State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 631

01/31/2019 Authored by Lesch
The bill was read for the first time and referred to the Judiciary Finance and Civil Law Division
03/18/2019 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time
05/20/2019 Pursuant to Rule 4.20, returned to the Judiciary Finance and Civil Law Division

A bill for an act

relating to civil law; modifying certain data privacy provisions; enabling reporting of information related to use of electronic device location tracking warrants; prohibiting access by a government entity to electronic communication held by a service provider or other third party unless certain procedures are followed; providing certain limits on data retention; providing remedies; protecting applicant's and employee's personal usernames and passwords from access by employers; providing for civil enforcement; modifying the statute of limitations for nonpaternity actions; providing procedures for actions to declare nonpaternity; requiring the court to provide certain notices; modifying requirements for parent education program; modifying parenting time presumptions; requiring findings for parenting time schedules; amending the background study requirements for parents of proposed wards; requiring a report; amending Minnesota Statutes 2018, sections 13.055, subdivision 1; 13.201; 13.72, subdivision 19; 171.306, subdivision 1; 257.57, subdivisions 1, 2, by adding a subdivision; 257.75, subdivision 4; 465.719, subdivision 14; 518.145, subdivision 2; 518.157, subdivisions 1, 3; 518.175, subdivision 1; 524.5-118, subdivision 1; 626A.08, subdivision 2; 626A.10, subdivision 1; 626A.37, subdivision 4; 626A.381, subdivision 1; 626A.39, subdivision 5; 626A.42; proposing coding for new law in Minnesota Statutes, chapters 181; 626A; repealing Minnesota Statutes 2018, section 13.72, subdivision 9.

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

ARTICLE 1

GOVERNMENT DATA PRACTICES PROVISIONS

Section 1. Minnesota Statutes 2018, section 13.055, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given to them.

(a) "Breach of the security of the data" means unauthorized acquisition of data maintained by a government entity that compromises the security and classification of the data. Good

faith acquisition of or access to government data by an employee, contractor, or agent of a government entity for the purposes of the entity is not a breach of the security of the data, if the government data is not provided to or viewable by an unauthorized person, or accessed for a purpose not described in the procedures required by section 13.05, subdivision 5. For purposes of this paragraph, data maintained by a government entity includes data maintained by a person under a contract with the government entity that provides for the acquisition of or access to the data by an employee, contractor, or agent of the government entity.

(b) "Contact information" means either name and mailing address or name and e-mail address for each individual who is the subject of data maintained by the government entity.

(c) "Unauthorized acquisition" means that a person has obtained, accessed, or viewed government data without the informed consent of the individuals who are the subjects of the data or statutory authority ~~and with the intent to use the data for nongovernmental purposes~~.

(d) "Unauthorized person" means any person who accesses government data without a work assignment that reasonably requires access, or regardless of the person's work assignment, for a purpose not described in the procedures required by section 13.05, subdivision 5.

Sec. 2. Minnesota Statutes 2018, section 13.201, is amended to read:

13.201 RIDESHARE DATA.

The following data on participants, collected by ~~the Minnesota Department of Transportation and the Metropolitan Council~~ a government entity to administer rideshare programs, are classified as private under section 13.02, subdivision 12, or nonpublic under section 13.02, subdivision 9: residential address and telephone number; beginning and ending work hours; current mode of commuting to and from work; place of employment; photograph; biographical information; and type of rideshare service information requested.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2018, section 13.72, subdivision 19, is amended to read:

Subd. 19. **Transit customer data.** (a) Data on applicants, users, and customers of public transit collected by or through ~~the Metropolitan Council's~~ a government entity's personalized web services or the Metropolitan Council's regional fare collection system are private data on individuals or nonpublic data. As used in this subdivision, the following terms have the meanings given them:

(1) "regional fare collection system" means the fare collection system created and administered by the council that is used for collecting fares or providing fare cards or passes for transit services which includes:

(i) regular route bus service within the metropolitan area and paratransit service, whether provided by the council or by other providers of regional transit service;

(ii) light rail transit service within the metropolitan area;

(iii) rideshare programs administered by the council;

(iv) special transportation services provided under section 473.386; and

(v) commuter rail service;

(2) "personalized web services" means services for which transit service applicants, users, and customers must establish a user account; and

(3) "metropolitan area" means the area defined in section 473.121, subdivision 2.

(b) ~~The council~~ A government entity may disseminate data on user and customer transaction history and fare card use to government entities, organizations, school districts, educational institutions, and employers that subsidize or provide fare cards to their clients, students, or employees. "Data on user and customer transaction history and fare card use" means:

(1) the date a fare card was used;

(2) the time a fare card was used;

(3) the mode of travel;

(4) the type of fare product used; and

(5) information about the date, time, and type of fare product purchased.

Government entities, organizations, school districts, educational institutions, and employers may use customer transaction history and fare card use data only for purposes of measuring and promoting fare card use and evaluating the cost-effectiveness of their fare card programs. If a user or customer requests in writing that the council limit the disclosure of transaction history and fare card use, the council may disclose only the card balance and the date a card was last used.

(c) ~~The council~~ A government entity may disseminate transit service applicant, user, and customer data to another government entity to prevent unlawful intrusion into government electronic systems, or as otherwise provided by law.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2018, section 171.306, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) As used in this section, the terms in this subdivision have the meanings given them.

(b) "Ignition interlock device" or "device" means equipment that is designed to measure breath alcohol concentration and to prevent a motor vehicle's ignition from being started by a person whose breath alcohol concentration measures 0.02 or higher on the equipment.

(c) "Location tracking capabilities" means the ability of an electronic or wireless device to directly or indirectly identify and transmit its geographic location through the operation of the device either by the provision of a global positioning service (GPS) or the generation of other mapping, locational, or directional services, including cell-site location information (CSLI) service.

(d) "Program participant" means a person who has qualified to take part in the ignition interlock program under this section, and whose driver's license has been:

(1) revoked, canceled, or denied under section 169A.52; 169A.54; 171.04, subdivision 1, clause (10); or 171.177; or

(2) revoked under section 171.17, subdivision 1, paragraph (a), clause (1), or suspended under section 171.187, for a violation of section 609.2113, subdivision 1, clause (2), item (i) or (iii), (3), or (4); subdivision 2, clause (2), item (i) or (iii), (3), or (4); or subdivision 3, clause (2), item (i) or (iii), (3), or (4); or 609.2114, subdivision 2, clause (2), item (i) or (iii), (3), or (4), resulting in bodily harm, substantial bodily harm, or great bodily harm.

(e) "Qualified prior impaired driving incident" has the meaning given in section 169A.03, subdivision 22.

