility, or program if the records relate to a matter that is within the scope of the ombudsman's authority. If the records are private and the client is capable of providing consent, the ombudsman shall first obtain the client's consent. The ombudsman is not required to obtain consent for access to private data on clients with mental retardation or a related condition. The ombudsman is not required to obtain consent for access to private data on decedents who were receiving services for mental illness, mental retardation or a related condition, or emotional disturbance.

(f) The ombudsman may subpoena a person to appear, give testimony, or produce documents or other evidence that the ombudsman considers relevant to a matter under inquiry. The ombudsman may petition the appropriate court to enforce the subpoena. A witness who is at a hearing or is part of an investigation possesses the same privileges that a witness possesses in the courts or under the law of this state. Data obtained from a person under this paragraph are private data as defined in section 13.02, subdivision 12.

(g) The ombudsman may, at reasonable times in the course of conducting a review, enter and view premises within the control of an agency, facility, or program.

(h) The ombudsman may attend department of human services review board and special review board proceedings; proceedings regarding the transfer of patients or residents, as defined in section 246.50, subdivisions 4 and 4a, between institutions operated by the department of human services; and, subject to the consent of the affected client, other proceedings affecting the rights of clients. The ombudsman is not required to obtain consent to attend meetings or proceedings and have access to private data on clients with mental retardation or a related condition.

(i) The ombudsman shall have access to data of agencies, facilities, or programs classified as private or confidential as defined in section 13.02, subdivisions 3 and 12, regarding services provided to clients with mental retardation or a related condition.

New language is indicated by underline, deletions by ~~strikeout~~.

(j) To avoid duplication and preserve evidence, the ombudsman shall inform relevant licensing or regulatory officials before undertaking a review of an action of the facility or program.

(k) Sections 245.91 to 245.97 are in addition to other provisions of law under which any other remedy or right is provided.

Presented to the governor April 2, 1990

Signed by the governor April 5, 1990, 3:45 p.m.

CHAPTER 399—H.F.No. 2637

An act relating to insurance; clarifying the law prohibiting insurers from maintaining subrogation actions against insureds; amending Minnesota Statutes 1989 Supplement, section 60A.41.

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

Section 1. Minnesota Statutes 1989 Supplement, section 60A.41, is amended to read:

60A.41 SUBROGATION AGAINST INSURED'S PROHIBITED.

(a) An insurance company providing insurance coverage or a ~~company providing~~ reinsurance its reinsurer for that ~~insurance company for the~~ underlying insurance coverage may not proceed against its insured in a subrogation action where the loss was caused by the nonintentional acts of the insured.

(b) An insurance company providing insurance coverage or a ~~company providing~~ reinsurance its reinsurer for the ~~that~~ underlying insurance coverage may not subrogate itself to the rights of its insured to proceed against another person if that other person is insured for the same loss being subrogated, by the same company ~~to recover a~~. This provision applies only if the loss was caused by the nonintentional acts of ~~that insured~~ the person against whom subrogation is sought.

(c) This provision does not apply to or affect claims of a surety against its principal.

(d) Nothing in this section prevents an insurer from allocating the loss internally to the at-fault insured for purposes of underwriting, agency, and claims information.

Presented to the governor April 2, 1990

New language is indicated by underline, deletions by ~~strikeout~~.