

## CHAPTER 380—S.F.No. 2135

*An act relating to liability; limiting the civil liability of practitioners for the violent acts of patients; providing immunity from liability for disclosure; amending Minnesota Statutes 1985 Supplement, section 626.556, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 148.*

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

Section 1. [148.975] DUTY TO WARN; LIMITATION ON LIABILITY; VIOLENT BEHAVIOR OF PATIENT.

Subdivision 1. DEFINITIONS. (a) The definitions in this subdivision apply to sections 1 and 2.

(b) "Other person" means an immediate family member or someone who personally knows the patient and has reason to believe the patient is capable of and will carry out the serious, specific threat of harm to a specific, clearly identified victim.

(c) "Practitioner" means a psychologist, school psychologist, nurse, chemical dependency counselor, or social worker who is licensed by the state or who performs psychotherapy within a program or facility licensed by the state or established pursuant to rules adopted under section 245.69, subdivision 2.

(d) "Psychotherapy" means the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition.

(e) "Reasonable efforts" means communicating the serious, specific threat to the potential victim and if unable to make contact with the potential victim, communicating the serious, specific threat to the law enforcement agency closest to the potential victim or the patient.

Subd. 2. LIABILITY STANDARD. No monetary liability and no cause of action may arise against a practitioner for failure to predict, warn of, or take reasonable precautions to provide protection from, a patient's violent behavior, unless the patient or other person has communicated to the practitioner a specific, serious threat of physical violence against a specific, clearly identified or identifiable potential victim.

Subd. 3. DUTY TO WARN. The duty to predict, warn of, or take reasonable precautions to provide protection from, violent behavior arises only under the limited circumstances specified in subdivision 2. The duty is discharged by the practitioner if reasonable efforts are made to communicate the threat to the potential victim.

Subd. 4. DISCLOSURE OF CONFIDENCES. No monetary liability and no cause of action, or disciplinary action by the state board of psychology or board of nursing may arise against a practitioner for disclosing confidences to third parties in a good faith effort to discharge a duty arising under this section.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 5. CONTINUITY OF CARE. Nothing in subdivision 3 shall be construed to authorize a practitioner to terminate treatment of a patient as a direct result of a patient's violent behavior or threat of physical violence unless the patient is referred to another practitioner or appropriate health care facility.

Subd. 6. EXCEPTION. This section does not apply to a threat to commit suicide or other threats by a patient to harm the patient, or to a threat by a patient who is adjudicated mentally ill and dangerous under chapter 253B.

**Sec. 2. [148.976] OPTIONAL DISCLOSURE; LIMITATION ON LIABILITY.**

Subdivision 1. OPTIONAL DISCLOSURE. Nothing in section 1 shall be construed to prohibit a practitioner from disclosing confidences to third parties in a good-faith effort to warn against or take precautions against a patient's violent behavior for which a duty to warn does not arise under section 1.

Subd. 2. LIMITATION ON LIABILITY. No monetary liability and no cause of action, or disciplinary action by the state board of psychology or board of nursing may arise against a practitioner for disclosure of confidences to third parties, for failure to disclose confidences to third parties, or for erroneous disclosure of confidences to third parties in a good-faith effort to warn against or take precautions against a patient's violent behavior for which a duty to warn does not arise under section 1.

Sec. 3. Minnesota Statutes 1985 Supplement, section 626.556, subdivision 4, is amended to read:

Subd. 4. **IMMUNITY FROM LIABILITY.** (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:

(1) any person making a voluntary or mandated report under subdivision 3 or assisting in an assessment under this section; ~~and~~

(2) any social worker or supervisor employed by a local welfare agency complying with subdivision 10d; and

(3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency or local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10.

(b) A person who is a supervisor or social worker employed by a local welfare agency complying with subdivisions 10 and 11 or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is acting in good faith and exercising due care.

(c) This subdivision does not provide immunity to any person for failure to

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make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

Sec. 4. **EFFECTIVE DATE.**

Section 3 is effective the day following final enactment. Sections 1 and 2 are effective August 1, 1986, and apply to causes of action arising on or after that date.

Approved March 19, 1986

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**CHAPTER 381—S.F.No. 2245**

*An act relating to elections; providing for the use of certain optical scan electronic voting systems; proposing coding for new law in Minnesota Statutes, chapter 206.*

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

Section 1. **[206.90] OPTICAL SCAN VOTING SYSTEMS.**

Subdivision 1. DEFINITION. For the purposes of this section, "optical scan voting system" means an electronic voting system approved for use under sections 206.80 to 206.81 in which the voter records votes by marking with a pencil or other writing instrument a ballot on which the names of candidates, office titles, party designation in a partisan primary or election, and a statement of any question accompanied by the words "Yes" and "No" are printed.

Subd. 2. PROCEDURES. To the extent possible, procedures for using an optical scan voting system must be the same as those used for other electronic voting systems, unless this section provides otherwise.

Subd. 3. AVAILABILITY OF PAPER BALLOTS. For the purposes of section 206.63, "paper ballots" includes ballot cards which are voted by marking with a pencil or other writing instrument and on which are printed the names of candidates, office titles, party designation in a partisan primary or election, and a statement of any question accompanied by the words "Yes" and "No."

Subd. 4. ABSENTEE VOTING. An optical scan voting system may be used for absentee voting as long as an appropriate marking instrument is supplied to the voter along with the ballot.

Subd. 5. INSTRUCTION OF JUDGES, VOTERS. In instructing judges and voters under section 206.84, subdivision 1, officials in charge of election precincts using optical scan voting systems shall include instruction on the proper mark for recording votes on ballot cards marked with a pencil or other writing instrument and the insertion by the voter of the ballot card into automatic tabulating equipment that examines and counts votes as the ballot card is deposited into the ballot box.

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