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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3529

02/17/2022

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The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act

1.2 relating to data practices; authorizing the exchange of mental health data among

1.3 law enforcement mental health units, social services, and health care providers to

1.4 coordinate necessary services; amending Minnesota Statutes 2020, sections 13.46,

1.5 subdivisions 2, 7; 13.82, by adding a subdivision; Minnesota Statutes 2021

1.6 Supplement, section 144.293, subdivision 5.

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

1.8 Section 1. Minnesota Statutes 2020, section 13.46, subdivision 2, is amended to read:

1.9 Subd. 2. **General.** (a) Data on individuals collected, maintained, used, or disseminated

1.10 by the welfare system are private data on individuals, and shall not be disclosed except:

1.11 (1) according to section 13.05;

1.12 (2) according to court order;

1.13 (3) according to a statute specifically authorizing access to the private data;

1.14 (4) to an agent of the welfare system and an investigator acting on behalf of a county,

1.15 the state, or the federal government, including a law enforcement person or attorney in the

1.16 investigation or prosecution of a criminal, civil, or administrative proceeding relating to the

1.17 administration of a program;

1.18 (5) to personnel of the welfare system who require the data to verify an individual's

1.19 identity; determine eligibility, amount of assistance, and the need to provide services to an

1.20 individual or family across programs; coordinate services for an individual or family;

1.21 evaluate the effectiveness of programs; assess parental contribution amounts; and investigate

1.22 suspected fraud;

2.1 (6) to administer federal funds or programs;

2.2 (7) between personnel of the welfare system working in the same program;

2.3 (8) to the Department of Revenue to assess parental contribution amounts for purposes
2.4 of section 252.27, subdivision 2a, administer and evaluate tax refund or tax credit programs
2.5 and to identify individuals who may benefit from these programs. The following information
2.6 may be disclosed under this paragraph: an individual's and their dependent's names, dates
2.7 of birth, Social Security numbers, income, addresses, and other data as required, upon
2.8 request by the Department of Revenue. Disclosures by the commissioner of revenue to the
2.9 commissioner of human services for the purposes described in this clause are governed by
2.10 section 270B.14, subdivision 1. Tax refund or tax credit programs include, but are not limited
2.11 to, the dependent care credit under section 290.067, the Minnesota working family credit
2.12 under section 290.0671, the property tax refund and rental credit under section 290A.04,
2.13 and the Minnesota education credit under section 290.0674;

2.14 (9) between the Department of Human Services, the Department of Employment and
2.15 Economic Development, and when applicable, the Department of Education, for the following
2.16 purposes:

2.17 (i) to monitor the eligibility of the data subject for unemployment benefits, for any
2.18 employment or training program administered, supervised, or certified by that agency;

2.19 (ii) to administer any rehabilitation program or child care assistance program, whether
2.20 alone or in conjunction with the welfare system;

2.21 (iii) to monitor and evaluate the Minnesota family investment program or the child care
2.22 assistance program by exchanging data on recipients and former recipients of Supplemental
2.23 Nutrition Assistance Program (SNAP) benefits, cash assistance under chapter 256, 256D,
2.24 256J, or 256K, child care assistance under chapter 119B, medical programs under chapter
2.25 256B or 256L, or a medical program formerly codified under chapter 256D; and

2.26 (iv) to analyze public assistance employment services and program utilization, cost,
2.27 effectiveness, and outcomes as implemented under the authority established in Title II,
2.28 Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of 1999.
2.29 Health records governed by sections 144.291 to 144.298 and "protected health information"
2.30 as defined in Code of Federal Regulations, title 45, section 160.103, and governed by Code
2.31 of Federal Regulations, title 45, parts 160-164, including health care claims utilization
2.32 information, must not be exchanged under this clause;

3.1 (10) to appropriate parties in connection with an emergency if knowledge of the
3.2 information is necessary to protect the health or safety of the individual or other individuals
3.3 or persons;

3.4 (11) data maintained by residential programs as defined in section 245A.02 may be
3.5 disclosed to the protection and advocacy system established in this state according to Part
3.6 C of Public Law 98-527 to protect the legal and human rights of persons with developmental
3.7 disabilities or other related conditions who live in residential facilities for these persons if
3.8 the protection and advocacy system receives a complaint by or on behalf of that person and
3.9 the person does not have a legal guardian or the state or a designee of the state is the legal
3.10 guardian of the person;

3.11 (12) to the county medical examiner or the county coroner for identifying or locating
3.12 relatives or friends of a deceased person;

