

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 2994

(SENATE AUTHORS: HAYDEN)

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OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to human services; requiring a report on highly benefit dependent
1.3 employers; amending Minnesota Statutes 2016, section 268.19, subdivision 1;
1.4 Minnesota Statutes 2017 Supplement, section 13.46, subdivision 2; proposing
1.5 coding for new law in Minnesota Statutes, chapter 245.

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

1.7 Section 1. Minnesota Statutes 2017 Supplement, section 13.46, subdivision 2, is amended
1.8 to read:

1.9 Subd. 2. **General.** (a) Data on individuals collected, maintained, used, or disseminated
1.10 by the welfare system are private data on individuals, and shall not be disclosed except:

1.11 (1) according to section 13.05;

1.12 (2) according to court order;

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

1.14 (4) to an agent of the welfare system and an investigator acting on behalf of a county,
1.15 the state, or the federal government, including a law enforcement person or attorney in the
1.16 investigation or prosecution of a criminal, civil, or administrative proceeding relating to the
1.17 administration of a program;

1.18 (5) to personnel of the welfare system who require the data to verify an individual's
1.19 identity; determine eligibility, amount of assistance, and the need to provide services to an
1.20 individual or family across programs; coordinate services for an individual or family;
1.21 evaluate the effectiveness of programs; assess parental contribution amounts; and investigate
1.22 suspected fraud;

2.1 (6) to administer federal funds or programs;

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

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

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

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

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

2.21 (iii) to monitor and evaluate the Minnesota family investment program or the child care
2.22 assistance program by exchanging data on recipients and former recipients of food support,
2.23 cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter
2.24 119B, medical programs under chapter 256B or 256L, or a medical program formerly
2.25 codified under chapter 256D; and

2.26 (iv) to analyze public assistance employment services and program utilization, cost,
2.27 effectiveness, and outcomes as implemented under the authority established in Title II,
2.28 Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of 1999.
2.29 Health records governed by sections 144.291 to 144.298 and "protected health information"
2.30 as defined in Code of Federal Regulations, title 45, section 160.103, and governed by Code
2.31 of Federal Regulations, title 45, parts 160-164, including health care claims utilization
2.32 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 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:

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

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

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

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

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

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

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

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

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

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

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

(25) to other state agencies, statewide systems, and political subdivisions of this 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, medical programs under chapter 256B or 256L, or a medical program formerly codified under chapter 256D;

(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;

(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;

(31) to a health care provider governed by sections 144.291 to 144.298, to the extent necessary to coordinate services;

(32) to the chief administrative officer of a school to coordinate services for a student and family; data that may be disclosed under this clause are limited to name, date of birth, gender, and address; ~~or~~

(33) to county correctional agencies to the extent necessary to coordinate services and diversion programs; data that may be disclosed under this clause are limited to name, client demographics, program, case status, and county worker information; or

(34) to the Department of Human Services for the purposes of section 245.097 and in accordance with the restriction described in that section.

(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.

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

Sec. 2. [245.097] REPORT ON EMPLOYERS WITH 100 OR MORE EMPLOYEES ENROLLED IN MEDICAL ASSISTANCE.

Subdivision 1. Definitions. For the purposes of this section, the terms defined in this subdivision have the meanings given them:

(a) "Employer" means any person employing at least 100 employees in the state and includes the state and its subdivisions.

7.1 (b) "Enrollee" means an enrollee in the medical assistance program who:

7.2 (1) has been enrolled in the medical assistance program for at least six consecutive
7.3 months within the preceding year;

7.4 (2) has been employed by the same employer for at least three months; and

7.5 (3) is not under 18 years of age, over 65 years of age, or eligible as an enrollee by reason
7.6 of a disability.

7.7 (c) "Highly benefit dependent employer" means an employer with 100 or more employees
7.8 in the state who are enrollees.

7.9 (d) "Medical assistance program" means the medical assistance for needy persons program
7.10 under chapter 256B.

7.11 Subd. 2. **Published report required.** (a) The commissioner of human services must
7.12 obtain the information described in paragraph (b) from the Department of Employment and
7.13 Economic Development and state subdivisions, and annually transmit to the legislature and
7.14 post on the Department of Human Services' Web site, no later than the third week of January
7.15 each year beginning in 2019, a report.

7.16 (b) The report must include:

7.17 (1) the name of each highly benefit dependent employer;

7.18 (2) the address of each highly benefit dependent employer;

7.19 (3) the number of enrollees employed by each highly benefit dependent employer;

7.20 (4) the percentage of each highly benefit dependent employer's total workforce in the
7.21 state that are enrollees;

7.22 (5) the total average cost of state and federally funded benefits provided to each highly
7.23 benefit dependent employer's employees who are enrollees calculated using the average per
7.24 individual cost of state and federally funded benefits excluding administrative costs; and

7.25 (6) the methodology used by the Department of Human Services to calculate the total
7.26 average cost described in clause (5).

7.27 (c) The report, and any list provided to the department, must not include the name or
7.28 identifying information of an individual enrollee.

7.29 (d) The report must remain available to the public on the Department of Human Services'
7.30 Web site for at least five years.

(e) Nothing in this section shall be construed as permitting an employer to discourage or prevent an employee from enrolling in the medical assistance program.

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

Sec. 3. Minnesota Statutes 2016, section 268.19, subdivision 1, is amended to read:

Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered from any person under the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except according to a district court order or section 13.05. A subpoena is not considered a district court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

(1) state and federal agencies specifically authorized access to the data by state or federal law;

(2) any agency of any other state or any federal agency charged with the administration of an unemployment insurance program;

(3) any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;

(4) the public authority responsible for child support in Minnesota or any other state in accordance with section 256.978;

(5) human rights agencies within Minnesota that have enforcement powers;

(6) the Department of Revenue to the extent necessary for its duties under Minnesota laws;

(7) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

(8) the Department of Labor and Industry and the Commerce Fraud Bureau in the Department of Commerce for uses consistent with the administration of their duties under Minnesota law;

(9) the Department of Human Services and the Office of Inspector General and its agents within the Department of Human Services, including county fraud investigators, for investigations related to recipient or provider fraud and employees of providers when the provider is suspected of committing public assistance fraud;

(10) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program by providing data on recipients and former recipients of food stamps or food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B or 256L or formerly codified under chapter 256D;

(11) local and state welfare agencies for the purpose of identifying employment, wages, and other information to assist in the collection of an overpayment debt in an assistance program;

(12) local, state, and federal law enforcement agencies for the purpose of ascertaining the last known address and employment location of an individual who is the subject of a criminal investigation;

(13) the United States Immigration and Customs Enforcement has access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency;

(14) the Department of Health for the purposes of epidemiologic investigations;

(15) the Department of Corrections for the purposes of case planning and internal research for preprobation, probation, and postprobation employment tracking of offenders sentenced to probation and preconfinement and postconfinement employment tracking of committed offenders;

(16) the state auditor to the extent necessary to conduct audits of job opportunity building zones as required under section 469.3201; ~~and~~

(17) the Office of Higher Education for purposes of supporting program improvement, system evaluation, and research initiatives including the Statewide Longitudinal Education Data System; and

(18) the Department of Human Services to the extent necessary to meet the requirements of section 245.097.

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation under section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3

10.1 and 13, and must not be disclosed except under statute or district court order or to a party
10.2 named in a criminal proceeding, administrative or judicial, for preparation of a defense.

10.3 (c) Data gathered by the department in the administration of the Minnesota unemployment
10.4 insurance program must not be made the subject or the basis for any suit in any civil
10.5 proceedings, administrative or judicial, unless the action is initiated by the department.