Sec. 5. Minnesota Statutes 2018, section 465.719, subdivision 14, is amended to read:

Subd. 14. **Data classification.** The following data created, collected, or maintained by a corporation subject to this section are classified as private data under section 13.02, subdivision 12, or as nonpublic data under section 13.02, subdivision 9: (1) data relating either (i) to private businesses consisting of financial statements, credit reports, audits, business plans, income and expense projections, customer lists, balance sheets, income tax returns, and design, market, and feasibility studies not paid for with public funds, or (ii) to enterprises operated by the corporation that are in competition with entities offering similar goods and services, so long as the data are not generally known or readily ascertainable by

proper means and disclosure of specific data would cause harm to the competitive position of the enterprise or private business, provided that the goods or services do not require a tax levy; and (2) any data identified in ~~sections~~ section 13.201 ~~and 13.72, subdivision 9,~~ collected or received by a transit organization.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2018, section 626A.08, subdivision 2, is amended to read:

Subd. 2. **Application and orders.** (a) Applications made and warrants issued under this chapter shall be ~~sealed by the judge~~ filed under seal in the district court. Custody of the applications and orders shall be wherever the judge directs. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of the district court and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

(b) Notwithstanding paragraph (a), the filing, sealing, and reporting requirements for tracking warrants as defined by section 626A.42, subdivision 1, paragraph (h), are governed by section 626A.42, subdivision 4. However, applications and warrants, or portions of applications and warrants, that do not involve tracking warrants continue to be governed by paragraph (a).

Sec. 7. Minnesota Statutes 2018, section 626A.10, subdivision 1, is amended to read:

Subdivision 1. **Notice of order.** Within a reasonable time but not later than 90 days after the termination of the period of a warrant or extensions thereof, the ~~issuing or denying judge~~ warrant applicant or agency requesting the warrant shall cause to be served, on the persons named in the warrant and the application, and such other parties to intercepted communications as the judge may determine that is in the interest of justice, an inventory which shall include notice of:

(1) the fact of the issuance of the warrant or the application;

(2) the date of the issuance and the period of authorized, approved or disapproved interception, or the denial of the application; and

(3) the fact that during the period wire, electronic, or oral communications were or were not intercepted.

On an ex parte showing to a court of competent jurisdiction that there is a need to continue the investigation and that the investigation would be harmed by service of the inventory at

this time, service of the inventory required by this subdivision may be postponed for an additional 90-day period.

Sec. 8. Minnesota Statutes 2018, section 626A.37, subdivision 4, is amended to read:

Subd. 4. **Nondisclosure of existence of pen register, trap and trace device, or mobile tracking device.** (a) An order authorizing or approving the installation and use of a pen register, trap and trace device, or a mobile tracking device must direct that:

(1) the order be sealed until otherwise ordered by the court; and

(2) the person owning or leasing the line to which the pen register or a trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register, trap and trace device, mobile tracking device, or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

(b) Paragraph (a) does not apply to an order that involves a tracking warrant as defined by section 626A.42, subdivision 1, paragraph (h). Instead, the filing, sealing, and reporting requirements for those orders are governed by section 626A.42, subdivision 4. However, any portion of an order that does not involve a tracking warrant continues to be governed by paragraph (a).

Sec. 9. Minnesota Statutes 2018, section 626A.381, subdivision 1, is amended to read:

Subdivision 1. **Notice required.** Except as provided in subdivision 2, within a reasonable time not later than 90 days after the filing of an application under section 626A.36, if the application is denied, or of the termination of an order, as extended under section 626A.37, the ~~issuing or denying judge~~ warrant applicant or agency requesting the warrant shall have served on the persons named in the order or application an inventory that includes notice of:

(1) the fact of the entry of the order or the application;

(2) the date of the entry and the period of authorized, approved, or disapproved activity under the order, or the denial of the application; and

(3) the fact that during the period, activity did or did not take place under the order.

Sec. 10. Minnesota Statutes 2018, section 626A.39, subdivision 5, is amended to read:

Subd. 5. **Mobile tracking device.** "Mobile tracking device" means an electronic or mechanical device that permits the tracking of the movement of a person or object. A mobile

tracking device does not include a cell site simulator device or any other device used to access the location information of an electronic device, as those terms are defined in 626A.42, subdivision 1.

Sec. 11. Minnesota Statutes 2018, section 626A.42, is amended to read:

626A.42 ELECTRONIC DEVICE LOCATION INFORMATION.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Electronic communication service" has the meaning given in section 626A.01, subdivision 17.

(c) "Electronic device" means a device that enables access to or use of an electronic communication service, remote computing service, or location information service.

(d) "Government entity" means a state or local agency, including but not limited to a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission or an individual acting or purporting to act for or on behalf of a state or local agency.

(e) "Location information" means information concerning the location of an electronic device that, in whole or in part, is generated or derived from or obtained by the operation of an electronic device.

(f) "Location information service" means the provision of a global positioning service or other mapping, locational, or directional information service.

(g) "Remote computing service" has the meaning given in section 626A.34.

(h) "Tracking warrant" means an order in writing, in the name of the state, signed by a court other than a court exercising probate jurisdiction, directed to a peace officer, granting the officer access to location information of an electronic device using a cell site simulator device or other means.

(i) "Cell site simulator device" means a device that transmits or receives radio waves or other signals for the purposes of conducting one or more of the following operations:

(1) identifying, locating, or tracking the movements of an electronic device;

(2) intercepting, obtaining, accessing, or forwarding communications, stored data, or metadata from an electronic device;

(3) affecting the hardware or software operations or functions of an electronic device;

(4) forcing transmissions from or connections to an electronic device;

(5) denying an electronic device access to another electronic device, a communication protocol, electronic communication service, or other service; or

(6) spoofing or simulating an electronic device, cell tower, cell site, or service, including, but not limited to, an international phone subscriber identity catcher or other invasive cell phone or telephone surveillance or eavesdropping device that mimics a cell phone tower and sends out signals to cause cell phones in the area to transmit their locations, identifying information, and communications content, or a passive interception device or digital analyzer that does not send signals to an electronic device under surveillance.

A cell site simulator device does not include any device used or installed by an electric utility to the extent such device is only used by the utility to measure electrical usage, to provide service to customers, or to operate the electric grid.

Subd. 2. **Tracking warrant required for location information.** (a) Except as provided in paragraph (b), a government entity may not obtain the location information of an electronic device without a tracking warrant. A tracking warrant granting access to location information must be issued only if the government entity shows that there is probable cause the person who possesses an electronic device is committing, has committed, or is about to commit a crime. An application for a tracking warrant must be made in writing and include:

(1) the identity of the government entity's peace officer making the application, and the officer authorizing the application; and

(2) a full and complete statement of the facts and circumstances relied on by the applicant to justify the applicant's belief that a tracking warrant should be issued, including (i) details as to the particular offense that has been, is being, or is about to be committed, and (ii) the identity of the person, if known, committing the offense whose location information is to be obtained.

(b) A government entity may obtain location information without a tracking warrant:

(1) when the electronic device is reported lost or stolen by the owner;

(2) in order to respond to the user's call for emergency services;

(3) with the informed, affirmative, documented consent of the owner or user of the electronic device;

(4) with the informed, affirmative consent of the legal guardian or next of kin of the owner or user if the owner or user is believed to be deceased or reported missing and unable to be contacted; or

(5) in an emergency situation that involves the risk of death or serious physical harm to a person who possesses an electronic communications device pursuant to sections 237.82 and 237.83.