3.13 (13) data on a child support obligor who makes payments to the public agency may be
3.14 disclosed to the Minnesota Office of Higher Education to the extent necessary to determine
3.15 eligibility under section 136A.121, subdivision 2, clause (5);

3.16 (14) participant Social Security numbers and names collected by the telephone assistance
3.17 program may be disclosed to the Department of Revenue to conduct an electronic data
3.18 match with the property tax refund database to determine eligibility under section 237.70,
3.19 subdivision 4a;

3.20 (15) the current address of a Minnesota family investment program participant may be
3.21 disclosed to law enforcement officers who provide the name of the participant and notify
3.22 the agency that:

3.23 (i) the participant:

3.24 (A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after
3.25 conviction, for a crime or attempt to commit a crime that is a felony under the laws of the
3.26 jurisdiction from which the individual is fleeing; or

3.27 (B) is violating a condition of probation or parole imposed under state or federal law;

3.28 (ii) the location or apprehension of the felon is within the law enforcement officer's
3.29 official duties; and

3.30 (iii) the request is made in writing and in the proper exercise of those duties;

4.1 (16) the current address of a recipient of general assistance may be disclosed to probation
4.2 officers and corrections agents who are supervising the recipient and to law enforcement
4.3 officers who are investigating the recipient in connection with a felony level offense;

4.4 (17) information obtained from a SNAP applicant or recipient households may be
4.5 disclosed to local, state, or federal law enforcement officials, upon their written request, for
4.6 the purpose of investigating an alleged violation of the Food and Nutrition Act, according
4.7 to Code of Federal Regulations, title 7, section 272.1(c);

4.8 (18) the address, Social Security number, and, if available, photograph of any member
4.9 of a household receiving SNAP benefits shall be made available, on request, to a local, state,
4.10 or federal law enforcement officer if the officer furnishes the agency with the name of the
4.11 member and notifies the agency that:

4.12 (i) the member:

4.13 (A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a
4.14 crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

4.15 (B) is violating a condition of probation or parole imposed under state or federal law;
4.16 or

4.17 (C) has information that is necessary for the officer to conduct an official duty related
4.18 to conduct described in subitem (A) or (B);

4.19 (ii) locating or apprehending the member is within the officer's official duties; and

4.20 (iii) the request is made in writing and in the proper exercise of the officer's official duty;

4.21 (19) the current address of a recipient of Minnesota family investment program, general
4.22 assistance, or SNAP benefits may be disclosed to law enforcement officers who, in writing,
4.23 provide the name of the recipient and notify the agency that the recipient is a person required
4.24 to register under section 243.166, but is not residing at the address at which the recipient is
4.25 registered under section 243.166;

4.26 (20) certain information regarding child support obligors who are in arrears may be
4.27 made public according to section 518A.74;

4.28 (21) data on child support payments made by a child support obligor and data on the
4.29 distribution of those payments excluding identifying information on obligees may be
4.30 disclosed to all obligees to whom the obligor owes support, and data on the enforcement
4.31 actions undertaken by the public authority, the status of those actions, and data on the income
4.32 of the obligor or obligee may be disclosed to the other party;

5.1 (22) data in the work reporting system may be disclosed under section 256.998,
5.2 subdivision 7;

5.3 (23) to the Department of Education for the purpose of matching Department of Education
5.4 student data with public assistance data to determine students eligible for free and
5.5 reduced-price meals, meal supplements, and free milk according to United States Code,
5.6 title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and state
5.7 funds that are distributed based on income of the student's family; and to verify receipt of
5.8 energy assistance for the telephone assistance plan;

5.9 (24) the current address and telephone number of program recipients and emergency
5.10 contacts may be released to the commissioner of health or a community health board as
5.11 defined in section 145A.02, subdivision 5, when the commissioner or community health
5.12 board has reason to believe that a program recipient is a disease case, carrier, suspect case,
5.13 or at risk of illness, and the data are necessary to locate the person;

5.14 (25) to other state agencies, statewide systems, and political subdivisions of this state,
5.15 including the attorney general, and agencies of other states, interstate information networks,
5.16 federal agencies, and other entities as required by federal regulation or law for the
5.17 administration of the child support enforcement program;

5.18 (26) to personnel of public assistance programs as defined in section 256.741, for access
5.19 to the child support system database for the purpose of administration, including monitoring
5.20 and evaluation of those public assistance programs;

5.21 (27) to monitor and evaluate the Minnesota family investment program by exchanging
5.22 data between the Departments of Human Services and Education, on recipients and former
5.23 recipients of SNAP benefits, cash assistance under chapter 256, 256D, 256J, or 256K, child
5.24 care assistance under chapter 119B, medical programs under chapter 256B or 256L, or a
5.25 medical program formerly codified under chapter 256D;

