

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **2557**

02/27/2012 Authored by Franson and Erickson

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

A bill for an act

relating to health; requiring written informed consent before information is submitted to the commissioner of health for the early hearing detection and intervention program, heritable and congenital disorders tests, the birth defects information system, occupational diseases reporting, the trauma registry, the traumatic brain and spinal cord injury registry, the cancer surveillance system, and the lead surveillance system; amending Minnesota Statutes 2010, sections 121A.15, subdivision 7; 135A.14, subdivision 4; 144.125, subdivision 3; 144.2215, subdivision 2; 144.2216, subdivision 4; 144.3351; 144.34; 144.4195, subdivision 3; 144.6071, subdivisions 2, 3; 144.663, subdivision 1; 144.68, subdivisions 1, 2, by adding a subdivision; 144.9502, subdivision 3; 144.966, subdivisions 3, 4; repealing Minnesota Statutes 2010, sections 13.3806, subdivision 10a; 144.4195, subdivisions 2, 6.

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

Section 1. Minnesota Statutes 2010, section 121A.15, subdivision 7, is amended to read:

Subd. 7. **File on immunization records.** Each school or child care facility shall maintain on file immunization records for all persons in attendance that contain the information required by subdivisions 1, 2, and 3. The school shall maintain the records for at least five years after the person attains the age of majority. Upon the written informed consent of the person or if the person is a minor, the minor's parent or legal guardian, the Department of Health and the board of health, as defined in section 145A.02, subdivision 2, in whose jurisdiction the school or child care facility is located, shall have access to the files maintained pursuant to this subdivision. When a person transfers to another elementary or secondary school or child care facility, the administrator or other person having general control and supervision of the school or child care facility shall assist the person's parent or guardian in the transfer of the immunization file to the person's new school or child care facility within 30 days of the transfer. Upon the request of a

public or private postsecondary educational institution, as defined in section 135A.14, the administrator or other person having general control or supervision of a school shall assist in the transfer of a student's immunization file to the postsecondary institution.

Sec. 2. Minnesota Statutes 2010, section 135A.14, subdivision 4, is amended to read:

Subd. 4. **Immunization files required.** The institution must maintain an immunization record for each student governed by this section for at least one year from the time of original filing. Upon the written informed consent of the student, or if the student is a minor, the minor's parent or legal guardian, the immunization records may be inspected by the Department of Health and the local board of health in whose jurisdiction the institution is located.

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 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) 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 24 months of the testing. Testing for heritable and congenital disorders shall not be performed on an infant without the written informed consent of the infant's parent or legal guardian. The consent shall be recorded on a form signed by the infant's parent or legal guardian and made part of the infant's medical record. ~~If the parents of an infant object in writing~~ infant's parent or legal guardian consents to the testing for heritable and congenital disorders or but elect to require that blood samples and test results be destroyed, 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 do not apply if the parent or legal guardian does not consent to the testing.

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

Sec. 4. Minnesota Statutes 2010, section 144.2215, subdivision 2, is amended to read:

Subd. 2. **Duties of commissioner.** The commissioner of health shall design a system that allows the commissioner to:

(1) monitor incidence trends of birth defects to detect potential public health problems, predict risks, and assist in responding to birth defects clusters;

(2) more accurately target intervention, prevention, and services for communities, patients, and their families;

(3) inform health professionals and citizens of the prevalence of and risks for birth defects;

(4) conduct scientific investigation and surveys of the causes, mortality, methods of treatment, prevention, and cure for birth defects;

(5) modify, as necessary, the birth defects information system through demonstration projects;

~~(6) remove identifying information about a child whose parent or legal guardian has chosen not to participate in the system as permitted by section 144.2216, subdivision 4;~~

~~(7)~~ (6) protect the individually identifiable information as required by section 144.2217;

~~(8)~~ (7) limit the dissemination of identifying information as required by sections 144.2218 and 144.2219; and

~~(9)~~ (8) use the birth defects coding scheme defined by the Centers for Disease Control and Prevention (CDC) of the United States Public Health Service.