Subd. 3. **Time period and extensions.** (a) A tracking warrant issued under this section must authorize the collection of location information for a period not to exceed 60 days, or the period of time necessary to achieve the objective of the authorization, whichever is less.

(b) Extensions of a tracking warrant may be granted, but only upon an application for an order and upon the judicial finding required by subdivision 2, paragraph (a). The period of extension must be for a period not to exceed 60 days, or the period of time necessary to achieve the objective for which it is granted, whichever is less.

(c) Paragraphs (a) and (b) apply only to tracking warrants issued for the contemporaneous collection of electronic device location information.

Subd. 4. **Notice; temporary nondisclosure of tracking warrant.** (a) Within a reasonable time but not later than 90 days after the court unseals the tracking warrant under this subdivision, the ~~issuing or denying judge~~ warrant applicant or agency requesting the warrant shall cause to be served on the persons named in the tracking warrant and the application an inventory which shall include notice of:

(1) the fact of the issuance of the tracking warrant or the application;

(2) the date of the issuance and the period of authorized, approved, or disapproved collection of location information, or the denial of the application; and

(3) the fact that during the period location information was or was not collected.

(b) A tracking warrant authorizing collection of location information must direct that:

(1) the tracking warrant be sealed for a period of 90 days or until the objective of the tracking warrant has been accomplished, whichever is shorter; and

(2) the tracking warrant be filed with the court administrator within ten days of the expiration of the tracking warrant.

(c) The prosecutor may request that the tracking warrant, supporting affidavits, and any order granting the request not be filed. An order must be issued granting the request in whole or in part if, from affidavits, sworn testimony, or other evidence, the court finds reasonable grounds exist to believe that filing the tracking warrant may cause the search or a related search to be unsuccessful, create a substantial risk of injury to an innocent person, or severely hamper an ongoing investigation.

(d) The tracking warrant must direct that following the commencement of any criminal proceeding utilizing evidence obtained in or as a result of the search, the supporting application or affidavit must be filed either immediately or at any other time as the court directs. Until such filing, the documents and materials ordered withheld from filing must be retained by the judge or the judge's designee.

Subd. 5. **Report concerning collection of location information.** (a) At the same time as notice is provided under subdivision 4, the issuing or denying judge shall report to the state court administrator:

(1) the fact that a tracking warrant or extension was applied for;

(2) the fact that the tracking warrant or extension was granted as applied for, was modified, or was denied;

(3) the period of collection authorized by the tracking warrant, and the number and duration of any extensions of the tracking warrant;

(4) the offense specified in the tracking warrant or application, or extension of a tracking warrant;

(5) whether the collection required contemporaneous monitoring of an electronic device's location; and

(6) the identity of the applying investigative or peace officer and agency making the application and the person authorizing the application.

(b) On or before November 15 of each even-numbered year, the state court administrator shall transmit to the legislature a report concerning: (1) all tracking warrants authorizing the collection of location information during the two previous calendar years; and (2) all applications that were denied during the two previous calendar years. Each report shall include a summary and analysis of the data required to be filed under this subdivision. The report is public and must be available for public inspection at the Legislative Reference Library and the state court administrator's office and website.

Subd. 6. **Prohibition on use of evidence.** (a) Except as proof of a violation of this section, no evidence obtained in violation of this section shall be admissible in any criminal, civil, administrative, or other proceeding.

(b) Any location information obtained pursuant to this chapter or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a federal or state court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the tracking warrant,

and accompanying application, under which the information was obtained. This ten-day period may be waived by the judge if the judge finds that it was not possible to furnish a party with the required information ten days before the trial, hearing, or proceeding and that a party will not be prejudiced by the delay in receiving the information.

Sec. 12. **[626A.44] SHORT TITLE.**

Minnesota Statutes, sections 626A.44 to 626A.49, may be cited as the "Minnesota Electronic Communications Privacy Act."

Sec. 13. **[626A.45] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of sections 626A.44 to 626A.49, the definitions in this section have the meanings given them.

Subd. 2. **Adverse result.** "Adverse result" means any of the following:

(1) danger to the life or physical safety of an individual;

(2) flight from prosecution;

(3) destruction of or tampering with evidence;

(4) intimidation of potential witnesses; or

(5) serious jeopardy to an investigation.

Subd. 3. **Authorized possessor.** "Authorized possessor" means the person in possession of an electronic device when that person is the owner of the device or has been authorized to possess the device by the owner of the device.

Subd. 4. **Electronic communication.** "Electronic communication" means the transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system.

Subd. 5. **Electronic communication information.** "Electronic communication information" means any information about an electronic communication or the use of an electronic communication service, including but not limited to the contents; sender; recipients; format; precise or approximate location of the sender or recipients at any point during the communication; time or date the communication was created, sent, or received; or any information pertaining to any individual or device participating in the communication, including but not limited to an IP address. Electronic communication information does not include subscriber information under subdivision 13.

Subd. 6. **Electronic communication service.** "Electronic communication service" has the meaning given in section 626A.42, subdivision 1, paragraph (b).

Subd. 7. **Electronic device.** "Electronic device" has the meaning given in section 626A.42, subdivision 1, paragraph (c).

Subd. 8. **Electronic device information.** "Electronic device information" means any information stored on or generated through the operation of an electronic device, including the current and prior locations of the device.

Subd. 9. **Electronic information.** "Electronic information" means electronic communication information or electronic device information.

Subd. 10. **Government entity.** "Government entity" has the meaning given in section 626A.42, subdivision 1, paragraph (d).

Subd. 11. **Service provider.** "Service provider" means a person or entity offering an electronic communication service.

Subd. 12. **Specific consent.** "Specific consent" means consent provided directly to the government entity seeking information, including but not limited to when the government entity is the addressee or intended recipient or a member of the intended audience of an electronic communication. Specific consent does not require that the originator of the communication has actual knowledge that an addressee, intended recipient, or member of the specific audience is a government entity, except where a government employee or agent has taken deliberate steps to hide the employee's or agent's government association.

Subd. 13. **Subscriber information.** "Subscriber information" means the name, street address, telephone number, e-mail address, or similar contact information provided by the subscriber to the provider to establish or maintain an account or communication channel, a subscriber or account number or identifier, the length of service, and the types of services used by a user of or subscriber to a service provider.

Sec. 14. **[626A.46] GOVERNMENT ENTITY PROHIBITIONS; EXCEPTIONS.**

Subdivision 1. **Prohibitions.** Except as provided in this section, a government entity shall not:

(1) compel or incentivize the production of or access to electronic communication information from a service provider;

(2) compel the production of or access to electronic device information from any person or entity other than the authorized possessor of the device; or

(3) access electronic device information by means of physical interaction or electronic communication with the electronic device.