5.26 (28) to evaluate child support program performance and to identify and prevent fraud
5.27 in the child support program by exchanging data between the Department of Human Services,
5.28 Department of Revenue under section 270B.14, subdivision 1, paragraphs (a) and (b),
5.29 without regard to the limitation of use in paragraph (c), Department of Health, Department
5.30 of Employment and Economic Development, and other state agencies as is reasonably
5.31 necessary to perform these functions;

5.32 (29) counties and the Department of Human Services operating child care assistance
5.33 programs under chapter 119B may disseminate data on program participants, applicants,
5.34 and providers to the commissioner of education;

6.1 (30) child support data on the child, the parents, and relatives of the child may be
6.2 disclosed to agencies administering programs under titles IV-B and IV-E of the Social
6.3 Security Act, as authorized by federal law;

6.4 (31) to a health care provider governed by sections 144.291 to 144.298, to the extent
6.5 necessary to coordinate services;

6.6 (32) to the chief administrative officer of a school to coordinate services for a student
6.7 and family; data that may be disclosed under this clause are limited to name, date of birth,
6.8 gender, and address;

6.9 (33) to county correctional agencies to the extent necessary to coordinate services and
6.10 diversion programs; data that may be disclosed under this clause are limited to name, client
6.11 demographics, program, case status, and county worker information; ~~or~~

6.12 (34) to a mental health unit within a law enforcement agency, as defined in section 13.82,
6.13 subdivision 33, to coordinate necessary services on behalf of the subject of the data; or

6.14 (35) between the Department of Human Services and the Metropolitan Council for the
6.15 following purposes:

6.16 (i) to coordinate special transportation service provided under section 473.386 with
6.17 services for people with disabilities and elderly individuals funded by or through the
6.18 Department of Human Services; and

6.19 (ii) to provide for reimbursement of special transportation service provided under section
6.20 473.386.

6.21 The data that may be shared under this clause are limited to the individual's first, last, and
6.22 middle names; date of birth; residential address; and program eligibility status with expiration
6.23 date for the purposes of informing the other party of program eligibility.

6.24 (b) Information on persons who have been treated for drug or alcohol abuse may only
6.25 be disclosed according to the requirements of Code of Federal Regulations, title 42, sections
6.26 2.1 to 2.67.

6.27 (c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16),
6.28 (17), or (18), or paragraph (b), are investigative data and are confidential or protected
6.29 nonpublic while the investigation is active. The data are private after the investigation
6.30 becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

6.31 (d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but are
6.32 not subject to the access provisions of subdivision 10, paragraph (b).

7.1 For the purposes of this subdivision, a request will be deemed to be made in writing if
7.2 made through a computer interface system.

7.3 Sec. 2. Minnesota Statutes 2020, section 13.46, subdivision 7, is amended to read:

7.4 Subd. 7. **Mental health data.** (a) Mental health data are private data on individuals and
7.5 shall not be disclosed, except:

7.6 (1) pursuant to section 13.05, as determined by the responsible authority for the
7.7 community mental health center, mental health division, or provider;

7.8 (2) pursuant to court order;

7.9 (3) pursuant to a statute specifically authorizing access to or disclosure of mental health
7.10 data or as otherwise provided by this subdivision;

7.11 (4) to personnel of the welfare system working in the same program or providing services
7.12 to the same individual or family to the extent necessary to coordinate services, provided
7.13 that a health record may be disclosed only as provided under section 144.293;

7.14 (5) to a health care provider governed by sections 144.291 to 144.298, to the extent
7.15 necessary to coordinate services; ~~or~~

7.16 (6) to a mental health unit within a law enforcement agency, as defined in section 13.82,
7.17 subdivision 33, to coordinate necessary services on behalf of the subject of the data; or

7.18 (7) with the consent of the client or patient.

7.19 (b) An agency of the welfare system may not require an individual to consent to the
7.20 release of mental health data as a condition for receiving services or for reimbursing a
7.21 community mental health center, mental health division of a county, or provider under
7.22 contract to deliver mental health services.

7.23 (c) Notwithstanding section 245.69, subdivision 2, paragraph (f), or any other law to the
7.24 contrary, the responsible authority for a community mental health center, mental health
7.25 division of a county, or a mental health provider must disclose mental health data to a law
7.26 enforcement agency if the law enforcement agency provides the name of a client or patient
7.27 and communicates that the:

7.28 (1) client or patient is currently involved in an emergency interaction with the law
7.29 enforcement agency; and

7.30 (2) data is necessary to protect the health or safety of the client or patient or of another
7.31 person.

