

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1434

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| DATE | D-PG | OFFICIAL STATUS |
|------------|-------|--|
| 03/05/2015 | 574 | Introduction and first reading Referred to Health, Human Services and Housing |
| 03/09/2015 | 617 | Withdrawn and re-referred to Judiciary |
| 03/16/2015 | 845a | Comm report: To pass as amended |
| | 893 | Second reading |
| | 4868 | Rule 47, returned to Judiciary |
| 03/14/2016 | 4975a | Comm report: To pass as amended |
| | 5016 | Second reading |

A bill for an act

1.1 relating to human services; modifying human services data provisions; amending
 1.2 Minnesota Statutes 2014, sections 13.46, subdivisions 1, 3; 13.461, subdivision
 1.3 28; 13.4967, by adding a subdivision; 119B.02, subdivision 6; 245C.05,
 1.4 subdivisions 2c, 5; 245C.08, subdivision 2; 256.01, subdivisions 18d, 18e;
 1.5 256B.04, by adding a subdivision; 626.557, subdivision 12b; Minnesota Statutes
 1.6 2015 Supplement, section 13.69, subdivision 1.
 1.7

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

1.9 Section 1. Minnesota Statutes 2014, section 13.46, subdivision 1, is amended to read:

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

1.11 (a) "Individual" means an individual according to section 13.02, subdivision 8,

1.12 but does not include a vendor of services.

1.13 (b) "Program" includes all programs for which authority is vested in a component of

1.14 the welfare system according to statute or federal law, including, but not limited to, the

1.15 aid to families with dependent children program formerly codified in sections 256.72 to

1.16 256.87, Minnesota family investment program, temporary assistance for needy families

1.17 program, medical assistance, general assistance, general assistance medical care, child

1.18 care assistance program, and child support collections.

1.19 (c) "Welfare system" includes:

1.20 (1) the Department of Human Services;₂

1.21 (2) local social services agencies;₂

1.22 (3) county welfare agencies;₂

1.23 (4) private licensing agencies;₂

1.24 (5) the public authority responsible for child support enforcement;₂

1.25 (6) human services boards;₂

2.1 (7) community mental health center boards;

2.2 (8) state hospitals;

2.3 (9) state nursing homes;

2.4 (10) the ombudsman for mental health and developmental disabilities;

2.5 (11) tribal social services or welfare agencies that are operated by federally

2.6 recognized tribes and that are under contract to any of the above agencies to the extent

2.7 specified in the contract; and

2.8 (12) persons, agencies, institutions, organizations, and other entities under contract

2.9 to any of the above agencies to the extent specified in the contract.

2.10 (d) "Mental health data" means data on individual clients and patients of community
2.11 mental health centers, established under section 245.62, mental health divisions of
2.12 counties and other providers under contract to deliver mental health services, or the
2.13 ombudsman for mental health and developmental disabilities.

2.14 (e) "Fugitive felon" means a person who has been convicted of a felony and who has
2.15 escaped from confinement or violated the terms of probation or parole for that offense.

2.16 (f) "Private licensing agency" means an agency licensed by the commissioner of
2.17 human services under chapter 245A to perform the duties under section 245A.16.

2.18 Sec. 2. Minnesota Statutes 2014, section 13.46, subdivision 3, is amended to read:

2.19 Subd. 3. **Investigative data.** (a) Data on persons, including data on vendors of
2.20 services, licensees, and applicants that is collected, maintained, used, or disseminated
2.21 by the welfare system in an investigation, authorized by statute, and relating to the
2.22 enforcement of rules or law are confidential data on individuals pursuant to section 13.02,
2.23 subdivision 3, or protected nonpublic data not on individuals pursuant to section 13.02,
2.24 subdivision 13, and shall not be disclosed except:

2.25 (1) pursuant to section 13.05;

2.26 (2) pursuant to statute or valid court order;

2.27 (3) to a party named in a civil or criminal proceeding, administrative or judicial, for
2.28 preparation of defense; ~~or~~

2.29 (4) to provide notices required or permitted by statute; or

2.30 (5) for purposes of investigation or prosecution under a criminal, civil, or

2.31 administrative proceeding related to the administration of a program in the welfare system
2.32 to:

2.33 (i) an agent of the welfare system; or

2.34 (ii) a law enforcement officer, an investigator, or a prosecutor acting on behalf of a
2.35 county, the state, or the federal government.