Subd. 2. **Exceptions.** A government entity may:

(1) compel the production of or access to electronic communication information from a service provider, or compel the production of or access to electronic device information from any person or entity other than the authorized possessor of the device only:

(i) pursuant to a search warrant issued under section 626.18 and subject to subdivision 4; or

(ii) pursuant to a wiretap order issued under sections 626A.05 and 626A.06; and

(2) access electronic device information by means of physical interaction or electronic communication with the device only:

(i) pursuant to a search warrant issued pursuant to section 626.18 and subject to subdivision 4;

(ii) pursuant to a wiretap order issued pursuant to sections 626A.05 and 626A.06;

(iii) with the specific consent of the authorized possessor of the device;

(iv) with the specific consent of the owner of the device, only when the device has been reported as lost or stolen; or

(v) if the government entity, in good faith, believes the device to be lost, stolen, or abandoned, provided that the entity shall only access electronic device information in order to attempt to identify, verify, or contact the owner or authorized possessor of the device.

Subd. 3. **Warrant.** (a) A warrant for electronic communication information shall:

(1) describe with particularity the information to be seized by specifying the time periods covered and, as appropriate and reasonable, the target individuals or accounts, the applications or services covered, and the types of information sought;

(2) require that any information obtained through the execution of the warrant that is unrelated to the objective of the warrant be destroyed within 30 days and not subject to further review, use, or disclosure. This clause shall not apply when the information obtained is exculpatory with respect to the targeted individual; and

(3) comply with all other provisions of Minnesota and federal law, including any provisions prohibiting, limiting, or imposing additional requirements on the use of search warrants.

(b) When issuing any warrant or order for electronic information, or upon the petition from the target or recipient of the warrant or order, a court may, at its discretion, appoint a special master charged with ensuring that only information necessary to achieve the objective of the warrant or order is produced or accessed.

Subd. 4. **Service provider; voluntary disclosure.** (a) A service provider may voluntarily disclose electronic communication information or subscriber information when that disclosure is not otherwise prohibited by state or federal law.

(b) If a government entity receives electronic communication information voluntarily provided under subdivision 7, the government entity shall destroy that information within 90 days unless one or more of the following apply:

(1) the entity has or obtains the specific consent of the sender or recipient of the electronic communications about which information was disclosed; or

(2) the entity obtains a court order authorizing the retention of the information.

(c) A court shall issue a retention order upon a finding that the conditions justifying the initial voluntary disclosure persist and the court shall authorize the retention of the information only for so long as those conditions persist, or there is probable cause to believe that the information constitutes evidence that a crime has been committed. Information retained subject to this provision shall not be shared with:

(1) any persons or entities that do not agree to limit their use of the provided information to those purposes contained in the court authorization; and

(2) any persons or entities that:

(i) are not legally obligated to destroy the provided information upon the expiration or rescindment of the court's retention order; or

(ii) do not voluntarily agree to destroy the provided information upon the expiration or rescindment of the court's retention order.

Subd. 5. **Emergency.** If a government entity obtains electronic communication information relating to an emergency involving danger of death or serious physical injury to a person that requires access to the electronic information without delay, the entity shall, within three days after obtaining the electronic information, file with the appropriate court an application for a warrant or order authorizing obtaining the electronic information or a motion seeking approval of the emergency disclosures that shall set forth the facts giving rise to the emergency and, if applicable, a request supported by a sworn affidavit for an order delaying notification under section 626A.47, subdivision 2, paragraph (a). The court

shall promptly rule on the application or motion and shall order the immediate destruction of all information obtained, and immediate notification under section 626A.47, subdivision 1, if the notice has not already been given, upon a finding that the facts did not give rise to an emergency or upon rejecting the warrant or order application on any other ground.

Subd. 6. **Subpoena.** This section does not limit the authority of a government entity to use an administrative, grand jury, trial, or civil discovery subpoena to require:

(1) an originator, addressee, or intended recipient of an electronic communication to disclose any electronic communication information associated with that communication;

(2) an entity that provides electronic communications services to its officers, directors, employees, or agents for the purpose of carrying out their duties, to disclose electronic communication information associated with an electronic communication to or from an officer, director, employee, or agent of the entity; or

(3) a service provider to provide subscriber information.

Subd. 7. **Recipient voluntary disclosure.** This section does not prohibit the intended recipient of an electronic communication from voluntarily disclosing electronic communication information concerning that communication to a government entity.

Subd. 8. **Construction.** Nothing in this section shall be construed to expand any authority under Minnesota law to compel the production of or access to electronic information.

Sec. 15. **[626A.47] NOTICES REQUIRED.**

Subdivision 1. **Notice.** Except as otherwise provided in this section, a government entity that executes a warrant or obtains electronic communication information in an emergency under section 626A.46, subdivision 5, shall serve upon, or deliver to by registered or first-class mail, electronic mail, or other means reasonably calculated to be effective, the identified targets of the warrant or emergency request a notice that informs the recipient that information about the recipient has been compelled or requested, and states with reasonable specificity the nature of the government investigation under which the information is sought. The notice shall include a copy of the warrant or a written statement setting forth facts giving rise to the emergency. The notice shall be provided contemporaneously with the execution of a warrant, or, in the case of an emergency, within three days after obtaining the electronic information.

Subd. 2. **Emergency; delay of notice.** (a) When a warrant is sought or electronic communication information is obtained in an emergency under section 626A.46, subdivision 5, the government entity may submit a request supported by a sworn affidavit for an order

delaying notification and prohibiting any party providing information from notifying any other party that information has been sought. The court shall issue the order if the court determines that there is reason to believe that notification may have an adverse result, but only for the period of time that the court finds there is reason to believe that the notification may have that adverse result, and not to exceed 90 days. The court may grant extensions of the delay of up to 90 days each.

(b) Upon expiration of the period of delay of the notification, the government entity shall serve upon, or deliver to by registered or first-class mail, electronic mail, or other means reasonably calculated to be effective as specified by the court issuing the order authorizing delayed notification, the identified targets of the warrant, a document that includes the information described in subdivision 1, a copy of all electronic information obtained or a summary of that information, including, at a minimum, the number and types of records disclosed, the date and time when the earliest and latest records were created, and a statement of the grounds for the court's determination to grant a delay in notifying the individual.

Subd. 3. **No identified target.** (a) If there is no identified target of a warrant or emergency request at the time of issuance, the government entity shall submit to the supreme court all of the information required in subdivision 1 within three days of the execution of the warrant or issuance of the request. If an order delaying notice is obtained under subdivision 2, the government entity shall submit to the supreme court all of the information required in subdivision 2, paragraph (b), upon the expiration of the period of delay of the notification.

(b) The supreme court shall publish the reports on its website within 90 days of receipt. The supreme court shall redact names or other personal identifying information from the reports.

Subd. 4. **Service provider.** Except as otherwise provided in this section, nothing in sections 626A.45 to 626A.49 shall prohibit or limit a service provider or any other party from disclosing information about any request or demand for electronic information.

Sec. 16. **[626A.48] REMEDIES.**

Subdivision 1. **Suppression.** Any person in a trial, hearing, or proceeding may move to suppress any electronic communication information obtained or retained in violation of the United States Constitution, the Minnesota Constitution, or sections 626A.45 to 626A.49. The motion shall be made, determined, and subject to review according to section 626.21 or 626A.12.

Subd. 2. **Attorney general.** The attorney general may commence a civil action to compel any government entity to comply with the provisions of sections 626A.45 to 626A.49.

