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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1883

03/16/2015 Authored by Franson

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

1.1 A bill for an act
1.2 relating to human services; making changes to provisions governing family child
1.3 care and group family child care providers; modifying the classifications of
1.4 certain data; modifying hearing requirements; requiring training of certain county
1.5 agency staff; amending Minnesota Statutes 2014, sections 13.46, subdivision 4;
1.6 245A.08, subdivisions 4, 5; proposing coding for new law in Minnesota Statutes,
1.7 chapter 245A.

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

1.9 Section 1. Minnesota Statutes 2014, section 13.46, subdivision 4, is amended to read:

1.10 Subd. 4. **Licensing data.** (a) As used in this subdivision:

1.11 (1) "licensing data" are all data collected, maintained, used, or disseminated by the
1.12 welfare system pertaining to persons licensed or registered or who apply for licensure
1.13 or registration or who formerly were licensed or registered under the authority of the
1.14 commissioner of human services;

1.15 (2) "client" means a person who is receiving services from a licensee or from an
1.16 applicant for licensure; and

1.17 (3) "personal and personal financial data" are Social Security numbers, identity
1.18 of and letters of reference, insurance information, reports from the Bureau of Criminal
1.19 Apprehension, health examination reports, and social/home studies.

1.20 (b)(1)(i) Except as provided in paragraph (c), the following data on applicants,
1.21 license holders, and former licensees are public: name, address, telephone number of
1.22 licensees, date of receipt of a completed application, dates of licensure, licensed capacity,
1.23 type of client preferred, variances granted, record of training and education in child care
1.24 and child development, type of dwelling, name and relationship of other family members,
1.25 previous license history, class of license, the existence and status of complaints, and the

2.1 number of serious injuries to or deaths of individuals in the licensed program as reported
2.2 to the commissioner of human services, the local social services agency, or any other
2.3 county welfare agency. For purposes of this clause, a serious injury is one that is treated
2.4 by a physician.

2.5 (ii) Except as provided in clause (6), when a correction order, an order to forfeit a
2.6 fine, an order of license suspension, an order of temporary immediate suspension, an order
2.7 of license revocation, an order of license denial, or an order of conditional license has
2.8 been issued, or a complaint is resolved, the following data on current and former licensees
2.9 and applicants are public: the general nature of the complaint or allegations leading to
2.10 the temporary immediate suspension; the substance and investigative findings of the
2.11 licensing or maltreatment complaint, licensing violation, or substantiated maltreatment;
2.12 the existence of settlement negotiations; the record of informal resolution of a licensing
2.13 violation; orders of hearing; findings of fact; conclusions of law; specifications of the final
2.14 correction order, fine, suspension, temporary immediate suspension, revocation, denial, or
2.15 conditional license contained in the record of licensing action; whether a fine has been
2.16 paid; and the status of any appeal of these actions.

2.17 (iii) When a license denial under section 245A.05 or a sanction under section
2.18 245A.07 is based on a determination that a license holder, applicant, or controlling
2.19 individual is responsible for maltreatment under section 626.556 or 626.557, the identity
2.20 of the applicant, license holder, or controlling individual as the individual responsible for
2.21 maltreatment is public data at the time of the issuance of the license denial or sanction.

2.22 (iv) When a license denial under section 245A.05 or a sanction under section
2.23 245A.07 is based on a determination that a license holder, applicant, or controlling
2.24 individual is disqualified under chapter 245C, the identity of the license holder,
2.25 applicant, or controlling individual as the disqualified individual and the reason for the
2.26 disqualification are public data at the time of the issuance of the licensing sanction or
2.27 denial. If the applicant, license holder, or controlling individual requests reconsideration of
2.28 the disqualification and the disqualification is affirmed, the reason for the disqualification
2.29 and the reason to not set aside the disqualification are public data.

2.30 (2) For applicants who withdraw their application prior to licensure or denial of a
2.31 license, the following data are public: the name of the applicant, the city and county in
2.32 which the applicant was seeking licensure, the dates of the commissioner's receipt of the
2.33 initial application and completed application, the type of license sought, and the date
2.34 of withdrawal of the application.