3.1 The data referred to in this subdivision shall be classified as public data upon
3.2 submission to an administrative law judge or court in an administrative or judicial
3.3 proceeding. Inactive welfare investigative data shall be treated as provided in section
3.4 13.39, subdivision 3.

3.5 (b) Notwithstanding any other provision in law, the commissioner of human services
3.6 shall provide all active and inactive investigative data, including the name of the reporter
3.7 of alleged maltreatment under section 626.556 or 626.557, to the ombudsman for mental
3.8 health and developmental disabilities upon the request of the ombudsman.

3.9 (c) Notwithstanding paragraph (a) and section 13.39, the existence of an
3.10 investigation by the commissioner of possible overpayments of public funds to a service
3.11 provider or recipient may be disclosed if the commissioner determines that it will not
3.12 compromise the investigation.

3.13 Sec. 3. Minnesota Statutes 2014, section 13.461, subdivision 28, is amended to read:

3.14 Subd. 28. **Child care assistance program.** Child care assistance program payment
3.15 data and data collected, maintained, used, or disseminated by the welfare system pertaining
3.16 to persons selected as legal nonlicensed child care providers by families receiving child
3.17 care assistance are classified under section 119B.02, subdivision 6.

3.18 Sec. 4. Minnesota Statutes 2014, section 13.4967, is amended by adding a subdivision
3.19 to read:

3.20 Subd. 9. **Data on medical assistance applicants and current or former**
3.21 **recipients.** Certain data on medical assistance applicants and current or former recipients
3.22 of medical assistance may be shared according to section 256B.04, subdivision 25.

3.23 Sec. 5. Minnesota Statutes 2015 Supplement, section 13.69, subdivision 1, is amended
3.24 to read:

3.25 Subdivision 1. **Classifications.** (a) The following government data of the
3.26 Department of Public Safety are private data:

3.27 (1) medical data on driving instructors, licensed drivers, and applicants for parking
3.28 certificates and special license plates issued to physically disabled persons;

3.29 (2) other data on holders of a disability certificate under section 169.345, except
3.30 that (i) data that are not medical data may be released to law enforcement agencies, and
3.31 (ii) data necessary for enforcement of sections 169.345 and 169.346 may be released to
3.32 parking enforcement employees or parking enforcement agents of statutory or home rule
3.33 charter cities and towns;

4.1 (3) Social Security numbers in driver's license and motor vehicle registration
 4.2 records, except that Social Security numbers must be provided to the Department of
 4.3 Revenue for purposes of tax administration, the Department of Labor and Industry for
 4.4 purposes of workers' compensation administration and enforcement, and the Department
 4.5 of Natural Resources for purposes of license application administration; and:

4.6 (i) the Department of Revenue for purposes of tax administration;

4.7 (ii) the Department of Labor and Industry for purposes of workers' compensation
 4.8 administration and enforcement;

4.9 (iii) the Department of Human Services for purposes of recovering Minnesota health
 4.10 care program benefits paid for recipients injured in motor vehicle accidents; and

4.11 (iv) the Department of Natural Resources for purposes of license application
 4.12 administration; and

4.13 (4) data on persons listed as standby or temporary custodians under section 171.07,
 4.14 subdivision 11, except that the data must be released to:

4.15 (i) law enforcement agencies for the purpose of verifying that an individual is a
 4.16 designated caregiver; or

4.17 (ii) law enforcement agencies who state that the license holder is unable to
 4.18 communicate at that time and that the information is necessary for notifying the designated
 4.19 caregiver of the need to care for a child of the license holder.

4.20 The department may release the Social Security number only as provided in clause
 4.21 (3) and must not sell or otherwise provide individual Social Security numbers or lists of
 4.22 Social Security numbers for any other purpose.

4.23 (b) The following government data of the Department of Public Safety are
 4.24 confidential data: data concerning an individual's driving ability when that data is received
 4.25 from a member of the individual's family.