Subd. 3. **Petition.** An individual whose information is targeted by a warrant, order, or other legal process that is inconsistent with sections 626A.45 to 626A.49, the Minnesota Constitution, the United States Constitution, or a service provider or any other recipient of the warrant, order, or other legal process, may petition the issuing court to void or modify the warrant, order, or process, or to order the destruction of any information obtained in violation of sections 626A.45 to 626A.49, the Minnesota Constitution, or the United States Constitution.

Subd. 4. **No cause of action.** A Minnesota or foreign corporation, and its officers, employees, and agents, are not subject to any cause of action for providing records, information, facilities, or assistance according to the terms of a warrant, court order, statutory authorization, emergency certification, or wiretap order issued under sections 626A.45 to 626A.49.

Sec. 17. **[626A.49] REPORTS.**

(a) At the same time as notice is provided under section 626A.47, the issuing or denying judge shall report to the state court administrator:

(1) the fact that a warrant or extension was applied for under section 626A.46;

(2) the fact that the warrant or extension was granted as applied for, was modified, or was denied;

(3) the period of collection of electronic communication information authorized by the warrant, and the number and duration of any extensions of the warrant;

(4) the offense specified in the warrant or application, or extension of a warrant;

(5) whether the collection required contemporaneous monitoring of an electronic device's location; and

(6) the identity of the applying investigative or peace officer and agency making the application and the person authorizing the application.

(b) On or before November 15 of each even-numbered year, the state court administrator shall transmit to the legislature a report concerning: (1) all warrants authorizing the collection of electronic communication information during the two previous calendar years; and (2) all applications that were denied during the two previous calendar years. Each report shall include a summary and analysis of the data required to be filed under this section. The report

is public and must be available for public inspection at the Legislative Reference Library and the state court administrator's office and website.

(c) Nothing in sections 626A.45 to 626A.49 shall prohibit or restrict a service provider from producing an annual report summarizing the demands or requests it receives under those sections.

Sec. 18. **REPEALER.**

Minnesota Statutes 2018, section 13.72, subdivision 9, is repealed.

EFFECTIVE DATE. This section is effective the day following final enactment.

ARTICLE 2
GENERAL CIVIL LAW PROVISIONS

Section 1. **[181.990] EMPLOYEE USERNAME AND PASSWORD PRIVACY PROTECTION.**

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

(b) "Applicant" means an applicant for employment.

(c) "Employee" means an individual who provides services or labor for an employer for wages or other remuneration.

(d) "Employer" means a person who is acting directly as an employer, or indirectly in the interest of an employer, on behalf of a for-profit, nonprofit, charitable, governmental, or other organized entity in relation to an employee.

(e) "Personal social media account" means an account with an electronic medium or service where users may create, share, and view user-generated content, including but not limited to uploading or downloading videos or still photographs, blogs, video blogs, podcasts, messages, e-mails, or Internet website profiles or locations. Personal social media account does not include: (1) an account opened at an employer's behest, or provided by an employer, and intended to be used solely on behalf of the employer, or (2) an account opened at a school's behest, or provided by a school, and intended to be used solely on behalf of the school.

(f) "Specific content" means data or information on a personal social media account that is identified with sufficient particularity to:

(1) demonstrate prior knowledge of the content's details; and

(2) distinguish the content from other data or information on the account with which it may share similar characteristics.

Subd. 2. **Employer access prohibited.** (a) An employer shall not:

(1) require, request, or coerce an employee or applicant to disclose the username, password, or any other means of authentication, or to provide access through the username or password, to a personal social media account;

(2) require, request, or coerce an employee or applicant to access a personal social media account in the presence of the employer in a manner that enables the employer to observe the contents of the account; or

(3) compel an employee or applicant to add any person, including the employer, to their list of contacts associated with a personal social media account or require, request, or otherwise coerce an employee or applicant to change the settings that affect a third party's ability to view the contents of a personal social networking account.

(b) The prohibitions in paragraph (a), clauses (1) and (2), do not apply to a law enforcement agency when the law enforcement agency is investigating the background of an applicant for employment. "Law enforcement agency" has the meaning given in section 626.84, subdivision 1, paragraph (f).

Subd. 3. **Employer actions prohibited.** (a) An employer shall not:

(1) take any action or threaten to take any action to discharge, discipline, or otherwise penalize an employee for an employee's refusal to disclose any information specified in subdivision 2, clause (1), for refusal to take any action specified in subdivision 2, clause (2), or for refusal to add the employer to their list of contacts associated with a personal social media account or to change the settings that affect a third party's ability to view the contents of a personal social media account as specified in subdivision 2, clause (3); or

(2) fail or refuse to hire any applicant as a result of the applicant's refusal to disclose any information specified in subdivision 2, clause (1), for refusal to take any action specified in subdivision 2, clause (2), or for refusal to add the employer to their list of contacts associated with a personal social media account or to change the settings that affect a third party's ability to view the contents of a personal social media account as specified in subdivision 2, clause (3).

(b) The prohibited activity in paragraph (a), clause (2), that related to the prohibited actions in subdivision 2, clauses (1) and (2), does not apply to a law enforcement agency when the law enforcement agency is investigating the background of an applicant for

employment. "Law enforcement agency" has the meaning given in section 626.84, subdivision 1, paragraph (f).

Subd. 4. **Employer actions permitted.** Nothing in this section shall prevent an employer from:

(1) accessing information about an employee or applicant that is publicly available;

(2) complying with state and federal laws, rules, and regulations and the rules of self-regulatory organizations, where applicable;

(3) requesting or requiring an employee or applicant to share specific content that has been reported to the employer, without requesting or requiring an employee or applicant to provide a username, password, or other means of authentication that provides access to a personal social media account, for the purpose of:

(i) ensuring compliance with applicable laws or regulatory requirements;

(ii) investigating an allegation, based on receipt of specific information, of the unauthorized transfer of an employer's proprietary or confidential information or financial data to an employee or applicant's personal social media account; or

(iii) investigating an allegation, based on receipt of specific information, of unlawful harassment in the workplace;

(4) prohibiting an employee or applicant from using a personal social media account for business purposes; or

(5) prohibiting an employee or applicant from accessing or operating a personal social media account during business hours or while on business property.

Subd. 5. **Employer protected if access inadvertent; use prohibited.** If an employer inadvertently receives the username, password, or other means of authentication that provides access to a personal social media account of an employee or applicant through the use of an otherwise lawful virus scan or firewall that monitors the employer's network or employer-provided devices, the employer is not liable for having the information, but may not use the information to access the personal social media account of the employee or applicant, may not share the information with anyone, and must delete the information immediately or as soon as is reasonably practicable.

Subd. 6. **Enforcement.** Any employer, including its employee or agents, that violates this section shall be subject to legal action for damages or equitable relief, to be brought by any person claiming that a violation of this section has injured the person or the person's

reputation. A person so injured is entitled to actual damages, including mental pain and suffering endured on account of violation of the provisions of this section, and reasonable attorney fees and other costs of litigation.

