

SENATE

STATE OF MINNESOTA

EIGHTY-NINTH SESSION

S.F. No. 1078

(SENATE AUTHORS: CHAMPION, Goodwin and Lourey)

DATE	D-PG	OFFICIAL STATUS
02/23/2015	400	Introduction and first reading Referred to Judiciary
03/11/2015	668a	Comm report: To pass as amended and re-refer to Health, Human Services and Housing
03/19/2015	997a	Comm report: To pass as amended and re-refer to Finance See SF1458, Art 2, Sec. 1-2, 4, 12-13

1.1

A bill for an act

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relating to data practices; providing for sharing of data within human services

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and health care systems; amending Minnesota Statutes 2014, sections 13.46,

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subdivisions 2, 7; 144.293, subdivision 6; 245.467, subdivision 6; 245.4876,

1.5

subdivision 7.

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

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Section 1. Minnesota Statutes 2014, section 13.46, subdivision 2, is amended to read:

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

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disseminated by the welfare system are private data on individuals, and shall not be

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disclosed except:

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(1) according to section 13.05;

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(2) according to court order;

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

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

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

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

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the administration of a program;

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

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

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

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family; evaluate the effectiveness of programs; assess parental contribution amounts;

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and investigate suspected fraud;

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(6) to administer federal funds or programs;

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

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

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

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

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

(iii) to monitor and evaluate the Minnesota family investment program or the child care assistance program by exchanging data on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L; and

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

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

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law 98-527 to protect the legal and human rights of persons with developmental disabilities or other related conditions who live in residential facilities for

these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

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

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

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

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

(i) the participant:

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

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

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

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

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

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

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

(i) the member:

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

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

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

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

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

4.10 (19) the current address of a recipient of Minnesota family investment program,
4.11 general assistance, general assistance medical care, or food support may be disclosed to
4.12 law enforcement officers who, in writing, provide the name of the recipient and notify the
4.13 agency that the recipient is a person required to register under section 243.166, but is not
4.14 residing at the address at which the recipient is registered under section 243.166;

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

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

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

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

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

4.35 (25) to other state agencies, statewide systems, and political subdivisions of this
4.36 state, including the attorney general, and agencies of other states, interstate information

networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

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

(27) to monitor and evaluate the Minnesota family investment program by exchanging data between the Departments of Human Services and Education, on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

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

(29) counties operating child care assistance programs under chapter 119B may disseminate data on program participants, applicants, and providers to the commissioner of education; ~~or~~

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

(31) to a health care provider governed by sections 144.291 to 144.298, to the extent necessary to coordinate services, provided that a health record may be disclosed only as provided under section 144.293.

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

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

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

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

Sec. 2. Minnesota Statutes 2014, section 13.46, subdivision 7, is amended to read:

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

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

(2) pursuant to court order;

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

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

(5) to a health care provider governed by sections 144.291 to 144.298, to the extent necessary to coordinate services, provided that a health record may be disclosed only as provided under section 144.293; or

(6) with the consent of the client or patient.

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

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

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

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

The scope of disclosure under this paragraph is limited to the minimum necessary for law enforcement to respond to the emergency. Disclosure under this paragraph may include, but is not limited to, the name and telephone number of the psychiatrist, psychologist, therapist, mental health professional, practitioner, or case manager of the client or patient. A law enforcement agency that obtains mental health data under this paragraph shall maintain a record of the requestor, the provider of the information, and the client or patient name. Mental health data obtained by a law enforcement agency under this paragraph are private data on individuals and must not be used by the law enforcement agency for

any other purpose. A law enforcement agency that obtains mental health data under this paragraph shall inform the subject of the data that mental health data was obtained.

(d) In the event of a request under paragraph (a), clause (4), a community mental health center, county mental health division, or provider must release mental health data to Criminal Mental Health Court personnel in advance of receiving a copy of a consent if the Criminal Mental Health Court personnel communicate that the:

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

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

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

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

Sec. 3. Minnesota Statutes 2014, section 144.293, subdivision 6, is amended to read:

Subd. 6. **Consent does not expire.** Notwithstanding subdivision 4, if a patient explicitly gives informed consent to the release of health records for the purposes and restrictions in ~~clauses~~ clause (1) ~~and~~ (2), or (3), the consent does not expire after one year for:

(1) the release of health records to a provider who is being advised or consulted with in connection with the releasing provider's current treatment of the patient;

(2) the release of health records to an accident and health insurer, health service plan corporation, health maintenance organization, or third-party administrator for purposes of payment of claims, fraud investigation, or quality of care review and studies, provided that:

(i) the use or release of the records complies with sections 72A.49 to 72A.505;

(ii) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited; and

(iii) the recipient establishes adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient; or

(3) the release of health records to a program in the welfare system, as defined in section 13.46, to the extent necessary to coordinate services for the patient.

Sec. 4. Minnesota Statutes 2014, section 245.467, subdivision 6, is amended to read:

Subd. 6. **Restricted access to data.** The county board shall establish procedures to ensure that the names and addresses of persons receiving mental health services are disclosed only to:

(1) county employees who are specifically responsible for determining county of financial responsibility or making payments to providers; ~~and~~

(2) staff who provide treatment services or case management and their clinical supervisors; and

(3) personnel of the welfare system or health care providers who have access to the data under section 13.46, subdivision 7.

Release of mental health data on individuals submitted under subdivisions 4 and 5, to persons other than those specified in this subdivision, or use of this data for purposes other than those stated in subdivisions 4 and 5, results in civil or criminal liability under the standards in section 13.08 or 13.09.

Sec. 5. Minnesota Statutes 2014, section 245.4876, subdivision 7, is amended to read:

Subd. 7. **Restricted access to data.** The county board shall establish procedures to ensure that the names and addresses of children receiving mental health services and their families are disclosed only to:

(1) county employees who are specifically responsible for determining county of financial responsibility or making payments to providers; ~~and~~

(2) staff who provide treatment services or case management and their clinical supervisors; and

(3) personnel of the welfare system or health care providers who have access to the data under section 13.46, subdivision 7.

Release of mental health data on individuals submitted under subdivisions 5 and 6, to persons other than those specified in this subdivision, or use of this data for purposes other than those stated in subdivisions 5 and 6, results in civil or criminal liability under section 13.08 or 13.09.