

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2276

02/25/2014 Authored by Holberg
The bill was read for the first time and referred to the Committee on Civil Law

1.1 A bill for an act
1.2 relating to safe at home program; regulating participant data and real property
1.3 records; amending Minnesota Statutes 2013 Supplement, sections 5B.05; 13.045;
1.4 proposing coding for new law in Minnesota Statutes, chapter 386.

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

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

1.7 **5B.05 USE OF DESIGNATED ADDRESS.**

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

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

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

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

2.1 address, or school address for the purpose for which the disclosure will be made. This
 2.2 paragraph does not apply to records of the judicial branch governed by rules adopted by
 2.3 the Supreme Court or entities governed by section 13.045.

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

2.5 **13.045 SAFE AT HOME PROGRAM PARTICIPANT DATA.**

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

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

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

2.14 (3) "identity data" means data that may be used to identify a program participant,
 2.15 including but not limited to the program participant's name, Social Security number, or
 2.16 driver's license number, and that is collected, received, or maintained by a government
 2.17 entity before the date a program participant's certification expires, or the date the entity
 2.18 receives notice that the program participant has withdrawn from the program, whichever
 2.19 is earlier.

2.20 Subd. 2. **Notification of certification.** (a) A program participant may submit a
 2.21 notice, in writing, to the responsible authority of any government entity other than the
 2.22 county recorder or registrar of titles that the participant is certified in the Safe at Home
 2.23 address confidentiality program pursuant to chapter 5B. The notice must include the date
 2.24 the program participant's certification in the program expires, and any other information
 2.25 specified by the secretary of state. A program participant may submit a subsequent notice
 2.26 of certification, if the participant's certification is renewed. The contents of the notification
 2.27 of certification, and the fact that a notice has been submitted, are private data on individuals.

2.28 (b) To affect real property records, a program participant must submit a real property
 2.29 notice in writing to the county recorder or registrar of titles. A real property notice must be
 2.30 presented to the county recorder or registrar of titles on a form prescribed by the secretary
 2.31 of state. A real property notice must include the following information:

2.32 (1) the full legal name of the program participant, including middle name;

2.33 (2) the last four digits of the program participant's Social Security number;

2.34 (3) the designated address of the program participant as assigned by the secretary of
 2.35 state, including lot number;

3.1 (4) the date the program participant's certification in the program expires; and
 3.2 (5) the legal description and street address of the real property affected by the notice.
 3.3 Only one parcel of real property shall be included in each notice, but more than one
 3.4 notice may be presented to the recorder or registrar. The recorder or registrar may require
 3.5 a program participant to provide additional information necessary to identify the records
 3.6 of the program participant or the real property described in the notice.

3.7 A program participant may submit a subsequent notice of certification if the
 3.8 participant's certification is renewed. The contents of the notification of certification and
 3.9 the fact that a notice has been submitted are private data on individuals.

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

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

3.17 (b) Private or confidential data on a program participant shall not be disclosed by a
 3.18 government entity unless:

3.19 (1) the program participant has expressly consented in writing to sharing or
 3.20 dissemination of the data for the purpose for which the sharing or dissemination will occur;

3.21 (2) the data are subject to sharing or dissemination pursuant to court order; or

3.22 (3) the data are subject to sharing pursuant to section 5B.07, subdivision 2;

3.23 (4) the location data related to county of residence is needed to provide county-based
 3.24 services or allocate financial responsibilities for such services;

3.25 (5) the data are necessary to perform a government entity's health, safety, or welfare
 3.26 functions, including but not limited to the provision of emergency 911 services, the
 3.27 assessment and investigation of child or vulnerable adult abuse and neglect, and the
 3.28 assessment or inspection of services or locations for compliance with health, safety, or
 3.29 professional standards; or

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

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

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

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

4.6 Subd. 4a. **Real property records.** (a) If a program participant notifies a county
4.7 recorder or registrar of titles of program participation pursuant to the written notice
4.8 specified in subdivision 2, paragraph (b), the county recorder, registrar of titles, assessor,
4.9 or any other county official controlling or with access to real property records must not
4.10 disclose the program participant's name in conjunction with the property identified in
4.11 the written notice, unless:

4.12 (1) the program participant has expressly consented and attested in writing to
4.13 sharing or dissemination of the data for the purpose for which the sharing or dissemination
4.14 will occur;

4.15 (2) the data are subject to sharing or dissemination pursuant to court order; or

4.16 (3) the secretary of state, pursuant to subdivision 4b, authorizes in writing the
4.17 sharing or dissemination of the data for the purpose for which the sharing or dissemination
4.18 will occur.