4.26 Sec. 6. Minnesota Statutes 2014, section 119B.02, subdivision 6, is amended to read:

4.27 Subd. 6. **Data.** (a) Data collected, maintained, used, or disseminated by the
 4.28 welfare system pertaining to persons selected as legal nonlicensed child care providers
 4.29 by families receiving child care assistance shall be treated as licensing data as provided
 4.30 in section 13.46, subdivision 4.

4.31 (b) Child care assistance program payment data are public when the data relate to a
 4.32 child care assistance program payment made to a licensed child care center or a child care
 4.33 center exempt from licensure that meets one or more of the following criteria:

5.1 (1) the center has been disqualified from receiving payment for child care services
5.2 from the child care assistance program under this chapter due to wrongfully obtaining
5.3 child care assistance under section 256.98, subdivision 8, paragraph (c);

5.4 (2) the center has been refused a child care authorization, has had a child care
5.5 authorization revoked, has had a payment stopped, or has been denied payment for a bill
5.6 under section 119B.13, subdivision 6, paragraph (d); or

5.7 (3) the center has been investigated for financial misconduct under section 245E.02,
5.8 resulting in a finding that financial misconduct occurred.

5.9 Any payment data that may identify a specific child care assistance recipient or benefits
5.10 paid on behalf of a specific child care assistance recipient, as determined by the
5.11 commissioner, are private data on individuals. For purposes of this paragraph, "payment
5.12 data" means data showing that a child care assistance program payment was made and
5.13 the amount of child care assistance program payments made to a child care center over a
5.14 specified time period. Payment data may include the numbers of families and children on
5.15 whose behalf payments were made over the specified time period.

5.16 Sec. 7. Minnesota Statutes 2014, section 245C.05, subdivision 2c, is amended to read:

5.17 Subd. 2c. **Privacy notice to background study subject.** (a) Prior to initiating each
5.18 background study, the entity initiating the study must provide the commissioner's privacy
5.19 notice to the background study subject required under section 13.04, subdivision 2. The
5.20 notice must be available through the commissioner's electronic NETStudy and NETStudy
5.21 2.0 systems and shall include the information in paragraphs (b) and (c).

5.22 (b) The background study subject shall be informed that any previous background
5.23 studies that received a set-aside will be reviewed, and without further contact with the
5.24 background study subject, the commissioner may notify the agency that initiated the
5.25 subsequent background study:

5.26 (1) that the individual has a disqualification that has been set aside for the program
5.27 or agency that initiated the study;

5.28 (2) the reason for the disqualification; and

5.29 (3) that information about the decision to set aside the disqualification will be
5.30 available to the license holder upon request without the consent of the background study
5.31 subject.

5.32 (c) The background study subject must also be informed that:

5.33 (1) the subject's fingerprints collected for purposes of completing the background
5.34 study under this chapter must not be retained by the Department of Public Safety, Bureau

6.1 of Criminal Apprehension, or by the commissioner, but will be retained by the Federal
6.2 Bureau of Investigation;

6.3 (2) effective upon implementation of NETStudy 2.0, the subject's photographic
6.4 image will be retained by the commissioner, and if the subject has provided the subject's
6.5 Social Security number for purposes of the background study, the photographic image will
6.6 be available to prospective employers and agencies initiating background studies under
6.7 this chapter to verify the identity of the subject of the background study;

6.8 (3) the commissioner's authorized fingerprint collection vendor shall, for purposes
6.9 of verifying the identity of the background study subject, be able to view the identifying
6.10 information entered into NETStudy 2.0 by the entity that initiated the background study,
6.11 but shall not retain the subject's fingerprints, photograph, or information from NETStudy
6.12 2.0. The authorized fingerprint collection vendor shall retain no more than the subject's
6.13 name and the date and time the subject's fingerprints were recorded and sent, only as
6.14 necessary for auditing and billing activities;

6.15 (4) the commissioner shall provide the subject notice, as required in section 245C.17,
6.16 subdivision 1, paragraph (a), when an entity initiates a background study on the individual;

6.17 (5) the subject may request in writing a report listing the entities that initiated
6.18 a background study on the individual as provided in section 245C.17, subdivision 1,
6.19 paragraph (b);

6.20 (6) the subject may request in writing that information used to complete the
6.21 individual's background study in NETStudy 2.0 be destroyed if the requirements of section
6.22 245C.051, paragraph (a), are met; and

6.23 (7) notwithstanding clause (6), the commissioner shall destroy:

6.24 (i) the subject's photograph after a period of two years when the requirements of
6.25 section 245C.051, paragraph (c), are met; and

6.26 (ii) any data collected on a subject under this chapter after a period of two years
6.27 following the individual's death as provided in section 245C.051, paragraph (d).

