

HOUSE OF REPRESENTATIVES**EIGHTY-EIGHTH SESSION****H. F. No. 2276**

02/25/2014 Authored by Holberg and Simon
The bill was read for the first time and referred to the Committee on Civil Law
03/27/2014 Adoption of Report: Amended and Placed on the General Register
Read Second Time

1.1 A bill for an act
1.2 relating to the safe at home program; regulating participant data and real property
1.3 records; amending Minnesota Statutes 2013 Supplement, sections 5B.05; 13.045.

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

1.5 Section 1. Minnesota Statutes 2013 Supplement, section 5B.05, is amended to read:

1.6 **5B.05 USE OF DESIGNATED ADDRESS.**

1.7 (a) When a program participant presents the address designated by the secretary
1.8 of state to any person, that address must be accepted as the address of the program
1.9 participant. The person may not require the program participant to submit any address
1.10 that could be used to physically locate the participant either as a substitute or in addition
1.11 to the designated address, or as a condition of receiving a service or benefit, unless the
1.12 service or benefit would be impossible to provide without knowledge of the program
1.13 participant's physical location.

1.14 (b) A program participant may use the address designated by the secretary of state as
1.15 the program participant's work address.

1.16 (c) The Office of the Secretary of State shall forward all mail sent to the designated
1.17 address to the proper program participants.

1.18 (d) If a program participant has notified a person in writing, on a form prescribed
1.19 by the program, that the individual is a program participant and of the requirements of
1.20 this section, the person must not knowingly disclose the program participant's name,
1.21 home address, work address, or school address, unless the person to whom the address is
1.22 disclosed also lives, works, or goes to school at the address disclosed, or the participant
1.23 has provided written consent to disclosure of the participant's name, home address, work
1.24 address, or school address for the purpose for which the disclosure will be made. This

2.1 paragraph does not apply to records of the judicial branch governed by rules adopted by
 2.2 the Supreme Court or government entities governed by section 13.045.

2.3 Sec. 2. Minnesota Statutes 2013 Supplement, section 13.045, is amended to read:

2.4 **13.045 SAFE AT HOME PROGRAM PARTICIPANT DATA.**

2.5 Subdivision 1. **Definitions.** As used in this section:

2.6 (1) "program participant" has the meaning given in section 5B.02, paragraph (g); ~~and~~

2.7 (2) ~~"identity and location data"~~ means any data that may be used to identify
 2.8 ~~or~~ physically locate a program participant, including but not limited to the program
 2.9 participant's ~~name~~, residential address, work address, and school address, and that is
 2.10 collected, received, or maintained by a government entity prior to the date a program
 2.11 participant's certification expires, or the date the entity receives notice that the program
 2.12 participant has withdrawn from the program, whichever is earlier;~~;~~

2.13 (3) "identity data" means data that may be used to identify a program participant,
 2.14 including the program participant's name, phone number, e-mail address, address
 2.15 designated under chapter 5B, Social Security number, or driver's license number, and that
 2.16 is collected, received, or maintained by a government entity before the date a program
 2.17 participant's certification expires, or the date the entity receives notice that the program
 2.18 participant has withdrawn from the program, whichever is earlier;

2.19 (4) "county recorder" means the county official who performs the functions of the
 2.20 county recorder or registrar of titles to record a document as part of the county real estate
 2.21 document recording system, regardless of title or office; and

2.22 (5) "real property records" means any record of data that is maintained by a county
 2.23 as part of the county real estate document recording system for use by the public.

2.24 Subd. 2. **Notification of certification.** (a) A program participant may submit a
 2.25 notice, in writing, to the responsible authority of any government entity other than the
 2.26 county recorder that the participant is certified in the Safe at Home address confidentiality
 2.27 program pursuant to chapter 5B. The notice must include the program participant's name,
 2.28 names of other program participants in the household, address designated under chapter
 2.29 5B, program participant signature, date the program participant's certification in the
 2.30 program expires, and any other information specified by the secretary of state. A program
 2.31 participant may submit a subsequent notice of certification, if the participant's certification
 2.32 is renewed. The contents of the notification of certification, ~~and the fact that a notice has~~
 2.33 ~~been submitted,~~ are private data on individuals.