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

Sec. 5. Minnesota Statutes 2010, section 144.2216, subdivision 4, is amended to read:

Subd. 4. **Opt out in.** (a) A parent or legal guardian must be informed by the commissioner at the time of the initial data collection that they may choose not to participate in the system or that they may participate but may request removal at any time of personal identifying information concerning a child from the birth defects information system using a written form prescribed by the commissioner. The commissioner shall advise parents or legal guardians of infants:

(1) that the information on birth defects may be retained by the Department of Health;

(2) the benefit of retaining birth defects records;

(3) that they may elect to have the birth defects information collected once, within one year of birth, but to require that all personally identifying information be destroyed immediately upon the commissioner receiving the information; and

~~If the parents of an infant object in writing to the maintaining of birth defects information, the objection or election shall be recorded on a form that is signed by a parent or legal guardian and submitted to the commissioner of health; and~~

(4) that if the parent or legal guardian chooses ~~to opt-out~~ not to participate, the commissioner will not be able to inform the parent or legal guardian of a child of information related to the prevention, treatment, or cause of a particular birth defect.

(b) The commissioner shall not have access to any information on a birth defect case, unless the parent or legal guardian of the child provides written informed consent prior to the initial data collection. Consent shall be recorded on a form signed by the child's parent or legal guardian and shall be made part of the child's medical record and submitted to the commissioner of health.

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

Sec. 6. Minnesota Statutes 2010, section 144.3351, is amended to read:

144.3351 IMMUNIZATION DATA.

Providers as defined in section 144.291, subdivision 2, group purchasers as defined in section 62J.03, subdivision 6, elementary or secondary schools or child care facilities as defined in section 121A.15, subdivision 9, public or private postsecondary educational institutions as defined in section 135A.14, subdivision 1, paragraph (b), a board of health as defined in section 145A.02, subdivision 2, community action agencies as defined in section 256E.31, subdivision 1, and the commissioner of health may exchange immunization data with one another, ~~without the patient's consent~~, if the person requesting access provides services on behalf of the patient and the person has obtained the patient's written informed consent, or if the patient is a minor, the consent of the minor's parent or legal guardian. For purposes of this section immunization data includes:

(1) patient's name, address, date of birth, gender, parent or guardian's name; and

(2) date vaccine was received, vaccine type, lot number, and manufacturer of all immunizations received by the patient, and whether there is a contraindication or an adverse reaction indication.

This section applies to all immunization data, regardless of when the immunization occurred.

Sec. 7. Minnesota Statutes 2010, section 144.34, is amended to read:

144.34 INVESTIGATION AND CONTROL OF OCCUPATIONAL DISEASES.

Any physician having under professional care any person whom the physician believes to be suffering from poisoning from lead, phosphorus, arsenic, brass, silica dust, carbon monoxide gas, wood alcohol, or mercury, or their compounds, or from anthrax or from compressed-air illness or any other disease contracted as a result of the nature of the

employment of such person shall ~~within five days mail~~, upon the written informed consent of the person, send to the Department of Health within five days a report stating the name, address, and occupation of such patient, the name, address, and business of the patient's employer, the nature of the disease, and such other information as may reasonably be required by the department. The department shall prepare and furnish the physicians of this state suitable blanks for the reports herein required. No report made pursuant to the provisions of this section shall be admissible as evidence of the facts therein stated in any action at law or in any action under the Workers' Compensation Act against any employer of such diseased person. The Department of Health is authorized to investigate and to make recommendations for the elimination or prevention of occupational diseases which have been reported to it, or which shall be reported to it, in accordance with the provisions of this section. The department is also authorized to study and provide advice in regard to conditions that may be suspected of causing occupational diseases. Information obtained upon investigations made in accordance with the provisions of this section shall not be admissible as evidence in any action at law to recover damages for personal injury or in any action under the Workers' Compensation Act. Nothing herein contained shall be construed to interfere with or limit the powers of the Department of Labor and Industry to make inspections of places of employment or issue orders for the protection of the health of the persons therein employed. When upon investigation the commissioner of health reaches a conclusion that a condition exists which is dangerous to the life and health of the workers in any industry or factory or other industrial institutions the commissioner shall file a report thereon with the Department of Labor and Industry.