Subd. 7. **Severability.** The provisions in this section are severable. If any part or provision of this section, or the application of this section to any person, entity, or circumstance, is held invalid, the remainder of this section, including the application of the part or provision to other persons, entities, or circumstances, shall not be affected by the holding and shall continue to have force and effect.

EFFECTIVE DATE. This section is effective August 1, 2019, and applies to actions committed on or after that date.

Sec. 2. Minnesota Statutes 2018, section 257.57, subdivision 1, is amended to read:

Subdivision 1. **Actions under section 257.55, subdivision 1, paragraph (a), (b), or (c).** A child, the child's biological mother, or a man presumed to be the child's father under section 257.55, subdivision 1, paragraph (a), (b), or (c) may bring an action:

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (a), (b), or (c); or

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (a), (b), or (c), only if the action is brought within ~~two~~ three years after the person bringing the action has reason to believe that the presumed father is not the father of the child~~, but in no event later than three years after the child's birth~~. However, if the presumed father was divorced from the child's mother and if, on or before the 280th day after the judgment and decree of divorce or dissolution became final, he did not know that the child was born during the marriage or within 280 days after the marriage was terminated, the action is not barred until ~~one year after the child reaches the age of majority or one year~~ three years after the presumed father knows or reasonably should have known of the birth of the child~~, whichever is earlier~~. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

Sec. 3. Minnesota Statutes 2018, section 257.57, subdivision 2, is amended to read:

Subd. 2. **Actions under other paragraphs of section 257.55, subdivision 1.** The child, the mother, or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the

mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor may bring an action:

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under sections 257.55, subdivision 1, paragraph (d), (e), (g), or (h), and 257.62, subdivision 5, paragraph (b)~~, or the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (d)~~;

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (d), only if the action is brought within three years from when the presumed father began holding the child out as his own;

(3) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (e) or (g), only if the action is brought within ~~six months~~ three years after the person bringing the action ~~obtains the results of blood or genetic tests that indicate that the presumed father is not the father of the child~~ has reason to believe that the presumed father is not the biological father;

~~(3)~~ (4) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.62, subdivision 5, paragraph (b), only if the action is brought within three years after the party bringing the action, or the party's attorney of record, has been provided ~~the blood or~~ genetic test results; or

~~(4)~~ (5) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.75, subdivision 9, only if the action is brought by the minor signatory within ~~six months~~ three years after the youngest minor signatory reaches the age of 18 or three years after the person bringing the action has reason to believe that the father is not the biological father of the child, whichever is later. ~~In the case of a recognition of parentage executed by two minor signatories, the action to declare the nonexistence of the father and child relationship must be brought within six months after the youngest signatory reaches the age of 18.~~

Sec. 4. Minnesota Statutes 2018, section 257.57, is amended by adding a subdivision to read:

Subd. 7. **Nonexistence of father-child relationship.** (a) An action to declare the nonexistence of the father-child relationship must be personally served on all parties and meet the requirements of either subdivision 1 or 2. An action must be brought by a petition,

except that a motion may be filed in an underlying action regarding parentage, custody, or parenting time.

(b) An action to declare the nonexistence of the father-child relationship cannot proceed if the court finds that in a previous proceeding:

(1) the father-child relationship was contested and a court order determined the existence of the father-child relationship; or

(2) the father-child relationship was determined based upon a court order as a result of a stipulation or joint petition of the parties.

(c) Nothing in this subdivision precludes a party from relief under section 518.145, subdivision 2, clauses (1) to (3), if applicable, or the Minnesota Rules of Civil Procedure.

(d) In evaluating whether or not to declare the nonexistence of the father-child relationship, the court must consider, evaluate, and make written findings on the following factors:

(1) the length of time between the paternity adjudication or presumption of paternity and the time that the moving party knew or should have known that the presumed or adjudicated father might not be the biological father;

(2) the length of time during which the presumed or adjudicated father has assumed the role of father of the child;

(3) the facts surrounding the moving party's discovery of the presumed or adjudicated father's possible nonpaternity;

(4) the nature of the relationship between the child and the presumed or adjudicated father;

(5) the current age of the child;

(6) the harm or benefit that may result to the child if the court ends the father-child relationship of the current presumed or adjudicated father;

(7) the nature of the relationship between the child and any presumed or adjudicated father;

(8) the parties' agreement to the nonexistence of the father-child relationship and adjudication of paternity in the same action;

(9) the extent to which the passage of time reduces the chances of establishing paternity of another man and a child support order for that parent;

(10) the likelihood of adjudication of the biological father if not already joined in this action; and

(11) any additional factors deemed to be relevant by the court.

(e) The burden of proof shall be on the petitioner to show by clear and convincing evidence that, after consideration of the factors in paragraph (d), declaring the nonexistence of the father-child relationship is in the child's best interests.

(f) The court may grant the relief in the petition or motion upon finding that:

(1) the moving party has met the requirements of this section;

(2) the genetic testing results were properly conducted in accordance with section 257.62;

(3) the presumed or adjudicated father has not adopted the child;

(4) the child was not conceived by artificial insemination that meets the requirements under section 257.56 or that the presumed or adjudicated father voluntarily agreed to the artificial insemination; and

(5) the presumed or adjudicated father did not act to prevent the biological father of the child from asserting his parental rights with respect to the child.

(g) Upon granting the relief sought in the petition or motion, the court shall order the following:

(1) the father-child relationship has ended and the presumed or adjudicated father's parental rights and responsibilities end upon the granting of the petition;

(2) the presumed or adjudicated father's name shall be removed from the minor child's birth record and a new birth certificate shall be issued upon the payment of any fees;

(3) the presumed or adjudicated father's obligation to pay ongoing child support shall be terminated, effective on the first of the month after the petition or motion was served;

(4) any unpaid child support due prior to service of the petition or motion remains due and owing absent an agreement of all parties including the public authority or the court determines other relief is appropriate under the Rules of Civil Procedure; and

(5) the presumed or adjudicated father has no right to reimbursement of past child support paid to the mother, the public authority, or any other assignee of child support.

The order must include the provisions of section 257.66 if another party to the action is adjudicated as the father of the child.

