

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1017

(SENATE AUTHORS: HANN and Limmer)

DATE	D-PG	OFFICIAL STATUS
03/23/2011	634	Introduction and first reading Referred to Judiciary and Public Safety
03/28/2011	761a 767	Comm report: To pass as amended and re-refer to Health and Human Services Rule 12.10: report of votes in committee

1.1

A bill for an act

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relating to health; modifying minor consent for health procedures and records;

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amending the retention of blood or tissue samples related to testing of infants

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for heritable and congenital disorders; amending Minnesota Statutes 2010,

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sections 121A.22, subdivision 2; 144.125, subdivisions 1, 3; 144.128; 144.291,

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subdivision 2; 144.343, subdivision 1; proposing coding for new law in

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Minnesota Statutes, chapter 144; repealing Minnesota Statutes 2010, section

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144.3441.

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

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Section 1. Minnesota Statutes 2010, section 121A.22, subdivision 2, is amended to

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read:

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Subd. 2. **Exclusions.** In addition, this section does not apply to drugs or medicine

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that are:

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(1) purchased without a prescription;

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(2) used by a pupil who is 18 years old or older;

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(3) used in connection with services for which a minor may give effective consent,

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including section 144.343, subdivision 1,~~and any other law;~~

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(4) used in situations in which, in the judgment of the school personnel who are

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present or available, the risk to the pupil's life or health is of such a nature that drugs or

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medicine should be given without delay;

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(5) used off the school grounds;

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(6) used in connection with athletics or extra curricular activities;

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(7) used in connection with activities that occur before or after the regular school day;

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(8) provided or administered by a public health agency to prevent or control an

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illness or a disease outbreak as provided for in sections 144.05 and 144.12;

(9) prescription asthma or reactive airway disease medications self-administered by a pupil with an asthma inhaler if the district has received a written authorization from the pupil's parent permitting the pupil to self-administer the medication, the inhaler is properly labeled for that student, and the parent has not requested school personnel to administer the medication to the pupil. The parent must submit written authorization for the pupil to self-administer the medication each school year; or

(10) prescription nonsyringe injectors of epinephrine, consistent with section 121A.2205, if the parent and prescribing medical professional annually inform the pupil's school in writing that (i) the pupil may possess the epinephrine or (ii) the pupil is unable to possess the epinephrine and requires immediate access to nonsyringe injectors of epinephrine that the parent provides properly labeled to the school for the pupil as needed.

Sec. 2. Minnesota Statutes 2010, section 144.125, subdivision 1, is amended to read:

Subdivision 1. **Duty to perform testing.** It is the duty of (1) the administrative officer or other person in charge of each institution caring for infants 28 days or less of age, (2) the person required in pursuance of the provisions of section 144.215, to register the birth of a child, or (3) the nurse midwife or midwife in attendance at the birth, to arrange to have administered to every infant or child in its care tests for heritable and congenital disorders according to subdivision 2 and rules prescribed by the state commissioner of health. Testing ~~and the recording~~ and reporting of test results shall be performed at the times and in the manner prescribed by the commissioner of health. The commissioner shall charge a fee so that the total of fees collected will approximate the costs of conducting the tests and implementing and maintaining a system to follow-up infants with heritable or congenital disorders, including hearing loss detected through the early hearing detection and intervention program under section 144.966. The fee is \$101 per specimen. Effective July 1, 2010, the fee shall be increased to \$106 per specimen. The increased fee amount shall be deposited in the general fund. Costs associated with capital expenditures and the development of new procedures may be prorated over a three-year period when calculating the amount of the fees.

Sec. 3. Minnesota Statutes 2010, section 144.125, subdivision 3, is amended to read:

Subd. 3. **Objection of parents to test.** Persons with a duty to perform testing under subdivision 1 shall advise parents of infants (1) that the blood or tissue samples will be used to perform testing ~~thereunder as well as the results of such testing may be retained by the Department of Health,~~ (2) ~~the benefit of retaining the blood or tissue sample,~~ and (3) (2) that the following options are available to them with respect to the testing: (i) to decline

to have the tests, or (ii) to elect to have the tests but to require that all blood samples and records of test results be ~~destroyed within~~ retained by the Department of Health for 24 months of after the testing. If the parents of an infant object in writing to testing for heritable and congenital disorders or elect to require that blood samples and test results be ~~destroyed~~ retained, the objection or election shall be recorded on a form that is signed by a parent or legal guardian and made part of the infant's medical record. A written objection exempts an infant from the requirements of this section and section 144.128.

