

CHAPTER 137—H.F.No. 480

An act relating to civil actions; providing protection for disclosure of job reference information; requiring disclosure of data between school districts and charter schools relating to acts of violence or inappropriate sexual contact with students; regulating the right of an employee to inspect personnel records concerning the employee; amending Minnesota Statutes 2002, sections 13.43, subdivision 16; 181.961, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 181.

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

Section 1. Minnesota Statutes 2002, section 13.43, subdivision 16, is amended to read:

Subd. 16. **SCHOOL DISTRICT OR CHARTER SCHOOL DISCLOSURE OF VIOLENCE OR INAPPROPRIATE SEXUAL CONTACT.** ~~With the written, informed consent of the subject of the data, The superintendent of a school district or the superintendent's designee, or a person having administrative control of a charter school, must release to a requesting school district or charter school private personnel data on a current or former employee related to documented acts of violence toward or sexual contact with a student, if an investigation conducted by or on behalf of the school district or law enforcement affirmed the allegations in writing prior to release and the investigation resulted in the resignation of the subject of the data. Nothing in this subdivision affects or restricts the general requirements of this chapter governing the release of private data with the informed consent of the subject.~~

Sec. 2. Minnesota Statutes 2002, section 181.961, subdivision 1, is amended to read:

Subdivision 1. **RIGHT TO REVIEW; FREQUENCY.** Upon written request by an employee, the employer shall provide the employee with an opportunity to review the employee's personnel record. An employer is not required to provide an employee with an opportunity to review the employee's personnel record if the employee has reviewed the personnel record during the previous six months; except that, upon separation from employment, an employee may review the employee's personnel record only once at any time within one each year after separation for as long as the personnel record is maintained.

Sec. 3. **[181.967] EMPLOYMENT REFERENCES.**

Subdivision 1. **DEFINITIONS.** For purposes of this section:

(1) "employee" means a person who performs services for hire and includes an officer of a corporation;

(2) "employer" means a person who has one or more employees and includes a designated employee or agent who discloses information on behalf of an employer;

(3) "personnel record" has the meaning given in section 181.960;

(4) "private employer" means an employer that is not a government entity, as defined in section 13.02; and

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

(5) "public employer" means an employer that is a government entity, as defined in section 13.02.

Subd. 2. CAUSES OF ACTION LIMITED. No action may be maintained against an employer by an employee or former employee for the disclosure of information listed in subdivisions 3 to 5 about the employee to a prospective employer or employment agency as provided under this section, unless the employee or former employee demonstrates by clear and convincing evidence that:

(1) the information was false and defamatory; and

(2) the employer knew or should have known the information was false and acted with malicious intent to injure the current or former employee.

Subd. 3. EMPLOYMENT REFERENCE INFORMATION DISCLOSURE BY PRIVATE EMPLOYERS. (a) Subdivision 2 applies to the disclosure of the following information by a private employer in response to a request for the information:

(1) dates of employment;

(2) compensation and wage history;

(3) job description and duties;

(4) training and education provided by the employer; and

(5) acts of violence, theft, harassment, or illegal conduct documented in the personnel record that resulted in disciplinary action or resignation and the employee's written response, if any, contained in the employee's personnel record.

A disclosure under clause (5) must be in writing with a copy sent contemporaneously by regular mail to the employee's last known address.

(b) With the written authorization of the current or former employee, subdivision 2 also applies to the written disclosure of the following information by a private employer:

(1) written employee evaluations conducted before the employee's separation from the employer, and the employee's written response, if any, contained in the employee's personnel record;

(2) written disciplinary warnings and actions in the five years before the date of the authorization, and the employee's written response, if any, contained in the employee's personnel record; and

(3) written reasons for separation from employment.

The employer must contemporaneously provide the employee or former employee with a copy of information disclosed under this paragraph and to whom it was disclosed by mailing the information to the employee or former employee.

(c) A prospective employer or employment agency shall not disclose written information received under this section without the written authorization of the employee.

New language is indicated by underline, deletions by strikeout.

Subd. 4. DISCLOSURE OF PERSONNEL DATA BY PUBLIC EMPLOYER.

Subdivision 2 applies to the disclosure of all public personnel data and to the following private personnel data under section 13.43 by a public employer if the current or former employee gives written consent to the release of the private data:

(1) written employee evaluations conducted before the employee's separation from the employer, and the employee's written response, if any, contained in the employee's personnel record; and

(2) written reasons for separation from employment.

Subd. 5. SCHOOL DISTRICT DISCLOSURE OF VIOLENCE OR INAPPROPRIATE SEXUAL CONTACT. (a) Subdivision 2 applies to a disclosure by the superintendent of a school district or the superintendent's designee, or a person having administrative control of a charter school, to another school district or charter school of: (1) public personnel data under section 13.43, subdivision 2, relating to acts of violence toward or inappropriate sexual contact with a student that resulted in disciplinary action; and (2) private personnel data under section 13.43, subdivision 16.

(b) A disclosure under this subdivision must be in writing with a copy sent contemporaneously by regular mail to the employee's last known address.

Subd. 6. APPLICATION; RELATION TO OTHER LAW. (a) This section does not affect the availability of other limitations on liability under common law.

(b) This section does not apply to an action involving an alleged violation of chapter 363 or other statute.

(c) This section does not diminish or impair the rights of a person under a collective bargaining agreement.

Sec. 4. EFFECTIVE DATE.

Section 3 is effective August 1, 2004, and applies to disclosures of information made on or after that date.

Presented to the governor March 18, 2004

Signed by the governor March 22, 2004, 2:03 p.m.

CHAPTER 138—S.F.No. 2182

An act relating to utilities; repealing sunset of performance-based gas utility regulation; regulating performance-based regulation plans; amending Minnesota Statutes 2002, section 216B.1675, subdivisions 1, 3, 13; Laws 1997, chapter 25, section 3.

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

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