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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 704

01/23/2023 Authored by Scott and Burkel The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to health; establishing limits for contact tracing, digital contract tracing,
1.3 immunizations, communicable disease testing, and the required disclosure of
1.4 certain information; requiring the destruction of certain data; prohibiting mandatory
1.5 digital contact tracing by employers; providing for civil penalties; proposing coding
1.6 for new law in Minnesota Statutes, chapters 144; 145; 181.

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

1.8 Section 1. [144.4187] CONTACT TRACING.

1.9 Subdivision 1. Definitions. (a) The terms defined in this subdivision apply to this section.

1.10 (b) "Communicable disease" has the meaning given in section 144.419, subdivision 1.

1.11 (c) "Contact tracing" means a process to identify persons who may be at risk of
1.12 contracting a communicable disease through contact with a contagious person in a manner
1.13 that is consistent with a known or suspected mode of transmission.

1.14 (d) "Contagious person" means a person infected with an infectious agent of a
1.15 communicable disease, having a communicable disease, or harboring a specific infectious
1.16 agent and serving as a potential source of infection for a communicable disease.

1.17 (e) "Digital contact tracing" means contact tracing that uses location data, proximity
1.18 data, or both transmitted from a wireless communications device to estimate the proximity
1.19 of a person to a contagious person, the duration of a person's exposure to a contagious
1.20 person, or both.

1.21 (f) "Infectious agent" means an organism that is capable of causing a communicable
1.22 disease in humans.

2.1 (g) "Local health department" has the meaning given in section 145A.02, subdivision  
2.2 8b.

2.3 (h) "Local unit of government" means a statutory or home rule charter city, county,  
2.4 community health board, or town.

2.5 (i) "Location data" means data that indicates the actual physical location of a wireless  
2.6 communications device at a specific point in time and that is generated by, derived from,  
2.7 or obtained by the operation of a wireless communications device. Location data includes  
2.8 but is not limited to global positioning system locations.

2.9 (j) "Proximity data" means data that identifies the proximity of one person to another at  
2.10 a specific point in time and that is generated by, derived from, or obtained by the operation  
2.11 of a wireless communications device.

2.12 (k) "State agency" means a department, agency, board, commission, constitutional office,  
2.13 or other group in the executive branch of state government.

2.14 (l) "Wireless communications device" means (1) a cellular phone, or (2) a portable  
2.15 electronic device that is capable of receiving and transmitting data, including but not limited  
2.16 to text messages and email, without an access line for service.

2.17 (m) "Wireless telecommunications service provider" has the meaning given in section  
2.18 237.82, subdivision 4.

2.19 Subd. 2. **Mandatory participation in contact tracing prohibited.** Except as otherwise  
2.20 provided by law, the commissioner of health or a local health department must not require  
2.21 a contagious person to participate in contact tracing.

2.22 Subd. 3. **Communicable disease reports.** (a) Notwithstanding section 138.17, and  
2.23 except as otherwise provided in this subdivision, the commissioner of health or a local health  
2.24 department must destroy all data reported under Minnesota Rules, part 4605.7090, and held  
2.25 by the commissioner or local health department no later than 90 days after the commissioner  
2.26 or local health department received the data.

2.27 (b) If the commissioner of health or a local health department is using the data specified  
2.28 in paragraph (a) for a disease investigation or contact tracing on the date the data must be  
2.29 destroyed according to paragraph (a), the data must instead be destroyed no later than 30  
2.30 days after the commissioner or local health department concludes the disease investigation  
2.31 or contact tracing.

2.32 Subd. 4. **Digital contact tracing.** (a) A person may participate in digital contract tracing  
2.33 only if the person voluntarily consents to do so.

3.1 (b) No state agency or local unit of government shall require a person to:

3.2 (1) install or activate a digital contract tracing application on a wireless communications  
 3.3 device used by the person;

3.4 (2) provide the person's location data or proximity data to determine whether the person  
 3.5 may be at risk of contracting a communicable disease from contact with a contagious person;  
 3.6 or

3.7 (3) otherwise participate in digital contract tracing.

3.8 (c) No state agency or local unit of government shall collect location data, proximity  
 3.9 data, or other individually identifiable data of a wireless communications device user for  
 3.10 use in contact tracing from:

3.11 (1) a wireless telecommunications service provider;

3.12 (2) a digital contract tracing application installed on a wireless communications device;  
 3.13 or

3.14 (3) an entity that administers a digital contract tracing application installed on a wireless  
 3.15 communications device.

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

3.17 Sec. 2. **[145.676] MANDATORY IMMUNIZATION; STATEMENT SUBMISSION;**  
 3.18 **TESTING; DISCLOSURE OF HEALTH STATUS PROHIBITED.**

3.19 Subdivision 1. **Definitions.** (a) The terms defined in this subdivision apply to this section.

3.20 (b) "Communicable disease" has the meaning given in section 144.419, subdivision 1.

3.21 (c) "Government building" means a building or portion of a building that is owned,  
 3.22 leased, controlled, or operated by the state of Minnesota or a local unit of government and  
 3.23 used to conduct public business.

3.24 (d) "Local unit of government" means a statutory or home rule charter city, county,  
 3.25 community health board, or town.