6.28 (d) For background study subjects who are younger than age 18, the privacy notice
6.29 provided through NETStudy 2.0 shall include a consent form that includes the information
6.30 in paragraphs (b) and (c) and requires the signature of a person who has legal responsibility
6.31 for the minor, including but not limited to a parent or legal guardian, to consent to the
6.32 minor subject's fingerprints and photograph being captured.

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

6.34 Sec. 8. Minnesota Statutes 2014, section 245C.05, subdivision 5, is amended to read:

7.1 Subd. 5. **Fingerprints and photograph.** (a) Before the implementation of
7.2 NETStudy 2.0, except as provided in paragraph (c), for any background study completed
7.3 under this chapter, when the commissioner has reasonable cause to believe that further
7.4 pertinent information may exist on the subject of the background study, the subject
7.5 shall provide the commissioner with a set of classifiable fingerprints obtained from an
7.6 authorized agency.

7.7 (b) Before the implementation of NETStudy 2.0, for purposes of requiring
7.8 fingerprints, the commissioner has reasonable cause when, but not limited to, the:

7.9 (1) information from the Bureau of Criminal Apprehension indicates that the subject
7.10 is a multistate offender;

7.11 (2) information from the Bureau of Criminal Apprehension indicates that multistate
7.12 offender status is undetermined; or

7.13 (3) commissioner has received a report from the subject or a third party indicating
7.14 that the subject has a criminal history in a jurisdiction other than Minnesota.

7.15 (c) Notwithstanding paragraph (d), for background studies conducted by the
7.16 commissioner for child foster care, adoptions, or a transfer of permanent legal and
7.17 physical custody of a child, the subject of the background study, who is 18 years of age
7.18 or older, shall provide the commissioner with a set of classifiable fingerprints obtained
7.19 from an authorized agency.

7.20 (d) For background studies initiated on or after the implementation of NETStudy
7.21 2.0, every subject of a background study must provide the commissioner with a set of the
7.22 background study subject's classifiable fingerprints and photograph within 14 days of the
7.23 initiation of the background study in NETStudy 2.0. The photograph and fingerprints must
7.24 be recorded at the same time by the commissioner's authorized fingerprint collection vendor
7.25 and sent to the commissioner through the commissioner's secure data system described in
7.26 section 245C.32, subdivision 1a, paragraph (b). The fingerprints shall not be retained by
7.27 the Department of Public Safety, Bureau of Criminal Apprehension, or the commissioner,
7.28 but will be retained by the Federal Bureau of Investigation. The commissioner's authorized
7.29 fingerprint collection vendor shall, for purposes of verifying the identity of the background
7.30 study subject, be able to view the identifying information entered into NETStudy 2.0 by
7.31 the entity that initiated the background study, but shall not retain the subject's fingerprints,
7.32 photograph, or information from NETStudy 2.0. The authorized fingerprint collection
7.33 vendor shall retain no more than the name and date and time the subject's fingerprints were
7.34 recorded and sent, only as necessary for auditing and billing activities.

7.35 (e) For background studies completed by county agencies under this chapter for
7.36 family child care services, any subject of a background study who has resided in another

8.1 state within the five years preceding initiation of the background study must provide the
 8.2 county agency with a set of the subject's classifiable fingerprints for purposes of obtaining
 8.3 criminal history data from the National Criminal Records Repository.

8.4 (f) For background studies initiated on or after the implementation of NETStudy 2.0:

8.5 (1) the subject must be under continuous, direct supervision of the program that
 8.6 initiated the background study when providing direct contact services, until a notice
 8.7 under section 245C.17 is received;

8.8 (2) the entity that initiated the background study must be notified if seven days have
 8.9 elapsed and the background study subject has not provided fingerprints and a photograph
 8.10 under paragraph (d); and

8.11 (3) if a background study subject fails to provide fingerprints and a photograph
 8.12 under paragraph (d), the commissioner shall issue the entity that initiated the background
 8.13 study and the background study subject a notice that the background study has not been
 8.14 completed and that the subject must be removed from any position allowing direct contact
 8.15 or access to persons served by the entity.