2.35 (3) Except as provided in clause (6), for applicants who are denied a license, the
2.36 following data are public: the name and address of the applicant, the city and county in

3.1 which the applicant was seeking licensure, the dates of the commissioner's receipt of
3.2 the initial application and completed application, the type of license sought, the date of
3.3 denial of the application, the nature of the basis for the denial, the existence of settlement
3.4 negotiations, the record of informal resolution of a denial, orders of hearings, findings
3.5 of fact, conclusions of law, specifications of the final order of denial, and the status of
3.6 any appeal of the denial.

3.7 (4) When maltreatment is substantiated under section 626.556 or 626.557 and the
3.8 victim and the substantiated perpetrator are affiliated with a program licensed under
3.9 chapter 245A, the commissioner of human services, local social services agency, or
3.10 county welfare agency may inform the license holder where the maltreatment occurred of
3.11 the identity of the substantiated perpetrator and the victim.

3.12 (5) Notwithstanding clause (1), for child foster care, only the name of the license
3.13 holder and the status of the license are public if the county attorney has requested that data
3.14 otherwise classified as public data under clause (1) be considered private data based on the
3.15 best interests of a child in placement in a licensed program.

3.16 (6) This clause applies to providers of family day care or group family day care as
3.17 defined in Minnesota Rules, part 9502.0315. When an order listed in clause (1), item (ii),
3.18 or a final order of denial listed in clause (3) is overturned on appeal, the data in clause (1),
3.19 item (ii), or clause (3) are private data on individuals or nonpublic data. When an order
3.20 listed in clause (1), item (ii), has been issued or a complaint is resolved, the following
3.21 data are private data on individuals or nonpublic data: the general nature of the complaint
3.22 or allegations leading to the temporary immediate suspension, and the substance and
3.23 investigative findings of the licensing or maltreatment complaint, licensing violation, or
3.24 substantiated maltreatment.

3.25 (c) The following are private data on individuals under section 13.02, subdivision
3.26 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial
3.27 data on family day care program and family foster care program applicants and licensees
3.28 and their family members who provide services under the license.

3.29 (d) The following are private data on individuals: the identity of persons who have
3.30 made reports concerning licensees or applicants that appear in inactive investigative data,
3.31 and the records of clients or employees of the licensee or applicant for licensure whose
3.32 records are received by the licensing agency for purposes of review or in anticipation of a
3.33 contested matter. The names of reporters of complaints or alleged violations of licensing
3.34 standards under chapters 245A, 245B, 245C, and 245D, and applicable rules and alleged
3.35 maltreatment under sections 626.556 and 626.557, are confidential data and may be
3.36 disclosed only as provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

4.1 (e) Data classified as private, confidential, nonpublic, or protected nonpublic under
4.2 this subdivision become public data if submitted to a court or administrative law judge as
4.3 part of a disciplinary proceeding in which there is a public hearing concerning a license
4.4 which has been suspended, immediately suspended, revoked, or denied.

4.5 (f) Data generated in the course of licensing investigations that relate to an alleged
4.6 violation of law are investigative data under subdivision 3.

4.7 (g) Data that are not public data collected, maintained, used, or disseminated under
4.8 this subdivision that relate to or are derived from a report as defined in section 626.556,
4.9 subdivision 2, or 626.5572, subdivision 18, are subject to the destruction provisions of
4.10 sections 626.556, subdivision 11c, and 626.557, subdivision 12b.

4.11 (h) Upon request, not public data collected, maintained, used, or disseminated under
4.12 this subdivision that relate to or are derived from a report of substantiated maltreatment as
4.13 defined in section 626.556 or 626.557 may be exchanged with the Department of Health
4.14 for purposes of completing background studies pursuant to section 144.057 and with
4.15 the Department of Corrections for purposes of completing background studies pursuant
4.16 to section 241.021.

4.17 (i) Data on individuals collected according to licensing activities under chapters
4.18 245A and 245C, data on individuals collected by the commissioner of human services
4.19 according to investigations under chapters 245A, 245B, 245C, and 245D, and sections
4.20 626.556 and 626.557 may be shared with the Department of Human Rights, the
4.21 Department of Health, the Department of Corrections, the ombudsman for mental health
4.22 and developmental disabilities, and the individual's professional regulatory board when
4.23 there is reason to believe that laws or standards under the jurisdiction of those agencies may
4.24 have been violated or the information may otherwise be relevant to the board's regulatory
4.25 jurisdiction. Background study data on an individual who is the subject of a background
4.26 study under chapter 245C for a licensed service for which the commissioner of human
4.27 services is the license holder may be shared with the commissioner and the commissioner's
4.28 delegate by the licensing division. Unless otherwise specified in this chapter, the identity
4.29 of a reporter of alleged maltreatment or licensing violations may not be disclosed.

