

(2) any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more; or

(3) a violation of chapter 169 or 169A involving driving under the influence, leaving the scene of an accident, or reckless or careless driving.

This chapter also shall not apply to eligibility for juvenile corrections employment, where the offense involved child physical or sexual abuse or criminal sexual conduct.

(b) This chapter does not apply to a school district or to eligibility for a license issued or renewed by the board of teaching or the commissioner of children, families, and learning.

(c) Nothing in this section precludes the Minnesota police and peace officers training board or the state fire marshal from recommending policies set forth in this chapter to the attorney general for adoption in the attorney general's discretion to apply to law enforcement or fire protection agencies.

(d) This chapter does not apply to a license to practice medicine that has been denied or revoked by the board of medical practice pursuant to section 147.091, subdivision 1a.

Presented to the governor May 17, 2001

Signed by the governor May 21, 2001, 10:57 a.m.

CHAPTER 145—S.F.No. 564

An act relating to employment; providing for access to employee assistance records; requiring employee assistance records to be kept separate from personnel records; proposing coding for new law in Minnesota Statutes, chapter 181.

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

Section 1. [181.980] ACCESS TO EMPLOYEE ASSISTANCE RECORDS.

Subdivision 1. **DEFINITIONS.** (a) For the purpose of this section, the following terms have the meanings given to them in this subdivision.

(b) "Employee assistance services" means services paid for or provided by an employer and offered to employees or their family members on a voluntary basis. The services are designed to assist in the identification and resolution of productivity problems associated with personal concerns. Services include, but are not limited to, assessment; assistance; counseling or referral assistance with medical or mental health problems; alcohol or drug use; or emotional, marital, familial, financial, legal, or other personal problems.

(c) "Employer" means a person or entity located or doing business in the state and having one or more employees, but does not include a government entity that is subject to chapter 13.

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

(d) "Employee assistance provider" means an employer, or a person acting on behalf of an employer, who is providing employee assistance services.

(e) "Employee assistance records" means the records created, collected, or maintained by an employee assistance provider that relate to participation by an employee or an employee's family member in employee assistance services.

Employee assistance records do not include:

(1) written or recorded comments or data of a personal nature about a person other than the employee, if disclosure of the information would constitute an intrusion upon that person's privacy;

(2) written or recorded comments or data kept by the employee's supervisor or an executive, administrative, or professional employee, provided the written comments or data are kept in the sole possession of the author of the record;

(3) information that is not discoverable in a worker's compensation, grievance arbitration, administrative, judicial, or quasi judicial proceeding; or

(4) any portion of a written, recorded, or transcribed statement by a third party about the recipient of employee assistance services that discloses the identity of the third party by name, inference, or otherwise.

Subd. 2. ACCESS. Upon written request of a person who has received employee assistance services, or a parent or legal guardian of the person if the person is a minor, an employee assistance provider shall provide the requesting person with an opportunity to review and obtain copies of the person's employee assistance records or the pertinent portion of the records specified by the person. An employee assistance provider shall comply with a request under this subdivision no later than seven working days after receipt of the request if the records are located in this state, or 14 working days after receipt of the request if the records are located outside this state. An employee assistance provider may not charge a fee for a copy of the record.

Subd. 3. RELATION TO PERSONNEL FILE. Employee assistance records must be maintained separate from personnel records and must not become part of an employee's personnel file.

Subd. 4. OTHER RIGHTS PRESERVED. The rights and obligations created by this section are in addition to rights or obligations created under a contract or other law governing access to records.

Subd. 5. DISCLOSURE. No portion of employee assistance records, or participation in employee assistance services, may be disclosed to a third person, including the employer or its representative, without the prior written authorization of the person receiving services, or the person's legal representative. This subdivision does not prohibit disclosure:

(1) pursuant to state or federal law or judicial order;

(2) required in the normal course of providing the requested services; or

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

(3) if necessary to prevent physical harm or the commission of a crime.

Subd. 6. **REMEDIES.** In addition to other remedies provided by law, the recipient of employee assistance services may bring a civil action to compel compliance with this section and to recover actual damages, plus costs and reasonable attorney fees.

Presented to the governor May 17, 2001

Signed by the governor May 21, 2001, 10:56 a.m.

CHAPTER 146—H.F.No. 1828

An act relating to water; modifying provisions relating to wetland classification and replacement; modifying provisions relating to consumptive use of water; amending Minnesota Statutes 2000, sections 103F.516, subdivisions 1, 2, 3; 103F.612, by adding a subdivision; 103G.201; 103G.2242, subdivisions 9, 12; 103G.2372, subdivision 1; 103G.245, subdivision 5.

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

Section 1. Minnesota Statutes 2000, section 103F.516, subdivision 1, is amended to read:

Subdivision 1. **EASEMENTS.** Upon application by a landowner, the board may acquire permanent easements and may pay for the cost of related capital improvement projects to preserve or restore wetlands on land containing type 1, 2, 3, 4, 5, or 6 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), public waters wetlands, or public waters.

Sec. 2. Minnesota Statutes 2000, section 103F.516, subdivision 2, is amended to read:

Subd. 2. **NATURE OF PROPERTY RIGHTS ACQUIRED.** (a) The nature of property rights acquired in an easement under this section must be consistent with the provisions of section 103F.515, subdivision 4.

(b) A permanent easement may include four adjacent upland acres of land for each acre of wetland wetlands, public waters wetlands, or public waters included.

(c) The easement must require that the landowner control noxious weeds in accordance with sections 18.77 to 18.88.

(d) The permanent easement must be conveyed to the state in recordable form free of any prior title, lien, or encumbrance and must provide for a right of entry by the state for inspection and correction of violations.

Sec. 3. Minnesota Statutes 2000, section 103F.516, subdivision 3, is amended to read:

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