Sec. 5. Minnesota Statutes 2018, section 257.75, subdivision 4, is amended to read:

Subd. 4. **Action to vacate recognition.** (a) An action to vacate a recognition of paternity may be brought by the mother, father, husband or former husband who executed a joinder, or the child. An action to vacate a recognition of parentage may be brought by the public authority. A mother, father, or husband or former husband who executed a joinder must bring the action within ~~one year of the execution of the recognition or within six months after the person bringing the action obtains the results of blood or genetic tests that indicate that the man who executed the recognition is not the father of the child~~ three years after the person bringing the action has reason to believe that the father is not the biological father of the child. A child must bring an action to vacate within ~~six months~~ three years after the child ~~obtains the result of blood or genetic tests that indicate that~~ has reason to believe the man who executed the recognition is not the biological father of the child, or within one year of reaching the age of majority, whichever is later. If the court finds a prima facie basis for vacating the recognition, the court shall order the child, mother, father, and husband or former husband who executed a joinder to submit to ~~blood~~ genetic tests. If the court issues an order for the taking of ~~blood~~ genetic tests, the court shall require the party seeking to vacate the recognition to make advance payment for the costs of the ~~blood~~ genetic tests, unless the parties agree and the court finds that the previous genetic test results exclude the man who executed the recognition as the biological father of the child. If the party fails to pay for the costs of the ~~blood~~ genetic tests, the court shall dismiss the action to vacate with prejudice. The court may also order the party seeking to vacate the recognition to pay the other party's reasonable attorney fees, costs, and disbursements. If the results of the ~~blood~~ genetic tests establish that the man who executed the recognition is not the father, the court shall vacate the recognition. Notwithstanding the vacation of the recognition, the court may adjudicate the man who executed the recognition under any other applicable paternity presumption under section 257.55. If a recognition is vacated, any joinder in the recognition under subdivision 1a is also vacated. The court shall terminate the obligation of a party to pay ongoing child support based on the recognition. A modification of child support based on a recognition may be made retroactive with respect to any period during which the moving party has pending a motion to vacate the recognition but only from the date of service of notice of the motion on the responding party.

(b) The burden of proof in an action to vacate the recognition is on the moving party. The moving party must request the vacation on the basis of fraud, duress, or material mistake of fact. The legal responsibilities in existence at the time of an action to vacate, including

child support obligations, may not be suspended during the proceeding, except for good cause shown.

EFFECTIVE DATE. This section is effective August 1, 2019, and applies to recognition of parentage signed on or after that date.

Sec. 6. Minnesota Statutes 2018, section 518.145, subdivision 2, is amended to read:

Subd. 2. **Reopening.** On motion and upon terms as are just, the court may relieve a party from a judgment and decree, order, or proceeding under this chapter, except for provisions dissolving the bonds of marriage, annulling the marriage, or directing that the parties are legally separated, and may order a new trial or grant other relief as may be just for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under the Rules of Civil Procedure, rule 59.03;

(3) fraud, whether denominated intrinsic or extrinsic, misrepresentation, or other misconduct of an adverse party;

(4) the judgment and decree or order is void; or

(5) the judgment has been satisfied, released, or discharged, or a prior judgment and decree or order upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment and decree or order should have prospective application.

The motion must be made within a reasonable time, and for a reason under clause (1), (2), or (3), other than a motion to declare the nonexistence of the parent-child relationship, not more than one year after the judgment and decree, order, or proceeding was entered or taken. An action to declare the nonexistence of the father-child relationship must be made within in a reasonable time under clause (1), (2), or (3), and not more than three years after the person bringing the action has reason to believe that the father is not the father of the child. A motion under this subdivision does not affect the finality of a judgment and decree or order or suspend its operation. This subdivision does not limit the power of a court to entertain an independent action to relieve a party from a judgment and decree, order, or proceeding or to grant relief to a party not actually personally notified as provided in the Rules of Civil Procedure, or to set aside a judgment for fraud upon the court.

Sec. 7. Minnesota Statutes 2018, section 518.157, subdivision 1, is amended to read:

Subdivision 1. **Implementation; administration.** (a) By January 1, 1998, the chief judge of each judicial district or a designee shall implement one or more parent education programs within the judicial district for the purpose of educating parents about the impact that divorce, the restructuring of families, and judicial proceedings have upon children and families; methods for preventing parenting time conflicts; and dispute resolution options. The chief judge of each judicial district or a designee may require that children attend a separate education program designed to deal with the impact of divorce upon children as part of the parent education program. Each parent education program must enable persons to have timely and reasonable access to education sessions.

(b) The chief judge of each judicial district shall ensure that the judicial district's website includes information on the parent education program or programs required under this section.

Sec. 8. Minnesota Statutes 2018, section 518.157, subdivision 3, is amended to read:

Subd. 3. **Attendance.** (a) In a proceeding under this chapter where the parties have not agreed to custody or a parenting time ~~is contested~~ schedule, the court shall order the parents of a minor child ~~shall attend~~ to attend or take online a minimum of eight hours in an orientation and education program that meets the minimum standards promulgated by the Minnesota Supreme Court.

(b) In all other proceedings involving custody, support, or parenting time the court may order the parents of a minor child to attend a parent education program.

(c) The program shall provide the court with names of persons who fail to attend the parent education program as ordered by the court. Persons who are separated or contemplating involvement in a dissolution, paternity, custody, or parenting time proceeding may attend a parent education program without a court order.

(d) Unless otherwise ordered by the court, participation in a parent education program must begin before an initial case management conference and within 30 days after the first filing with the court or as soon as practicable after that time based on the reasonable availability of classes for the program for the parent. Parent education programs must offer an opportunity to participate at all phases of a pending or postdecree proceeding.

(e) Upon request of a party and a showing of good cause, the court may excuse the party from attending the program. If past or present domestic abuse, as defined in chapter 518B, is alleged, the court shall not require the parties to attend the same parent education sessions

and shall enter an order setting forth the manner in which the parties may safely participate in the program.

(f) Before an initial case management conference for a proceeding under this chapter where the parties have not agreed to custody or parenting time, the court shall notify the parties of their option to resolve disagreements, including the development of a parenting plan, through the use of private mediation.

Sec. 9. Minnesota Statutes 2018, section 518.175, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court shall, upon the request of either parent, grant such parenting time on behalf of the child and a parent as will enable the child and the parent to maintain a child to parent relationship that will be in the best interests of the child. The court shall use a rebuttable presumption that it is in the best interests of the child to protect each individual parent-child relationship by maximizing the child's time with each parent. The court, when issuing a parenting time order, may reserve a determination as to the future establishment or expansion of a parent's parenting time. In that event, the best interest standard set forth in subdivision 5, paragraph (a), shall be applied to a subsequent motion to establish or expand parenting time.

(b) If the court finds, after a hearing, that parenting time with a parent is likely to endanger the child's physical, mental, or emotional health or safety or impair the child's emotional development, the court shall restrict parenting time with that parent as to time, place, duration, or supervision and may deny parenting time entirely, as the circumstances warrant. ~~The court shall consider the age of the child and the child's relationship with the parent prior to the commencement of the proceeding.~~

(c) A parent's failure to pay support because of the parent's inability to do so shall not be sufficient cause for denial of parenting time.

(d) The court may provide that a law enforcement officer or other appropriate person will accompany a party seeking to enforce or comply with parenting time.

(e) Upon request of either party, to the extent practicable an order for parenting time must include a specific schedule for regular parenting time, including the frequency and duration of ~~visitation~~ parenting time and ~~visitation~~ parenting time during holidays ~~and~~, vacations, and school breaks, unless parenting time is restricted, denied, or reserved.

(f) The court administrator shall provide a form for a pro se motion regarding parenting time disputes, which includes provisions for indicating the relief requested, an affidavit in which the party may state the facts of the dispute, and a brief description of the parenting time expeditor process under section 518.1751. The form may not include a request for a change of custody. The court shall provide instructions on serving and filing the motion.