4.30 (j) In addition to the notice of determinations required under section 626.556,
4.31 subdivision 10f, if the commissioner or the local social services agency has determined
4.32 that an individual is a substantiated perpetrator of maltreatment of a child based on sexual
4.33 abuse, as defined in section 626.556, subdivision 2, and the commissioner or local social
4.34 services agency knows that the individual is a person responsible for a child's care in
4.35 another facility, the commissioner or local social services agency shall notify the head
4.36 of that facility of this determination. The notification must include an explanation of the

5.1 individual's available appeal rights and the status of any appeal. If a notice is given under
5.2 this paragraph, the government entity making the notification shall provide a copy of the
5.3 notice to the individual who is the subject of the notice.

5.4 (k) All not public data collected, maintained, used, or disseminated under this
5.5 subdivision and subdivision 3 may be exchanged between the Department of Human
5.6 Services, Licensing Division, and the Department of Corrections for purposes of
5.7 regulating services for which the Department of Human Services and the Department
5.8 of Corrections have regulatory authority.

5.9 Sec. 2. Minnesota Statutes 2014, section 245A.08, subdivision 4, is amended to read:

5.10 Subd. 4. **Recommendation or decision of administrative law judge.** (a) Except as
5.11 provided in paragraph (b), the administrative law judge shall recommend whether or not the
5.12 commissioner's order should be affirmed. The recommendations must be consistent with
5.13 this chapter and the rules of the commissioner. The recommendations must be in writing
5.14 and accompanied by findings of fact and conclusions and must be mailed to the parties by
5.15 certified mail to their last known addresses as shown on the license or application.

5.16 (b) Following a hearing relating to the license of a family child care provider or
5.17 group family child care provider, the administrative law judge shall decide whether the
5.18 commissioner's order should be affirmed. The decision of the administrative law judge is
5.19 binding on both parties to the proceeding and is the final decision of the commissioner.
5.20 The decision of the administrative law judge must be consistent with this chapter and the
5.21 rules of the commissioner, must be in writing and accompanied by findings of fact and
5.22 conclusions of law, and must be mailed to the parties by certified mail to their last known
5.23 addresses as shown on the license or application.

5.24 Sec. 3. Minnesota Statutes 2014, section 245A.08, subdivision 5, is amended to read:

5.25 Subd. 5. **Notice of commissioner's final order.** After considering the findings of
5.26 fact, conclusions, and recommendations of the administrative law judge, the commissioner
5.27 shall issue a final order. The commissioner shall consider, but shall not be bound by, the
5.28 recommendations of the administrative law judge. The appellant must be notified of
5.29 the commissioner's final order as required by chapter 14 and Minnesota Rules, parts
5.30 1400.8505 to 1400.8612. The notice must also contain information about the appellant's
5.31 rights under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The
5.32 institution of proceedings for judicial review of the commissioner's final order shall
5.33 not stay the enforcement of the final order except as provided in section 14.65. This

6.1 subdivision does not apply to hearings relating to the license of a family child care
6.2 provider or group family child care provider.

6.3 Sec. 4. **[245A.55] TRAINING FOR COUNTY LICENSING STAFF ON FAMILY**
6.4 **CHILD CARE AND GROUP FAMILY CHILD CARE REQUIREMENTS.**

6.5 Each calendar year, county agency staff who license and regulate family child care
6.6 providers and group family child care providers must complete a training program on
6.7 provisions in Minnesota Statutes, chapter 245A, relating to family child care providers and
6.8 group family child care providers; the requirements of Minnesota Rules, chapter 9502;
6.9 and new laws enacted or adopted in the previous 12-month period relating to family child
6.10 care providers and group family child care providers. The commissioner shall develop
6.11 the annual training program, update it each year to include information on new laws, and
6.12 disseminate it to county agencies.