8.16 The commissioner may extend the time period for providing fingerprints and a
 8.17 photograph if the background study subject or the entity that initiated the background
 8.18 study shows good cause for failure to comply in a timely manner, as determined by the
 8.19 commissioner.

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

8.21 Sec. 9. Minnesota Statutes 2014, section 245C.08, subdivision 2, is amended to read:

8.22 Subd. 2. **Background studies conducted by a county agency.** (a) For a
 8.23 background study conducted by a county agency for family child care services, the
 8.24 commissioner shall review:

8.25 (1) information from the county agency's record of substantiated maltreatment
 8.26 of adults and the maltreatment of minors;

8.27 (2) information from juvenile courts as required in subdivision 4 for:

8.28 (i) individuals listed in section 245C.03, subdivision 1, paragraph (a), who are ages
 8.29 13 through 23 living in the household where the licensed services will be provided; and

8.30 (ii) any other individual listed under section 245C.03, subdivision 1, when there
 8.31 is reasonable cause; ~~and~~

8.32 (3) information from the Bureau of Criminal Apprehension; and

8.33 (4) criminal history data from the National Criminal Records Repository when the
 8.34 individual has resided in another state within the five years preceding initiation of the
 8.35 background study.

9.1 (b) If the individual has not resided in the county for ~~less than~~ the five years
 9.2 preceding initiation of the background study, the study shall include the records specified
 9.3 under paragraph (a) for the individual's previous county or counties of residence for the
 9.4 past five years.

9.5 (c) Notwithstanding expungement by a court, the county agency may consider
 9.6 information obtained under paragraph (a), clause (3), unless the commissioner received
 9.7 notice of the petition for expungement and the court order for expungement is directed
 9.8 specifically to the commissioner.

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

9.10 Sec. 10. Minnesota Statutes 2014, section 256.01, subdivision 18d, is amended to read:

9.11 Subd. 18d. **Data sharing with Department of Human Services; multiple**
 9.12 **identification cards.** (a) The commissioner of public safety shall, on a monthly basis,
 9.13 provide the commissioner of human services with the first, middle, and last name, the
 9.14 address, date of birth, Social Security number, driver's license or state identification
 9.15 card number, and all photographs or electronically produced images of all applicants
 9.16 and holders whose drivers' licenses and state identification cards have been canceled
 9.17 on or after January 1, 2013, under section 171.14, paragraph (a), clause (2) or (3), by
 9.18 the commissioner of public safety. After the initial data report has been provided by
 9.19 the commissioner of public safety to the commissioner of human services under this
 9.20 paragraph, subsequent reports shall only include cancellations that occurred after the end
 9.21 date of the cancellations represented in the previous data report.

9.22 (b) The commissioner of human services shall compare the information provided
 9.23 under paragraph (a) with the commissioner's data regarding recipients of all public
 9.24 assistance programs managed by the Department of Human Services to determine whether
 9.25 any individual with multiple identification cards issued by the Department of Public
 9.26 Safety has illegally or improperly enrolled in any public assistance program managed by
 9.27 the Department of Human Services.

9.28 (c) If the commissioner of human services determines that an applicant or recipient
 9.29 has illegally or improperly enrolled in any public assistance program, the commissioner
 9.30 shall provide all due process protections to the individual before terminating the individual
 9.31 from the program according to applicable statute and notifying the county attorney.

9.32 Sec. 11. Minnesota Statutes 2014, section 256.01, subdivision 18e, is amended to read:

9.33 Subd. 18e. **Data sharing with the Department of Human Services; legal presence**
 9.34 **date.** (a) The commissioner of public safety shall, on a monthly basis, provide the

10.1 commissioner of human services with the first, middle, and last name, and address, date of
10.2 birth, Social Security number, and driver's license or state identification card number of all
10.3 applicants and holders of drivers' licenses and state identification cards whose temporary
10.4 legal presence date has expired and as a result the driver's license or identification card has
10.5 been accordingly canceled under section 171.14 by the commissioner of public safety.