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

Sec. 8. Minnesota Statutes 2010, section 144.4195, subdivision 3, is amended to read:

Subd. 3. **Court hearing.** (a) A person isolated or quarantined under an order issued pursuant to subdivision 1 ~~or a temporary hold under subdivision 2~~ or the person's representative may petition the court to contest the court order ~~or temporary hold~~ at any time prior to the expiration of the order ~~or temporary hold~~. If a petition is filed, the court must hold a hearing within 72 hours from the date of the filing. A petition for a hearing does not stay the order of isolation or quarantine. At the hearing, the commissioner of health must show by clear and convincing evidence that the isolation or quarantine is warranted to protect the public health.

(b) If the commissioner of health wishes to extend the order for isolation or quarantine past the period of time stated in subdivision 1, paragraph (e), the commissioner must request the court to do so. Notice of the hearing must be served upon the person

or persons who are being isolated or quarantined at least three days before the hearing. If it is impracticable to provide individual notice to large groups who are isolated or quarantined, a copy of the notice may be posted in the same manner as described under subdivision 1, paragraph (c).

(c) The notice must contain the following information:

(1) the time, date, and place of the hearing;

(2) the grounds and underlying facts upon which continued isolation or quarantine is sought;

(3) the person's right to appear at the hearing; and

(4) the person's right to counsel, including the right to be represented by counsel designated by the court.

(d) The court may order the continued isolation or quarantine of the person or group of persons if it finds by clear and convincing evidence that the person or persons would pose an imminent health threat to others if isolation or quarantine was lifted. In no case may the isolation or quarantine continue longer than 30 days from the date of the court order issued under this subdivision unless the commissioner petitions the court for an extension. Any hearing to extend an order is governed by this subdivision.

Sec. 9. Minnesota Statutes 2010, section 144.6071, subdivision 2, is amended to read:

Subd. 2. **Registry participation required.** A trauma hospital must participate in the statewide trauma registry. The written informed consent of the injured person, or if the person is a minor, the written informed consent of the person's parent or legal guardian, is ~~not~~ required. The commissioner shall provide hospitals with consent forms.

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

Sec. 10. Minnesota Statutes 2010, section 144.6071, subdivision 3, is amended to read:

Subd. 3. **Registry information.** Upon receipt of the written informed consent of the injured person, or if a minor, the minor's parent or legal guardian, trauma hospitals must electronically submit the following information to the registry:

(1) demographic information of the injured person;

(2) information about the date, location, and cause of the injury;

(3) information about the condition of the injured person;

(4) information about the treatment, comorbidities, and diagnosis of the injured person;

(5) information about the outcome and disposition of the injured person; and

(6) other trauma-related information required by the commissioner, if necessary to facilitate the development of clinical and system quality improvement, treatment, and rehabilitation programs.

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

Sec. 11. Minnesota Statutes 2010, section 144.663, subdivision 1, is amended to read:

Subdivision 1. **Establishment of reporting system.** The commissioner shall design and establish a reporting system which designates either the treating hospital, medical facility, or physician to report to the department within a reasonable period of time after the identification of a person with traumatic brain injury or spinal cord injury. The written informed consent of the injured person, or if the person is a minor, the written informed consent of the minor's parent or legal guardian, is not required. The commissioner shall provide the designated reporting entity or provider with consent forms.

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

Sec. 12. Minnesota Statutes 2010, section 144.68, subdivision 1, is amended to read:

Subdivision 1. **Person practicing healing arts.** Every person licensed to practice the healing arts in any form, upon request of the commissioner of health, shall prepare and forward to the commissioner, in the manner and at such times as the commissioner designates, a detailed record of each case of cancer treated or seen by the person professionally, if written informed consent is obtained in accordance with subdivision 4.

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

Sec. 13. Minnesota Statutes 2010, section 144.68, subdivision 2, is amended to read:

Subd. 2. **Hospitals and similar institutions.** Every hospital, medical clinic, medical laboratory, or other institution for the hospitalization, clinical or laboratory diagnosis, or care of human beings, upon request of the commissioner of health, shall prepare and forward to the commissioner, in the manner and at the times designated by the commissioner, a detailed record of each case of cancer, if written informed consent is obtained in accordance with subdivision 4.