Sec. 4. Minnesota Statutes 2010, section 144.128, is amended to read:

144.128 COMMISSIONER'S DUTIES; STORED BLOOD AND TISSUE SAMPLES.

The commissioner shall:

- (1) notify the physicians of newborns tested of the results of the tests performed;
- (2) make referrals for the necessary treatment of diagnosed cases of heritable and congenital disorders when treatment is indicated;
- ~~(3) maintain a registry of the cases of heritable and congenital disorders detected by the screening program for the purpose of follow-up services;~~
- ~~(4) prepare a separate form for use by parents or by adults who were tested as minors to direct that blood samples and test results be destroyed;~~
- ~~(5) comply with a destruction request within 45 days after receiving it;~~
- ~~(6) notify individuals who request destruction of samples and test results that the samples and test results have been destroyed; and~~
- ~~(7) adopt rules to carry out sections 144.125 to 144.128.~~
- (3) destroy blood or tissue samples obtained from test results immediately after completion of the test results, unless the parent of the newborn tested elects under section 144.125, subdivision 3, to retain the results; and
- (4) destroy all existing material and records related to stored blood or tissue samples, and shall destroy all blood or tissue samples stored by the commissioner.

Sec. 5. Minnesota Statutes 2010, section 144.291, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For the purposes of sections 144.291 to 144.298, the following terms have the meanings given.

- (a) "Group purchaser" has the meaning given in section 62J.03, subdivision 6.
- (b) "Health information exchange" means a legal arrangement between health care providers and group purchasers to enable and oversee the business and legal issues

involved in the electronic exchange of health records between the entities for the delivery of patient care.

(c) "Health record" means any information, whether oral or recorded in any form or medium, that relates to the past, present, or future physical or mental health or condition of a patient; the provision of health care to a patient; or the past, present, or future payment for the provision of health care to a patient.

(d) "Identifying information" means the patient's name, address, date of birth, gender, parent's or guardian's name regardless of the age of the patient, and other nonclinical data which can be used to uniquely identify a patient.

(e) "Individually identifiable form" means a form in which the patient is or can be identified as the subject of the health records.

(f) "Medical emergency" means medically necessary care which is immediately needed to preserve life, prevent serious impairment to bodily functions, organs, or parts, or prevent placing the physical or mental health of the patient in serious jeopardy.

(g) "Patient" means a natural person who has received health care services from a provider for treatment or examination of a medical, psychiatric, or mental condition, the surviving spouse and parents of a deceased patient, or a person the patient appoints in writing as a representative, including a health care agent acting according to chapter 145C, unless the authority of the agent has been limited by the principal in the principal's health care directive. Except for minors who have received health care services under ~~sections~~ section 144.341 to 144.347, 144.342; or 144.343, subdivision 1, in the case of a minor, patient includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian. A parent or guardian is entitled to full access to a minor child's health records except as otherwise explicitly provided in law.

(h) "Provider" means:

(1) any person who furnishes health care services and is regulated to furnish the services under chapter 147, 147A, 147B, 147C, 147D, 148, 148B, 148C, 148D, 150A, 151, 153, or 153A;

(2) a home care provider licensed under section 144A.46;

(3) a health care facility licensed under this chapter or chapter 144A;

(4) a physician assistant registered under chapter 147A; and

(5) an unlicensed mental health practitioner regulated under sections 148B.60 to 148B.71.

(i) "Record locator service" means an electronic index of patient identifying information that directs providers in a health information exchange to the location of patient health records held by providers and group purchasers.

(j) "Related health care entity" means an affiliate, as defined in section 144.6521, subdivision 3, paragraph (b), of the provider releasing the health records.

Sec. 6. Minnesota Statutes 2010, section 144.343, subdivision 1, is amended to read:

Subdivision 1. **Minor's consent valid; incest.** ~~Any~~ A minor may not give effective consent for medical, mental and other health services to determine the presence of or to treat pregnancy and conditions associated therewith, venereal disease, alcohol and other drug abuse, and the consent of no other person is required, unless the minor is a victim of incest as defined by section 609.365. If a minor is a victim of incest, the minor's parents must not have access to the minor's health records without expressed authorization from the minor.

Sec. 7. **[144.349] MINORS IN OUT-OF-HOME PLACEMENT.**

(a) The executive director, program manager, or a designee thereof of a licensed residential facility providing outreach, community support, and short-term shelter for unaccompanied homeless, runaway, or abandoned youth may give effective consent after reasonable efforts have been made to contact the parent or legal guardian of the minor for medical, mental, and other health services, except for family planning services, for a minor child while the minor child is receiving services from the licensed residential facility, and the consent of no other person is required. If a minor receives medical, mental, or other health services under this section, the minor's parents must have access to the minor's health records.

(b) For purposes of this section, a "residential facility" means any facility or program licensed by the commissioner of human services under chapter 245A to serve children in out-of-home placement that has a specific contract with the facility's host county to provide services to youth identified under paragraph (a).

Sec. 8. **REPEALER.**

Minnesota Statutes 2010, section 144.3441, is repealed.