A bill for an act

relating to human services; establishing the adult mental health fatality review team; providing criminal penalties for disclosure of certain data; requiring reports; appropriating money.

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

Section 1. **ADULT MENTAL HEALTH FATALITY REVIEW TEAM.**

Subdivision 1. **Pilot project authorized; purpose.** (a) The commissioner of human services shall work with Hennepin County to establish a mental health fatality review team and resource panel, as a 30-month pilot project in Hennepin County to review adult mental health fatalities that have occurred in Hennepin County during or after contact with law enforcement, courts, or corrections systems.

(b) The purpose of the resource panel is to make recommendations to the state and to county agencies for improving the mental health, criminal justice, health care, and social service systems, including modifications in statute, rule, policy, and procedure.

(c) The commissioner shall work with Hennepin County to establish procedures for conducting local reviews and may require that all professionals with knowledge of a mental health fatality case participate in the review. In this section, "professional" means a person licensed to perform or a person performing a specific service in the systems that respond to individuals with a mental illness. Professional includes law enforcement personnel, social service agency attorneys, educators, and social service, health care, and mental health care providers.

(d) The purpose of the review team is to analyze adult mental health-related fatalities, review public policies and procedures, and try to prevent future fatalities.

Subd. 2. **Definition of mental health fatality.** "Mental health fatality" means the unexpected death of a person with a diagnosed mental illness where mental illness was a significant contributing factor in the death.

Subd. 3. **Selection of cases for review.** Cases for review must be selected by Hennepin County.

Subd. 4. **Membership.** (a) Hennepin County shall convene an appropriate mental health fatality review team to review the selected cases. The review team members shall include a core panel with representatives of the following disciplines: psychiatry, medical examiner, community hospital, county human services, attorney, law enforcement, public health nursing, chemical health, and mental health advocacy. These members shall attend all meetings.

(b) A second group of individuals comprises the resource panel, which includes representatives from emergency medicine, developmental disabilities, adult mental health, suicide prevention, professionals from communities of color or immigrant communities, corrections, and other fields. Members of this group are invited to attend meetings for which their program or clinical expertise is needed in specific reviews. Other disciplines will be identified as needed by the committee.

(c) Resource panel membership is based on legal requirements and the need for specific clinical and program reviewer expertise. Each of the core and resource positions is appointed by Hennepin County to serve for a period of one year, subject to renewal.

Subd. 5. **Disclosure of records.** (a) Notwithstanding the data's classification in the possession of any agency, data shall be disclosed to the mental health fatality review team as necessary to carry out the purpose of the team, but data shall retain its data classification and will under no circumstances be disclosed to anyone not a part of the review. No data used or findings arrived at shall be used in a court proceeding. Findings must only be used to recommend institutional reforms to prevent future fatalities.

(b) Cases must be selected for review only after they are closed to any further legal activity, including opportunities for appeal. The commissioner has access to not public data under Minnesota Statutes, chapter 13, maintained by state agencies, statewide systems, or political subdivisions that are related to the death or circumstances surrounding the response of professionals to the person in question with a mental illness.

(c) The commissioner shall also have access to records of private hospitals as necessary to carry out the duties prescribed by this section. Access to data under this paragraph is limited to police investigative data; autopsy records and coroner or medical examiner investigative data; hospital, public health, or other medical records of the person with a mental illness; hospital and other medical records of the person's parent that relate to

prenatal care; and records created by social service agencies that provided services to the person or family within three years preceding the person's death. A state agency, statewide system, or political subdivision shall provide the data upon request of the commissioner.

(d) Not public data may be shared with members of the mental health fatality review team in connection with an individual case. Notwithstanding the data's classification in the possession of any other agency, data acquired by a mental health fatality review team in the exercise of its duties is protected nonpublic or confidential data as defined in Minnesota Statutes, section 13.02, and may be disclosed only as necessary to carry out the purposes of the review panel. It is a misdemeanor to disclose such information. The data is not subject to subpoena or discovery. The commissioner may disclose conclusions of the review team, but shall not disclose data that was classified as confidential or private data on decedents, under Minnesota Statutes, section 13.10, or private, confidential, or protected nonpublic data in the disseminating agency, except that the commissioner may disclose local social service agency data as provided in Minnesota Statutes, section 626.556, subdivision 11d, on individual cases involving a fatality or near fatality of a person served by the local social service agency prior to the date of death.

(e) A person attending a mental health fatality review team meeting shall not disclose what transpired at the meeting, except to carry out the purposes of the mortality review panel. The proceedings and records of the mortality review panel are protected nonpublic data, as defined in Minnesota Statutes, section 13.02, subdivision 13, and are not subject to discovery or introduction into evidence in a civil or criminal action against a professional, the state, or a county agency arising out of the matters the panel is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because they were presented during proceedings of the review panel. A person who presented information before the review team or who is a member of the team shall not be prevented from testifying about matters within the person's knowledge. However, in a civil or criminal proceeding, a person shall not be questioned about the person's presentation of information to the review team or opinions formed by the person as a result of the review team meetings.

Subd. 6. **Immunity.** Members of the mental health fatality review team, when acting within the scope of their duties, are immune from civil and criminal liability.

Subd. 7. **Evaluation and report.** (a) The ombudsman for mental health shall develop, by December 31, 2010, a system for evaluating the effectiveness of this pilot project and shall focus on identifiable goals and outcomes. An evaluation must contain data components as well as input from individuals involved in the review process.

(b) The mental health fatality review team shall convene by July 1, 2010, and shall issue two annual reports to the legislature during the pilot project, one on or before December 31, 2010, and one on or before December 31, 2011. The reports shall be developed collaboratively with the ombudsman for mental health and must consist of the written aggregate recommendations of the review team without reference to specific cases. The December 31, 2011, report must include recommendations for legislation. The reports must be made available upon request. Reports must be distributed to the governor, attorney general, Supreme Court, county board, and the district court.

Sec. 2. **APPROPRIATION.**

$20,000 is appropriated for the biennium beginning July 1, 2009, from the general fund to the commissioner of human services to be transferred to Hennepin County to conduct case identification, payment for records that are requested, and administrative expenses needed to establish and operate the adult mental health fatality review team pilot under section 1.