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

Sec. 14. Minnesota Statutes 2010, section 144.68, is amended by adding a subdivision to read:

8.1 Subd. 4. **Opt in.** Before submitting any information to the commissioner as required
8.2 under subdivisions 1 and 2, the provider or facility must obtain written informed consent
8.3 of the individual, or if the individual is a minor, the minor's parent or legal guardian. The
8.4 commissioner shall provide the providers and facilities with proper consent forms.

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

8.6 Sec. 15. Minnesota Statutes 2010, section 144.9502, subdivision 3, is amended to read:

8.7 Subd. 3. **Reports of blood lead analysis required.** (a) Upon receiving the written
8.8 informed consent of the individual in accordance with paragraph (d), every hospital,
8.9 medical clinic, medical laboratory, other facility, or individual performing blood lead
8.10 analysis shall report the results after the analysis of each specimen analyzed, for both
8.11 capillary and venous specimens, and epidemiologic information required in this section to
8.12 the commissioner of health, within the time frames set forth in clauses (1) and (2):

8.13 (1) within two working days by telephone, fax, or electronic transmission, with
8.14 written or electronic confirmation within one month, for a venous blood lead level equal to
8.15 or greater than 15 micrograms of lead per deciliter of whole blood; or

8.16 (2) within one month in writing or by electronic transmission, for any capillary
8.17 result or for a venous blood lead level less than 15 micrograms of lead per deciliter of
8.18 whole blood.

8.19 (b) If a blood lead analysis is performed outside of Minnesota and the facility
8.20 performing the analysis does not report the blood lead analysis results and epidemiological
8.21 information required in this section to the commissioner, the provider who collected the
8.22 blood specimen must satisfy the reporting requirements of this section. For purposes of
8.23 this section, "provider" has the meaning given in section 62D.02, subdivision 9.

8.24 (c) The commissioner shall coordinate with hospitals, medical clinics, medical
8.25 laboratories, and other facilities performing blood lead analysis to develop a universal
8.26 reporting form and mechanism.

8.27 (d) Before a hospital, clinic, laboratory, or other facility reports the results of a
8.28 blood lead analysis to the commissioner, the facility must obtain a written informed
8.29 consent of the individual from whom the blood was drawn, or if the individual is a minor,
8.30 the minor's parent or legal guardian. The commissioner shall provide the facilities with
8.31 proper consent forms.

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

8.33 Sec. 16. Minnesota Statutes 2010, section 144.966, subdivision 3, is amended to read:

9.1 Subd. 3. **Early hearing detection and intervention programs.** All hospitals
9.2 shall establish an early hearing detection and intervention (EHDI) program. Each EHDI
9.3 program shall:

9.4 (1) in advance of any hearing screening testing, provide to the newborn's or infant's
9.5 parents or parent information concerning the nature of the screening procedure, applicable
9.6 costs of the screening procedure, the potential risks and effects of hearing loss, and the
9.7 benefits of early detection and intervention;

9.8 (2) ~~comply with~~ require parental consent ~~under section 144.125, subdivision 3~~ prior
9.9 to performing the hearing screening test;

9.10 (3) develop policies and procedures for screening and rescreening based on
9.11 Department of Health recommendations;

9.12 (4) provide appropriate training and monitoring of individuals responsible for
9.13 performing hearing screening tests as recommended by the Department of Health;

9.14 (5) if parental consent is obtained, test the newborn's hearing prior to discharge, or,
9.15 if the newborn is expected to remain in the hospital for a prolonged period, testing shall be
9.16 performed prior to three months of age or when medically feasible;

9.17 (6) develop and implement procedures for documenting the results of all hearing
9.18 screening tests;

9.19 (7) inform the newborn's or infant's parents or parent, ~~and~~ primary care physician,
9.20 ~~and the Department of Health according to recommendations of the Department of Health~~
9.21 of the results of the hearing screening test or rescreening if conducted, or if the newborn or
9.22 infant was not successfully tested. Upon the written informed consent of the parents or
9.23 legal guardian of the newborn, the results of the hearing screening test shall be reported to
9.24 the Department of Health. The hospital that discharges the newborn or infant to home is
9.25 responsible for the screening; and

9.26 (8) collect performance data specified by the Department of Health.