(g) ~~In the absence of other evidence,~~ Unless otherwise agreed, there is a rebuttable presumption that ~~a~~ the court shall award each parent ~~is entitled to receive a minimum of 25~~ 50 percent of the parenting time for the child. If it is not practicable to award 50 percent parenting time to each parent, the court shall maximize parenting time for each parent as close as possible to the 50 percent presumption. For purposes of this paragraph, the percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent or by using a method other than overnights if the parent has significant time periods on separate days when the child is in the parent's physical custody but does not stay overnight. ~~The court may consider the age of the child in determining whether a child is with a parent for a significant period of time.~~

(h) The court must include in a parenting time order the following:

(1) the ability of each parent to comply with the awarded parenting time schedule; and

(2) if a court deviates from the parenting time presumption under paragraph (g) and the parties have not otherwise made a parenting time agreement, the court shall make written findings of fact supported by clear and convincing evidence that the deviation results from one or more of the following:

(i) a parent has a mental illness that was diagnosed by a licensed physician or by a licensed psychologist, and the mental illness endangers the safety of the child based on the opinion of the licensed physician or the licensed psychologist treating the parent;

(ii) a parent refuses or fails to complete a chemical dependency evaluation or assessment ordered by a court, or a parent refuses or fails to complete chemical dependency recommendations as ordered by a licensed physician or by a licensed drug or alcohol counselor;

(iii) domestic abuse, as defined in section 518B.01, subdivision 2, or a qualified domestic violence-related offense, as defined in section 609.02, subdivision 16, between the parents or between a parent and the child;

(iv) a parent is unable to care for the child 50 percent of the time because of the parent's inability to modify the parent's schedule to accommodate having a child 50 percent of the

time. An inability to modify a parent's schedule includes but is not limited to work, school, child care, or medical appointment scheduling conflicts that prevent a parent from maintaining parenting time with a child to accommodate the presumption under this section. A parent's provision for safe alternative care when the parent is not available during the parent's scheduled parenting time is not an inability of a parent to participate in a parenting time schedule under this paragraph;

(v) a parent's repeated willful failure to comply with parenting time awarded pursuant to a temporary order;

(vi) the distance required to travel between each parent's residence is so great that it makes the parenting time presumption impractical to meet;

(vii) the child has a diagnosed medical or educational special need that cannot be accommodated by the parenting time presumption; or

(viii) a child protection finding that the child is currently not safe under a parent's care.

(i) In assessing whether to deviate from the parenting time presumption in paragraph (g), the court shall consider that a reduction in a parent's parenting time may impair the parent's ability to parent the child, which may have negative impacts on the child.

(j) If a child does not have a relationship with a parent due to an absence of one year or more with minimal or no contact with the child, or if the child is one year old or younger, the court may order a gradual increase in parenting time. If the court orders a gradual increase in parenting time, the gradual increase shall only be in effect for a period of six months or less, at which time the order shall provide for a parenting time schedule based on the parenting time presumption in paragraph (g).

(k) The court shall not limit parenting time for a parent based solely on the age of the child. If the child is five years old or younger at the time the parenting time schedule is established and the order does not provide for equal parenting time, the order must include a provision for a possible future modification of the parenting time order.

(l) The court shall not consider the gender of a parent or a parent's marital or relationship status in making parenting time determinations under this section.

(m) An award of parenting time of up to 53 percent for one parent and not below 47 percent for the other parent does not constitute a deviation from the parenting time presumption in paragraph (g).

(n) In awarding parenting time, the court shall evaluate whether:

(1) one parent has engaged in unwarranted interference between the child and the other parent;

(2) one parent has made false allegations of domestic abuse; and

(3) one parent has chronically denied or minimized parenting time to the other parent in order to gain advantage in custody matters.

Sec. 10. Minnesota Statutes 2018, section 524.5-118, subdivision 1, is amended to read:

Subdivision 1. **When required; exception.** (a) The court shall require a background study under this section:

(1) before the appointment of a guardian or conservator, unless a background study has been done on the person under this section within the previous two years; and

(2) once every two years after the appointment, if the person continues to serve as a guardian or conservator.

(b) The background study must include:

(1) criminal history data from the Bureau of Criminal Apprehension, other criminal history data held by the commissioner of human services, and data regarding whether the person has been a perpetrator of substantiated maltreatment of a vulnerable adult or minor;

(2) criminal history data from the National Criminal Records Repository if the proposed guardian or conservator has not resided in Minnesota for the previous ten years or if the Bureau of Criminal Apprehension information received from the commissioner of human services under subdivision 2, paragraph (b), indicates that the subject is a multistate offender or that the individual's multistate offender status is undetermined; and

(3) state licensing agency data if a search of the database or databases of the agencies listed in subdivision 2a shows that the proposed guardian or conservator has ever held a professional license directly related to the responsibilities of a professional fiduciary from an agency listed in subdivision 2a that was conditioned, suspended, revoked, or canceled.

(c) If the guardian or conservator is not an individual, the background study must be done on all individuals currently employed by the proposed guardian or conservator who will be responsible for exercising powers and duties under the guardianship or conservatorship.

(d) If the court determines that it would be in the best interests of the ward or protected person to appoint a guardian or conservator before the background study can be completed, the court may make the appointment pending the results of the study, however, the

background study must then be completed as soon as reasonably possible after appointment, no later than 30 days after appointment.

(e) The fee for conducting a background study for appointment of a professional guardian or conservator must be paid by the guardian or conservator. In other cases, the fee must be paid as follows:

(1) if the matter is proceeding in forma pauperis, the fee is an expense for purposes of section 524.5-502, paragraph (a);

(2) if there is an estate of the ward or protected person, the fee must be paid from the estate; or

(3) in the case of a guardianship or conservatorship of the person that is not proceeding in forma pauperis, the court may order that the fee be paid by the guardian or conservator or by the court.

(f) The requirements of this subdivision do not apply if the guardian or conservator is:

(1) a state agency or county;

(2) a parent or guardian of a proposed ward or protected person who has a developmental disability, if:

(i) the parent or guardian has raised the proposed ward or protected person in the family home until the time the petition is filed~~, unless~~ or the proposed ward enters a licensed facility prior to turning 18 years of age and the parent or guardian has raised the proposed ward until the time the proposed ward entered the facility; and

(ii) counsel appointed for the proposed ward or protected person under section 524.5-205, paragraph (d); 524.5-304, paragraph (b); 524.5-405, paragraph (a); or 524.5-406, paragraph (b), ~~recommends~~ does not recommend a background study; or

(3) a bank with trust powers, bank and trust company, or trust company, organized under the laws of any state or of the United States and which is regulated by the commissioner of commerce or a federal regulator.

EFFECTIVE DATE. This section is effective August 1, 2019, and applies to background checks required on or after that date.

13.72 TRANSPORTATION DEPARTMENT DATA.

Subd. 9. **Rideshare data.** The following data on participants, collected by the Minnesota Department of Transportation and the Metropolitan Council to administer rideshare programs, are classified as private under section 13.02, subdivision 12: residential address and telephone number; beginning and ending work hours; current mode of commuting to and from work; and type of rideshare service information requested.