

CHAPTER 76—H.F.No. 580

An act relating to state government; regulating data protection for victims of violence; amending Minnesota Statutes 2012, sections 5B.02; 5B.03, subdivision 1; 5B.04; 5B.05; 5B.07, subdivision 1; 13.82, subdivision 24; proposing coding for new law in Minnesota Statutes, chapter 13.

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

Section 1. Minnesota Statutes 2012, section 5B.02, is amended to read:

5B.02 DEFINITIONS.

(a) For purposes of this chapter and unless the context clearly requires otherwise, the definitions in this section have the meanings given them.

(b) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this chapter.

(c) "Applicant" means an adult, a parent or guardian acting on behalf of an eligible minor, or a guardian acting on behalf of an incapacitated person, as defined in section 524.5-102.

(d) "Domestic violence" means an act as defined in section 518B.01, subdivision 2, paragraph (a), and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

(e) "Eligible person" means an adult, a minor, or an incapacitated person, as defined in section 524.5-102 for whom there is good reason to believe (i) that the eligible person is a victim of domestic violence, sexual assault, or stalking, or (ii) that the eligible person fears for the person's safety, the safety of another person who resides in the same household, or the safety of persons on whose behalf the application is made. An individual must reside in Minnesota in order to be an eligible person. A person registered or required to register as a predatory offender under section 243.166 or 243.167, or the law of another jurisdiction, is not an eligible person.

(f) "Mail" means first class letters and flats delivered via the United States Postal Service, including priority, express, and certified mail, and excluding packages, parcels, periodicals, and catalogues, unless they are clearly identifiable as pharmaceuticals or clearly indicate that they are sent by a state or county government agency.

(g) "Program participant" means an individual certified as a program participant under section 5B.03.

(h) "Stalking" means acts criminalized under section 609.749 and includes a threat of such acts committed against an individual, regardless of whether these acts or threats have been reported to law enforcement officers.

Sec. 2. Minnesota Statutes 2012, section 5B.03, subdivision 1, is amended to read:

Subdivision 1. **Application.** The secretary of state shall certify an eligible person as a program participant when the secretary receives an application that must contain:

(1) the full legal name of the eligible person;

(2) a statement by the applicant that the applicant has good reason to believe (i) that the eligible person listed on the application is a victim of domestic violence, sexual assault, or stalking, or (ii) that the eligible person fears for the person's safety, the safety of another person who resides in the same household, or the safety of persons on whose behalf the application is made, and (iii) that the eligible person is not applying for certification as a program participant in order to avoid prosecution for a crime;

(3) a designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(4) ~~the mailing address where the eligible person can be contacted by the secretary of state, and the phone number or numbers where the applicant or eligible person can be called by the secretary of state;~~

(5) the physical residential address ~~or addresses~~ of the eligible person, disclosure of which will increase the risk of domestic violence, sexual assault, or stalking;

(6) if mail cannot be delivered to the residential address of the eligible person, the address to which mail should be sent;

~~(6)~~ (7) a statement whether the eligible person would like information on becoming an ongoing absentee ballot recipient pursuant to section 5B.06;

~~(7)~~ (8) a statement from the eligible person that gives the secretary of state consent to confirm the eligible person's participation in Safe at Home to a third party who provides the program participant's first and last name and Safe at Home lot number listed on the program participant's card;

~~(8)~~ (9) the signature of the applicant, an indicator of the applicant's authority to act on behalf of the eligible person, if appropriate, the name and signature of any individual or representative of any person who assisted in the preparation of the application, and the date on which the application was signed; and

~~(9)~~ (10) any other information as required by the secretary of state.

Sec. 3. Minnesota Statutes 2012, section 5B.04, is amended to read:

5B.04 CERTIFICATION CANCELLATION.

(a) If the program participant obtains a legal change of identity, the participant loses certification as a program participant.

(b) The secretary of state may cancel a program participant's certification if there is a change in the ~~mailing address~~ program participant's legal name or contact information, unless the program participant or the person who signed as the applicant on behalf of an eligible person provides the secretary of state with ~~at least two days'~~ at least two days' prior notice in writing of the change ~~of address~~.

(c) The secretary of state may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

(d) The secretary of state may cancel a program participant's certification if the program participant is no longer an eligible person.

(e) The secretary of state shall cancel certification of a program participant who applies using false information.