2.34 (b) To affect real property records, including but not limited to documents maintained
 2.35 in a public recording system, data on assessments and taxation, and other data on real

3.1 property, a program participant must submit a real property notice in writing to the county
 3.2 recorder in the county where the property identified in the real property notice is located. A
 3.3 real property notice must be on a form prescribed by the secretary of state and must include:

- 3.4 (1) the full legal name of the program participant, including middle name;
 3.5 (2) the last four digits of the program participant's Social Security number;
 3.6 (3) the designated address of the program participant as assigned by the secretary of
 3.7 state, including lot number;
 3.8 (4) the date the program participant's certification in the program expires;
 3.9 (5) the legal description and street address, if any, of the real property affected
 3.10 by the notice;
 3.11 (6) the address of the Office of the Secretary of State; and
 3.12 (7) the signature of the program participant.

3.13 Only one parcel of real property may be included in each notice, but more than one notice
 3.14 may be presented to the county recorder. The county recorder may require a program
 3.15 participant to provide additional information necessary to identify the records of the
 3.16 program participant or the real property described in the notice. A program participant
 3.17 must submit a subsequent real property notice for the real property if the participant's
 3.18 certification is renewed. The real property notice is private data on individuals.

3.19 **Subd. 3. Classification of identity and location data; sharing and dissemination.**

3.20 (a) Identity and location data on a program participant who submits a notice under
 3.21 subdivision 2, paragraph (a), that are not otherwise classified by law are private data on
 3.22 individuals. Notwithstanding any provision of law to the contrary, private or confidential
 3.23 identity and location data on a program participant who submits a notice under subdivision
 3.24 2, paragraph (a), may not be shared with any other government entity, or disseminated to
 3.25 any person, unless: or nongovernmental entity except as provided in paragraph (b).

3.26 (b) Private or confidential location data on a program participant must not be shared
 3.27 or disclosed by a government entity unless:

- 3.28 (1) the program participant has expressly consented in writing to sharing or
 3.29 dissemination of the data for the purpose for which the sharing or dissemination will occur;
 3.30 (2) the data are subject to sharing or dissemination pursuant to court order under
 3.31 section 13.03, subdivision 6; or
 3.32 (3) the data are subject to sharing pursuant to section 5B.07, subdivision 2;
 3.33 (4) the location data related to county of residence are needed to provide public
 3.34 assistance or other government services, or to allocate financial responsibility for the
 3.35 assistance or services;

4.1 (5) the data are necessary to perform a government entity's health, safety, or welfare
4.2 functions, including the provision of emergency 911 services, the assessment and
4.3 investigation of child or vulnerable adult abuse or neglect, or the assessment or inspection
4.4 of services or locations for compliance with health, safety, or professional standards; or

4.5 (6) the data are necessary to aid an active law enforcement investigation of the
4.6 program participant.

4.7 (c) Data disclosed under paragraph (b), clauses (4) to (6), may be used only for the
4.8 purposes authorized in this subdivision and may not be further disclosed to any other person
4.9 or government entity. Government entities receiving or sharing private or confidential data
4.10 under this subdivision shall establish procedures to protect the data from further disclosure.

4.11 (d) Real property record data are governed by subdivision 4a.

4.12 **Subd. 4. Acceptance of alternate address required.** Regardless of whether a
4.13 notice of certification has been submitted under subdivision 2, a government entity must
4.14 accept the address designated by the secretary of state as a program participant's address,
4.15 and is subject to the requirements contained in section 5B.05, paragraphs (a) to (c).

4.16 **Subd. 4a. Real property records.** (a) If a program participant submits a notice to a
4.17 county recorder under subdivision 2, paragraph (b), the county recorder must not disclose
4.18 the program participant's identity data in conjunction with the property identified in the
4.19 written notice, unless:

4.20 (1) the program participant has consented to sharing or dissemination of the data for
4.21 the purpose identified in a writing acknowledged by the program participant;

4.22 (2) the data are subject to sharing or dissemination pursuant to court order under
4.23 section 13.03, subdivision 6; or

4.24 (3) the secretary of state authorizes the sharing or dissemination of the data under
4.25 subdivision 4b for the purpose identified in the authorization.

4.26 This subdivision does not prevent the county recorder from returning original documents
4.27 to the individuals that submitted the documents for recording. This subdivision does not
4.28 prevent the public disclosure of the participant's name and address designated under
4.29 chapter 5B in the county reception index if the participant's name and designated address
4.30 are not disclosed in conjunction with location data. Each county recorder shall establish
4.31 procedures for recording or filing documents to comply with this subdivision. These
4.32 procedures may include masking identity or location data and making documents or
4.33 certificates of title containing the data private and not viewable except as allowed by this
4.34 paragraph. The procedure must comply with the requirements of chapters 386, 507, 508,
4.35 and 508A and other laws as appropriate, to the extent these requirements do not conflict
4.36 with this section. The procedures must provide public notice of the existence of recorded

5.1 documents and certificates of title that are not publicly viewable and the provisions for
5.2 viewing them under this subdivision. Notice that a document or certificate is private and
5.3 viewable only under this subdivision or subdivision 4b is deemed constructive notice of
5.4 the document or certificate.