8.1 The scope of disclosure under this paragraph is limited to the minimum necessary for
8.2 law enforcement to respond to the emergency. Disclosure under this paragraph may include,
8.3 but is not limited to, the name and telephone number of the psychiatrist, psychologist,
8.4 therapist, mental health professional, practitioner, or case manager of the client or patient.
8.5 A law enforcement agency that obtains mental health data under this paragraph shall maintain
8.6 a record of the requestor, the provider of the information, and the client or patient name.
8.7 Mental health data obtained by a law enforcement agency under this paragraph are private
8.8 data on individuals and must not be used by the law enforcement agency for any other
8.9 purpose. A law enforcement agency that obtains mental health data under this paragraph
8.10 shall inform the subject of the data that mental health data was obtained.

8.11 (d) In the event of a request under paragraph (a), clause (6), a community mental health
8.12 center, county mental health division, or provider must release mental health data to Criminal
8.13 Mental Health Court personnel in advance of receiving a copy of a consent if the Criminal
8.14 Mental Health Court personnel communicate that the:

8.15 (1) client or patient is a defendant in a criminal case pending in the district court;

8.16 (2) data being requested is limited to information that is necessary to assess whether the
8.17 defendant is eligible for participation in the Criminal Mental Health Court; and

8.18 (3) client or patient has consented to the release of the mental health data and a copy of
8.19 the consent will be provided to the community mental health center, county mental health
8.20 division, or provider within 72 hours of the release of the data.

8.21 For purposes of this paragraph, "Criminal Mental Health Court" refers to a specialty
8.22 criminal calendar of the Hennepin County District Court for defendants with mental illness
8.23 and brain injury where a primary goal of the calendar is to assess the treatment needs of the
8.24 defendants and to incorporate those treatment needs into voluntary case disposition plans.
8.25 The data released pursuant to this paragraph may be used for the sole purpose of determining
8.26 whether the person is eligible for participation in mental health court. This paragraph does
8.27 not in any way limit or otherwise extend the rights of the court to obtain the release of mental
8.28 health data pursuant to court order or any other means allowed by law.

8.29 Sec. 3. Minnesota Statutes 2020, section 13.82, is amended by adding a subdivision to
8.30 read:

8.31 Subd. 33. **Mental health unit.** (a) Data maintained within a law enforcement agency's
8.32 mental health unit is private data on individuals except that it may be shared with the welfare
8.33 system, as defined in section 13.46, subdivision 1, paragraph (c), to coordinate necessary

9.1 services on behalf of the subject of the data. For purposes of this subdivision, "mental health
9.2 unit" means a unit within a law enforcement agency specifically designated to:

9.3 (1) respond to mental health incidents and connect individuals with mental health issues
9.4 to appropriate resources; or

9.5 (2) provide long-term intervention strategies through specifically trained law enforcement
9.6 officers and mental health co-responders to facilitate an individual's treatment and well-being.

9.7 (b) Data collected and maintained by a mental health unit is not admissible as evidence
9.8 in an administrative, civil, or criminal proceeding against the subject of the data.

9.9 Sec. 4. Minnesota Statutes 2021 Supplement, section 144.293, subdivision 5, is amended
9.10 to read:

9.11 **Subd. 5. Exceptions to consent requirement.** (a) This section does not prohibit the
9.12 release of health records:

9.13 (1) for a medical emergency when the provider is unable to obtain the patient's consent
9.14 due to the patient's condition or the nature of the medical emergency;

9.15 (2) to other providers within related health care entities when necessary for the current
9.16 treatment of the patient; ~~or~~

9.17 (3) to a health care facility licensed by this chapter, chapter 144A, and chapter 144G,
9.18 or to the same types of health care facilities licensed by this chapter and chapter 144A that
9.19 are licensed in another state when a patient:

9.20 (i) is returning to the health care facility and unable to provide consent; or

9.21 (ii) who resides in the health care facility, has services provided by an outside resource
9.22 under Code of Federal Regulations, title 42, section 483.75(h), and is unable to provide
9.23 consent; or

9.24 (4) to a mental health unit within a law enforcement agency, as defined in section 13.82,
9.25 subdivision 33, to coordinate necessary services on behalf of the patient.

9.26 (b) A provider may release a deceased patient's health care records to another provider
9.27 for the purposes of diagnosing or treating the deceased patient's surviving adult child.