10.6 (b) The commissioner of human services shall use the information provided under
10.7 paragraph (a) to determine whether the eligibility of any recipients of public assistance
10.8 programs managed by the Department of Human Services has changed as a result of the
10.9 status change in the Department of Public Safety data.

10.10 (c) If the commissioner of human services determines that a recipient has illegally or
10.11 improperly received benefits from any public assistance program, the commissioner shall
10.12 provide all due process protections to the individual before terminating the individual from
10.13 the program according to applicable statute and notifying the county attorney.

10.14 Sec. 12. Minnesota Statutes 2014, section 256B.04, is amended by adding a
10.15 subdivision to read:

10.16 **Subd. 25. Interagency agreement for data sharing from commissioner**
10.17 **of revenue.** The commissioner may enter into an interagency agreement with the
10.18 commissioner of revenue to allow the Department of Revenue to transmit electronically
10.19 to the Department of Human Services certain data on persons who applied for medical
10.20 assistance or who are current or former medical assistance recipients. If an interagency
10.21 agreement is concluded, the Department of Revenue is authorized to share the following
10.22 data with the Department of Human Services: data from the personal or corporate filings
10.23 of the medical assistance applicant, recipient, or former recipient; and data on the medical
10.24 assistance applicant's, recipient's, or former recipient's wages, earned and unearned
10.25 income, assets, and business expenses filed with the Department of Revenue.

10.26 Sec. 13. Minnesota Statutes 2014, section 626.557, subdivision 12b, is amended to read:

10.27 **Subd. 12b. **Data management.**** (a) In performing any of the duties of this section as
10.28 a lead investigative agency, the county social service agency shall maintain appropriate
10.29 records. Data collected by the county social service agency under this section are welfare
10.30 data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a),
10.31 data under this paragraph that are inactive investigative data on an individual who is a
10.32 vendor of services are private data on individuals, as defined in section 13.02. The identity
10.33 of the reporter may only be disclosed as provided in paragraph (c).

11.1 Data maintained by the common entry point are confidential data on individuals or
11.2 protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163,
11.3 the common entry point shall maintain data for three calendar years after date of receipt
11.4 and then destroy the data unless otherwise directed by federal requirements.

11.5 (b) The commissioners of health and human services shall prepare an investigation
11.6 memorandum for each report alleging maltreatment investigated under this section.
11.7 County social service agencies must maintain private data on individuals but are not
11.8 required to prepare an investigation memorandum. During an investigation by the
11.9 commissioner of health or the commissioner of human services, data collected under this
11.10 section are confidential data on individuals or protected nonpublic data as defined in
11.11 section 13.02. Upon completion of the investigation, the data are classified as provided in
11.12 clauses (1) to (3) and paragraph (c).

11.13 (1) The investigation memorandum must contain the following data, which are public:

11.14 (i) the name of the facility investigated;

11.15 (ii) a statement of the nature of the alleged maltreatment;

11.16 (iii) pertinent information obtained from medical or other records reviewed;

11.17 (iv) the identity of the investigator;

11.18 (v) a summary of the investigation's findings;

11.19 (vi) statement of whether the report was found to be substantiated, inconclusive,
11.20 false, or that no determination will be made;

11.21 (vii) a statement of any action taken by the facility;

11.22 (viii) a statement of any action taken by the lead investigative agency; and

11.23 (ix) when a lead investigative agency's determination has substantiated maltreatment,
11.24 a statement of whether an individual, individuals, or a facility were responsible for the
11.25 substantiated maltreatment, if known.

11.26 The investigation memorandum must be written in a manner which protects the
11.27 identity of the reporter and of the vulnerable adult and may not contain the names or, to
11.28 the extent possible, data on individuals or private data listed in clause (2).

11.29 (2) Data on individuals collected and maintained in the investigation memorandum
11.30 are private data, including:

11.31 (i) the name of the vulnerable adult;

11.32 (ii) the identity of the individual alleged to be the perpetrator;

11.33 (iii) the identity of the individual substantiated as the perpetrator; and

11.34 (iv) the identity of all individuals interviewed as part of the investigation.