5.5 (b) A real property notice is notice only to the county recorder. A notice that does
5.6 not conform to the requirements of a real property notice under subdivision 2, paragraph
5.7 (b), is not effective as a notice to the county recorder. On receipt of a real property notice,
5.8 the county recorder shall provide a copy of the notice to the person who maintains the
5.9 property tax records in that county, and provide a copy to the secretary of state at the
5.10 address specified by the secretary of state in the notice.

5.11 (c) Paragraph (a) applies only to the records recorded or filed concurrently with the
5.12 real property notice specified in subdivision 2, paragraph (b), and real property records
5.13 affecting the same real property recorded subsequent to the county's receipt of the real
5.14 property notice.

5.15 (d) The prohibition on disclosure in paragraph (a) continues until:

5.16 (1) the program participant has consented to the termination of the real property
5.17 notice in a writing acknowledged by the program participant;

5.18 (2) the real property notice is terminated pursuant to a court order;

5.19 (3) the program participant no longer holds a record interest in the real property
5.20 identified in the real property notice; or

5.21 (4) the secretary of state has given written notice to the county recorder who
5.22 provided the secretary of state with a copy of a participant's real property notice that the
5.23 program participant's certification has terminated. Notification under this paragraph must
5.24 be given by the secretary of state within 90 days of the termination.

5.25 Upon termination of the prohibition of disclosure, the county recorder shall make publicly
5.26 viewable all documents and certificates of title relative to the participant that were
5.27 previously partially or wholly private and not viewable.

5.28 Subd. 4b. **Access to real property data; title examination.** (a) Upon request, the
5.29 secretary of state may share data regarding a program participant's real property records
5.30 for the purpose of confirming or denying that the program participant's real property is the
5.31 property subject to a bona fide title examination. The request must include:

5.32 (1) the name, title, address, and affiliated organization, if applicable, of the person
5.33 requesting data;

5.34 (2) the purpose for requesting data;

5.35 (3) the requestor's relationship, if any, to the program participant subject to the
5.36 data; and

6.1 (4) the legal description of the property subject to the title examination and any other
6.2 information required by the secretary of state to respond to the request.

6.3 The secretary of state shall approve or deny a request for access to data within two
6.4 business days.

6.5 (b) In responding to a bona fide request, the secretary of state may respond by
6.6 an affirmation in writing that the property subject to the title examination is or is not
6.7 the property subject to a program participant's real property notice. Notwithstanding
6.8 subdivision 4a, or any law to the contrary, a party examining title may rely conclusively
6.9 on the information contained in a written affirmation from the secretary of state.

6.10 (c) Location data disclosed under this subdivision may be used only for the purposes
6.11 authorized in this subdivision and may not be further disclosed to any other person. A
6.12 person receiving private data under this subdivision shall establish procedures to protect
6.13 the data from further disclosure.

6.14 **Subd. 5. Duties of the secretary of state and other government entities limited.**
6.15 Nothing in this section establishes a duty for:

6.16 (1) the Office of the Secretary of State to identify other government entities that
6.17 may hold data on a program participant; or

6.18 (2) the responsible authority of any government entity to independently determine
6.19 whether it maintains data on a program participant, unless a request is received pursuant to
6.20 section 13.04 or a notice of certification is submitted pursuant to this section.

6.21 **Subd. 6. Service of process upon program participants.** Notwithstanding any law
6.22 to the contrary, after a government entity receives a notice under subdivision 2 or 4a, if the
6.23 government entity seeks to serve process upon a program participant, the service must
6.24 be made by personal service or service by mail upon the secretary of state under section
6.25 5B.03, subdivision 1, clause (3). In an action in which service by publication is required or
6.26 necessary, publication is valid if the publication omits the name of the program participant
6.27 and the secretary of state has been served as provided in this subdivision.

6.28 **Subd. 7. Sharing of program participant data with the secretary of state.**
6.29 Nothing in this section prevents a government entity from sharing program participant
6.30 data with the secretary of state for the purpose of facilitating compliance with this section.

6.31 **Sec. 3. EFFECTIVE DATE; EARLY COMPLIANCE.**

6.32 Sections 1 and 2 are effective the day following final enactment. Compliance with
6.33 section 2 prior to its effective date is not a violation of chapter 13.