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

9.28 Sec. 17. Minnesota Statutes 2010, section 144.966, subdivision 4, is amended to read:

9.29 Subd. 4. **Notification and information.** (a) Notification to the parents or parent,
9.30 ~~and~~ primary care provider, ~~and the Department of Health~~ shall occur prior to discharge or
9.31 no later than ten days following the date of testing. Notification shall include information
9.32 recommended by the Department of Health.

9.33 (b) A physician, nurse, midwife, or other health professional attending a birth outside
9.34 a hospital or institution shall provide information, orally and in writing, as established by

10.1 the Department of Health, to parents regarding places where the parents may have their
10.2 infant's hearing screened and the importance of the screening.

10.3 (c) The professional conducting the diagnostic procedure to confirm the hearing loss
10.4 must report the results to the parents, ~~and primary care provider, and Department of Health~~
10.5 according to the Department of Health recommendations. Upon the written informed
10.6 consent of the parents or legal guardian of the newborn, the results must be reported to the
10.7 Department of Health, according to the department's recommendations.

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

10.9 Sec. 18. **REPEALER.**

10.10 Minnesota Statutes 2010, sections 13.3806, subdivision 10a; and 144.4195,
10.11 subdivisions 2 and 6, are repealed.

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

13.3806 PUBLIC HEALTH DATA CODED ELSEWHERE.

Subd. 10a. **Isolation or quarantine directive.** Data in a directive issued by the commissioner of health under section 144.4195, subdivision 2, to isolate or quarantine a person or group of persons are classified in section 144.4195, subdivision 6.

144.4195 DUE PROCESS FOR ISOLATION OR QUARANTINE OF PERSONS.

Subd. 2. **Temporary hold upon commissioner's directive.** (a) Notwithstanding subdivision 1, the commissioner of health may by directive isolate or quarantine a person or group of persons without first obtaining a written, ex parte order from the court if a delay in isolating or quarantining the person or group of persons would significantly jeopardize the commissioner of health's ability to prevent or limit the transmission of a communicable or potentially communicable life-threatening disease to others. The directive shall specify the known period of incubation or communicability or the estimated period under the commissioner's best medical judgment when the disease is unknown. The directive remains in effect for the period specified unless amended by the commissioner or superseded by a court order. The commissioner must provide the person or group of persons subject to the temporary hold with notice that the person has a right to request a court hearing under this section and a right to be represented by counsel during a proceeding under this section. If it is impracticable to provide individual notice to each person subject to the temporary hold, notice of these rights may be posted in the same manner as the posting of orders under subdivision 1, paragraph (c). Immediately upon executing the directive and initiating notice of the parties subject to it, the commissioner shall initiate the process to apply for a written, ex parte order pursuant to subdivision 1 authorizing the isolation or quarantine. The court must rule within 24 hours of receipt of the application or sooner if practicable or necessary. If the person is under a temporary hold, the person may not be held in isolation or quarantine after the temporary hold expires unless the court issues an ex parte order under subdivision 1. If the court does not rule within 36 hours after the execution of the directive, the directive shall expire.

(b) At the same time the commissioner initiates the process to apply for a written, ex parte order under paragraph (a), the commissioner shall notify the governor, the majority and minority leaders of the senate, the speaker and majority and minority leaders of the house of representatives, and the chairs and the ranking minority members of the senate and house of representatives committees having jurisdiction over health policy that a directive for a temporary hold has been issued under this subdivision. Notice under this paragraph is governed by the data privacy provisions of subdivision 6.

(c) Any peace officer, as defined in section 144.4803, subdivision 16, may assist a public health official to apprehend, hold, transport, quarantine, or isolate a person subject to the commissioner's directive. This subdivision is authority to carry out enforcement duties under this section. The commissioner or an agent of a local board of health authorized under section 145A.04 shall advise the peace officer on request of protective measures recommended to protect the officer from possible transmission of the communicable disease. The peace officer may act upon telephone, facsimile, or other electronic notification of the commissioner's directive or upon the request of an agent of a local board of health.

(d) If a person subject to a commissioner's directive under paragraph (a) is already institutionalized in an appropriate health care facility, the commissioner of health may direct the facility to continue to hold the person. The facility shall take all reasonable measures to prevent the person from exposing others to the communicable disease.

Subd. 6. **Data privacy.** Data on individuals contained in the commissioner's directive under subdivision 2 are health data under section 13.3805, subdivision 1.