4.19 Nothing in this section prevents the county from returning original documents to the
4.20 individuals that submitted the documents for recording.

4.21 (b) A real property notice is notice only to the county recorder, registrar of titles, and
4.22 the county auditor, treasurer, or other person performing the duties of a county auditor or
4.23 treasurer. A notice that does not conform to the requirements of a real property notice
4.24 under subdivision 2, paragraph (b), is not effective as a notice to the county recorder,
4.25 county auditor, treasurer, or any person performing the duties of county auditor or
4.26 treasurer. On receipt of a notice, the county recorder or registrar shall provide a copy of
4.27 the notice to the county auditor and treasurer, or the person performing the functions of the
4.28 county auditor and treasurer in that county, and provide a copy to the secretary of state at
4.29 the address specified by the secretary of state in the notice. Notwithstanding any rule or
4.30 law to the contrary, the county auditor and treasurer, and any county official performing
4.31 the duties of a county auditor and treasurer, is subject to the prohibition on data disclosure
4.32 in paragraph (a) of this subdivision.

4.33 (c) The prohibition on disclosure in paragraph (a) of this subdivision applies to
4.34 those records filed concurrently with the real property notice specified in subdivision 2,
4.35 paragraph (b), and all other real property records filed subsequent to the county's receipt of
4.36 the real property notice.

5.1 (d) The prohibition on disclosure in paragraph (a) of this subdivision continues
 5.2 until one of the following occurs:

5.3 (1) the program participant has expressly consented and attested in writing to the
 5.4 termination of the real property notice;

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

5.6 (3) the program participant no longer holds a record interest in the real property
 5.7 identified in the real property notice;

5.8 (4) the county confirms with the secretary of state that the program participant no
 5.9 longer is an active participant in the program; or

5.10 (5) the program participant fails within 90 days following the program participant's
 5.11 program expiration date to submit a notice of renewal of program participation in the form
 5.12 of a real property notice as specified in subdivision 2, paragraph (b).

5.13 Subd. 4b. **Access to real property data.** (a) Upon request, the secretary of state
 5.14 may share data regarding program participant's real property records for the purpose of
 5.15 confirming or denying that the program participant's real property is not the property
 5.16 subject to a legitimate title examination. The request must include:

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

5.19 (2) the purpose for requesting data;

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

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

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

5.26 (b) In responding to a legitimate request, the secretary of state may respond by an
 5.27 affirmation in writing that the property subject to the title examination is or is not the
 5.28 property subject to a program participant's real property notice. Notwithstanding section
 5.29 386.191, subdivision 5, or any law to the contrary, a party examining title may rely on a
 5.30 written affirmation from the Office of the Secretary of State.

5.31 (c) Location data disclosed under this subdivision may be used only for the purposes
 5.32 authorized in this subdivision and may not be further disclosed to any other person
 5.33 or agency. Entities receiving private data pursuant to this subdivision shall establish
 5.34 procedures to protect this data from further disclosure.

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

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

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

6.6 (3) a government entity to engage in statutorily mandated notice procedures if the
 6.7 notice procedures would result in disclosure of identity or location data.

6.8 **Sec. 3. [386.191] SAFE AT HOME REAL PROPERTY RECORDS.**

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

6.10 (1) "county recorder" means the county recorder or registrar of titles, as appropriate;

6.11 (2) "program participant" has the meaning given in section 5B.02, paragraph (g);

6.12 (3) "real property notice" means a real property notice that complies with the
 6.13 requirements of section 13.045, subdivision 2, paragraph (b); and

6.14 (4) "private index" means an index containing private documents that is not viewable
 6.15 to the public. A private index can be maintained electronically or in paper form.