11.35 (3) Other data on individuals maintained as part of an investigation under this section
11.36 are private data on individuals upon completion of the investigation.

12.1 (c) After the assessment or investigation is completed, the name of the reporter
12.2 must be confidential. The subject of the report may compel disclosure of the name of the
12.3 reporter only with the consent of the reporter or upon a written finding by a court that
12.4 the report was false and there is evidence that the report was made in bad faith. This
12.5 subdivision does not alter disclosure responsibilities or obligations under the Rules of
12.6 Criminal Procedure, except that where the identity of the reporter is relevant to a criminal
12.7 prosecution, the district court shall do an in-camera review prior to determining whether
12.8 to order disclosure of the identity of the reporter.

12.9 (d) Notwithstanding section 138.163, data maintained under this section by the
12.10 commissioners of health and human services must be maintained under the following
12.11 schedule and then destroyed unless otherwise directed by federal requirements:

12.12 (1) data from reports determined to be false, maintained for three years after the
12.13 finding was made;

12.14 (2) data from reports determined to be inconclusive, maintained for four years after
12.15 the finding was made;

12.16 (3) data from reports determined to be substantiated, maintained for seven years
12.17 after the finding was made; and

12.18 (4) data from reports which were not investigated by a lead investigative agency and
12.19 for which there is no final disposition, maintained for three years from the date of the report.

12.20 (e) The commissioners of health and human services shall annually publish on their
12.21 Web sites the number and type of reports of alleged maltreatment involving licensed
12.22 facilities reported under this section, the number of those requiring investigation under this
12.23 section, and the resolution of those investigations. On a biennial basis, the commissioners
12.24 of health and human services shall jointly report the following information to the
12.25 legislature and the governor:

12.26 (1) the number and type of reports of alleged maltreatment involving licensed
12.27 facilities reported under this section, the number of those requiring investigations under
12.28 this section, the resolution of those investigations, and which of the two lead agencies
12.29 was responsible;

12.30 (2) trends about types of substantiated maltreatment found in the reporting period;

12.31 (3) if there are upward trends for types of maltreatment substantiated,
12.32 recommendations for addressing and responding to them;

12.33 (4) efforts undertaken or recommended to improve the protection of vulnerable adults;

12.34 (5) whether and where backlogs of cases result in a failure to conform with statutory
12.35 time frames and recommendations for reducing backlogs if applicable;

12.36 (6) recommended changes to statutes affecting the protection of vulnerable adults; and

- 13.1 (7) any other information that is relevant to the report trends and findings.
- 13.2 (f) Each lead investigative agency must have a record retention policy.
- 13.3 (g) The common entry point, lead investigative agencies, county agencies or their
13.4 designees, prosecuting authorities, and law enforcement agencies, state agencies, and
13.5 tribes may exchange not public data, as defined in section 13.02, if the agency or authority
13.6 requesting providing the data determines that the data are pertinent and necessary to the
13.7 requesting agency or authority for the provision of protective services or in initiating,
13.8 furthering, or completing an investigation under this section. Data collected under this
13.9 section must be made available to prosecuting authorities and law enforcement officials,
13.10 local county agencies, and licensing agencies investigating the alleged maltreatment
13.11 under this section. The lead investigative agency shall exchange not public data with the
13.12 vulnerable adult maltreatment review panel established in section 256.021 if the data
13.13 are pertinent and necessary for a review requested under that section. Notwithstanding
13.14 section 138.17, upon completion of the review, not public data received by the review
13.15 panel must be destroyed.
- 13.16 (h) Each lead investigative agency shall keep records of the length of time it takes to
13.17 complete its investigations.
- 13.18 (i) A lead investigative agency may notify other affected parties and their authorized
13.19 representative if the lead investigative agency has reason to believe maltreatment has
13.20 occurred and determines the information will safeguard the well-being of the affected
13.21 parties or dispel widespread rumor or unrest in the affected facility.
- 13.22 (j) Under any notification provision of this section, where federal law specifically
13.23 prohibits the disclosure of patient identifying information, a lead investigative agency may
13.24 not provide any notice unless the vulnerable adult has consented to disclosure in a manner
13.25 which conforms to federal requirements.