Sec. 4. Minnesota Statutes 2012, section 5B.05, is amended to read:

5B.05 USE OF DESIGNATED ADDRESS.

(a) When a program participant presents the address designated by the secretary of state to any person, that address must be accepted as the address of the program participant. The person may not require the

program participant to submit any address that could be used to physically locate the participant either as a substitute or in addition to the designated address, or as a condition of receiving a service or benefit, unless the service or benefit would be impossible to provide without knowledge of the program participant's physical location.

(b) A program participant may use the address designated by the secretary of state as the program participant's work address.

(c) The Office of the Secretary of State shall forward all mail sent to the designated address to the proper program participants.

(d) If a program participant has notified a person in writing, on a form prescribed by the program, that the individual is a program participant and of the requirements of this section, the person must not knowingly disclose the program participant's name, home address, work address, or school address, unless the person to whom the address is disclosed also lives, works, or goes to school at the address disclosed, or the participant has provided written consent to disclosure of the participant's name, home address, work address, or school address for the purpose for which the disclosure will be made. This paragraph does not apply to records of the judicial branch governed by rules adopted by the Supreme Court.

Sec. 5. Minnesota Statutes 2012, section 5B.07, subdivision 1, is amended to read:

Subdivision 1. **Classification of data.** (a) Data collected, created, or maintained by the secretary of state related to applicants, eligible persons, and program participants are private data on individuals as defined by section 13.02, subdivision 12. A consent for release of the address from an applicant, eligible person, or program participant is not effective.

(b) A program participant's name and address maintained by a local government entity in connection with an active investigation or inspection of an alleged health code, building code, fire code, or city ordinance violation allegedly committed by the program participant are private data on individuals as defined in section 13.02.

EFFECTIVE DATE. This section is effective January 1, 2014.

Sec. 6. **[13.045] SAFE AT HOME PROGRAM PARTICIPANT DATA.**

Subdivision 1. **Definitions.** As used in this section:

(1) "program participant" has the meaning given in section 5B.02, paragraph (g); and

(2) "identity and location data" means any data that may be used to identify or physically locate a program participant, including but not limited to the program participant's name, residential address, work address, and school address, and that is collected, received, or maintained by a government entity prior to the date a program participant's certification expires, or the date the entity receives notice that the program participant has withdrawn from the program, whichever is earlier.

Subd. 2. **Notification of certification.** A program participant may submit a notice, in writing, to the responsible authority of any government entity that the participant is certified in the Safe at Home address confidentiality program pursuant to chapter 5B. The notice must include the date the program participant's certification in the program expires. A program participant may submit a subsequent notice of certification, if the participant's certification is renewed. The contents of the notification of certification, and the fact that a notice has been submitted, are private data on individuals.

Subd. 3. **Classification of identity and location data; sharing and dissemination.** Identity and location data on a program participant that are not otherwise classified by law are private data on individuals. Notwithstanding any provision of law to the contrary, private or confidential identity and location data on a

program participant who submits a notice under subdivision 2 may not be shared with any other government entity, or disseminated to any person, unless:

(1) the program participant has expressly consented in writing to sharing or dissemination of the data for the purpose for which the sharing or dissemination will occur;

(2) the data are subject to sharing or dissemination pursuant to court order; or

(3) the data are subject to sharing pursuant to section 5B.07, subdivision 2.

Subd. 4. **Acceptance of alternate address required.** Regardless of whether a notice of certification has been submitted under subdivision 2, a government entity must accept the address designated by the secretary of state as a program participant's address, and is subject to the requirements contained in section 5B.05.

Subd. 5. **Duties of the secretary of state and other government entities limited.** Nothing in this section establishes a duty for:

(1) the Office of the Secretary of State to identify other government entities that may hold data on a program participant; or

(2) the responsible authority of any government entity to independently determine whether it maintains data on a program participant, unless a request is received pursuant to section 13.04 or a notice of certification is submitted pursuant to this section.

EFFECTIVE DATE. This section is effective July 1, 2013.

Sec. 7. Minnesota Statutes 2012, section 13.82, subdivision 24, is amended to read:

Subd. 24. **Exchanges of information.** Nothing in this chapter prohibits the exchange of information by law enforcement agencies provided the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation, except not public personnel data and data governed by section 13.045.

EFFECTIVE DATE. This section is effective July 1, 2013.

Presented to the governor May 16, 2013

Signed by the governor May 20, 2013, 3:15 p.m.