6.16 **Subd. 2. Creation of private tract indexes and authorizing recording of private**
 6.17 **documents in the reception indexes.** Notwithstanding any law to the contrary, the
 6.18 county recorder may establish a private tract index and allow for private documents to be
 6.19 recorded in the reception index in order to record documents subject to section 13.045,
 6.20 subdivision 4a. To facilitate the creation and management of private indexes and indexes
 6.21 containing private documents, the county recorder may establish private lists showing the
 6.22 name of each program participant and the legal description of the parcel of real property
 6.23 affected by the real property notice.

6.24 **Subd. 3. Private documents within the reception index.** Any document affecting
 6.25 the real property and program participant identified in the notice that is presented
 6.26 for recording after the county recorder's receipt of a notice and prior to the program
 6.27 certification expiration date must be entered in the reception index. The documents must
 6.28 be entered in the reception index in accordance with section 386.03 for abstract property
 6.29 and in accordance with section 508.37 for registered land, except that:

6.30 (1) the entry in the reception index must not include the description of the real
 6.31 property; and

6.32 (2) the recorder shall make the document private and not publicly viewable except
 6.33 pursuant to section 13.045, subdivisions 4a and 4b. The entry must state to the public that
 6.34 "the document is private and viewable only pursuant to section 13.045, subdivisions 4a
 6.35 and 4b."

7.1 Subd. 4. **Private tract index.** (a) Any document affecting the real property in the
7.2 notice and presented for recording after the county recorder's receipt of a notice and prior
7.3 to the program certification expiration date must be entered in the private tract index.

7.4 (b) For registered land owned by the program participant, upon receipt of a real
7.5 property notice that pertains to the land, the registrar of titles shall enter a notation on the
7.6 certificate of title stating that "the documents filed and recorded hereafter are private and
7.7 viewable only pursuant to section 13.045, subdivisions 4a and 4b." Documents recorded
7.8 thereafter shall be entered in a private tract index. On the certificate of title the registrar
7.9 shall substitute the address assigned to the program participant by the secretary of state
7.10 in lieu of the address shown on the certificate and shall substitute the phrase "name of
7.11 owner private" for the participant's name.

7.12 (c) If the registrar receives a recordable deed in favor of the program participant with
7.13 or after receipt of a real property notice from the participant that pertains to the land, the
7.14 registrar shall accept the deed for recording and enter on the certificate a memorial including
7.15 the deed document number, document type, and date of filing, but not the grantee's name.
7.16 The entry must state that "the document is private and viewable only pursuant to section
7.17 13.045, subdivisions 4a and 4b." The registrar shall then cancel the certificate and enter a
7.18 new certificate to the grantees of the deed but shall make the certificate private.

7.19 (d) For abstract land, the recorder shall enter a notation into the tract index stating
7.20 that "the documents filed and recorded hereafter are private and viewable only pursuant
7.21 to section 13.045, subdivisions 4a and 4b." The recorder shall record all subsequent
7.22 documents affecting the land in the private tract index.

7.23 Subd. 5. **Notice of private documents; constructive notice of documents.** All
7.24 documents recorded but not publicly viewable and accompanied by a notice that the
7.25 documents are private and viewable only pursuant to section 13.045, subdivisions 4a and
7.26 4b, are deemed to be constructive notice of the contents thereof.

7.27 Subd. 6. **Return of documents to public indexes.** The county recorder shall
7.28 transfer information maintained in a private index or maintained as a private document
7.29 to a public index or public document only pursuant to section 13.045, subdivision 4a,
7.30 paragraph (d). For registered land where the certificate is public but documents have
7.31 been entered in the private tract index, upon returning documents to the public indexes
7.32 the registrar shall omit the notation of private documents and enter the documents in the
7.33 private index as memorials on the certificate of title, showing the name and address of the
7.34 record owner. The registrar shall then make the certificate public.