3.26 (e) "State agency" means a department, agency, board, commission, constitutional office,  
 3.27 or other group in the executive branch of state government; or the University of Minnesota.

3.28 Subd. 2. **Mandatory immunization, submission of immunization statement or test**  
 3.29 **results, and testing prohibited.** Except as otherwise provided by law, no state agency or  
 3.30 local unit of government shall require any of the following unless the person voluntarily  
 3.31 consents:

4.1 (1) require a person to be immunized against a communicable disease;

4.2 (2) require a person to submit, as a condition of being admitted to a government building,  
4.3 transacting government business, or otherwise participating in a government function:

4.4 (i) a statement from a health care provider that provides immunizations that the person  
4.5 received an immunization against a communicable disease in a manner consistent with  
4.6 medically accepted standards; or

4.7 (ii) a statement from a health care provider that tests persons for a communicable disease  
4.8 that the person received a negative test result for a communicable disease; or

4.9 (3) require a person to be tested for a communicable disease.

4.10 Subd. 3. **Mandatory disclosure of health status prohibited.** No person must be required  
4.11 to possess, wear, or display a symbol, card, or any other indicator that the person received  
4.12 a positive or negative test result for a communicable disease or possesses the antibodies for  
4.13 a communicable disease.

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

4.15 Sec. 3. **[181.975] DIGITAL CONTACT TRACING IN EMPLOYMENT.**

4.16 Subdivision 1. **Definitions.** (a) The terms defined in this subdivision apply to this section.

4.17 (b) "Communicable disease" has the meaning given in section 144.419, subdivision 1.

4.18 (c) "Contact tracing" means a process to identify persons who may be at risk of  
4.19 contracting a communicable disease through contact with a contagious person in a manner  
4.20 that is consistent with a known or suspected mode of transmission.

4.21 (d) "Contagious person" means a person infected with an infectious agent of a  
4.22 communicable disease, having a communicable disease, or harboring a specific infectious  
4.23 agent and serving as a potential source of infection for a communicable disease.

4.24 (e) "Digital contact tracing" means contact tracing that uses location data, proximity  
4.25 data, or both transmitted from a wireless communications device to estimate the proximity  
4.26 of a person to a contagious person, the duration of a person's exposure to a contagious  
4.27 person, or both.

4.28 (f) "Employee" means a person who performs services for hire in Minnesota for an  
4.29 employer, including independent contractors.

4.30 (g) "Employer" means any person having one or more employees in Minnesota and  
4.31 includes the state and any political subdivisions of the state.

5.1 (h) "Infectious agent" means an organism that is capable of causing a communicable  
5.2 disease in humans.

5.3 (i) "Location data" means data that indicates the actual physical location of a wireless  
5.4 communications device at a specific point in time and that is generated by, derived from,  
5.5 or obtained by the operation of a wireless communications device. Location data includes  
5.6 but is not limited to global positioning system locations.

5.7 (j) "Proximity data" means data that identifies the proximity of one person to another at  
5.8 a specific point in time and that is generated by, derived from, or obtained by the operation  
5.9 of a wireless communications device.

5.10 (k) "Wireless communications device" means (1) a cellular phone, or (2) a portable  
5.11 electronic device that is capable of receiving and transmitting data, including but not limited  
5.12 to text messages and email, without an access line for service.

5.13 Subd. 2. **Prohibited acts.** No employer or employment agency shall directly or indirectly:

5.14 (1) require an employee to install or activate a digital contact tracing application on the  
5.15 employee's personal wireless communications device;

5.16 (2) require an employee to provide location data or proximity data to determine whether  
5.17 the employee may be at risk of contracting a communicable disease from contact with a  
5.18 contagious person;

5.19 (3) affect the terms or conditions of employment or terminate the employment of any  
5.20 person based on an employee's refusal to install a digital contact tracing application as  
5.21 described in clause (1) or to provide location data or proximity data as described in clause  
5.22 (2);

5.23 (4) install a digital contact tracing application on a wireless communications device  
5.24 provided to employees; or

5.25 (5) use location data or proximity data obtained in any manner to determine whether an  
5.26 employee may be at risk of contracting a communicable disease from contact with a  
5.27 contagious person.

5.28 Subd. 3. **Authority for certain lawful workplace policies not affected.** (a) Nothing in  
5.29 this section shall limit an employer's ability to develop and maintain lawful workplace  
5.30 policies governing an employee's use of the employer's wireless communications devices,  
5.31 equipment, or vehicles, including policies regarding Internet and email use; social networking  
5.32 and application use; and location tracking for purposes other than determining whether the  
5.33 employee had contact with, or was in close proximity to, a contagious person.

6.1 (b) Nothing in this section shall limit an employer's ability to develop and maintain  
6.2 lawful workplace policies to prevent an employee who is a contagious person from exposing  
6.3 the employer, other employees, customers, or others to a communicable disease.

6.4 Subd. 4. Penalties. Any person aggrieved by a violation of this section may bring a civil  
6.5 action in which the court may award:

6.6 (1) up to three times the actual damages suffered due to the violation;

6.7 (2) punitive damages;

6.8 (3) reasonable costs and attorney fees; and

6.9 (4) injunctive or other equitable relief as the court may deem appropriate.

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