

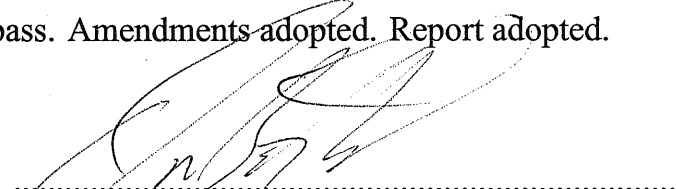
Senator Betzold from the Committee on Judiciary, to which was referred

S.F. No. 2995: A bill for an act relating to liens; regulating liens for storage charges on certain motor vehicles; amending Minnesota Statutes 2004, section 514.19.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, delete line 3 and insert "section fulfills the notice to secured creditors required in section 514.20, subject to the time period required under that section."

And when so amended the bill do pass. Amendments adopted. Report adopted.


.....
(Committee Chair)

March 28, 2006
(Date of Committee recommendation)

Senators Anderson and Senjem introduced—

S.F. No. 2995: Referred to the Committee on Judiciary.

A bill for an act

1.2 relating to liens; regulating liens for storage charges on certain motor vehicles;
1.3 amending Minnesota Statutes 2004, section 514.19.

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

1.5 Section 1. Minnesota Statutes 2004, section 514.19, is amended to read:

1.6 **514.19 RIGHT OF DETAINER.**

1.7 A lien and right of detainer exists for:

1.8 (1) transporting property, other than harvested crops or livestock, from one place to
1.9 another but not as a carrier under article 7 of the Uniform Commercial Code;

1.10 (2) keeping or storing property, other than harvested crops or livestock, as a bailee
1.11 but not as a warehouse operator under article 7 of the Uniform Commercial Code;

1.12 (3) the use and storage of molds and patterns in the possession of the fabricator
1.13 belonging to the customer for the balance due from the customer for fabrication work;

1.14 (4) making, altering or repairing any article, other than livestock, or expending
1.15 any labor, skill or material on it;

1.16 (5) reasonable charges for a vehicle rented as a replacement for a vehicle serviced or
1.17 repaired and being retained as provided by this section.

1.18 The liens embrace all lawful charges against the property paid to any other person
1.19 by the person claiming the lien, and the price or value of the care, storage or contribution
1.20 and all reasonable disbursements occasioned by the detention or sale of the property.

1.21 If the property subject to the lien is a motor vehicle registered in this state and
1.22 subject to a certificate of title and one or more secured creditors is listed on the certificate
1.23 of title, a lien for storage charges for a period greater than five days accrues only after
1.24 written notice is sent by registered mail to all listed secured creditors. The notice must

- 2.1 state the name, address, and telephone number of the lienholder, the amount of money
- 2.2 owed, and the rate at which storage charges are accruing. The notice provided in this
- 2.3 section may fulfill the notice obligation to secured creditors provided in section 514.20.

**Senate Counsel, Research,
and Fiscal Analysis**

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State of Minnesota

S.F. No. 2995 - Motor Vehicle Storage Liens

Author: Senator Ellen R. Anderson

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

Date: March 15, 2006

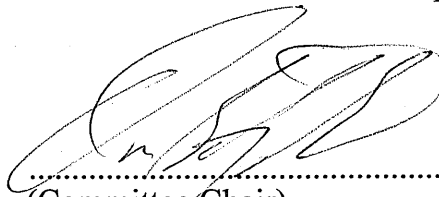
This bill amends the statute establishing a lien and right of detainer for storing property. If the property is a motor vehicle registered in this state and subject to a certificate of title and one or more secured creditors is listed on the title, a lien for a period greater than five days accrues only after written notice is sent by registered mail to all secured creditors. The notice must state the name, address, and telephone number of the lienholder, the amount of money owed, and the rate at which storage charges are accruing. This notice may fulfill the notice obligation for secured creditors required under **section 514.20** (the statute authorizing sale of property if a lien is not paid within 90 days after it becomes due).

KP:cs

1.1 **Senator Betzold from the Committee on Judiciary, to which was re-referred**

1.2 **S.F. No. 1695: A bill for an act relating to health; modifying access to health care**
1.3 **records; amending Minnesota Statutes 2004, section 144.335, by adding a subdivision.**

1.4 Reports the same back with the recommendation that the bill do pass. Report
1.5 adopted.



1.6
1.7 (Committee Chair)

1.8 March 28, 2006
1.9 (Date of Committee recommendation)

1.1 A bill for an act
 1.2 relating to health; modifying access to health care records; amending Minnesota
 1.3 Statutes 2004, section 144.335, by adding a subdivision.

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

1.5 Section 1. Minnesota Statutes 2004, section 144.335, is amended by adding a
 1.6 subdivision to read:

1.7 Subd. 3d. Release of records for family and caretaker involvement in mental
 1.8 health care. (a) Notwithstanding subdivision 3a, a provider providing mental health care
 1.9 and treatment may disclose health record information described in paragraph (b) about a
 1.10 patient to a family member of the patient or other person who requests the information if:

1.11 (1) the request for information is in writing;

1 (2) the family member or other person lives with, provides care for, or is directly
 1.13 involved in monitoring the treatment of the patient;

1.14 (3) the involvement under clause (2) is verified by the patient's mental health care
 1.15 provider, the patient's attending physician, or a person other than the person requesting
 1.16 the information;

1.17 (4) before the disclosure, the patient is informed in writing of the request, the name
 1.18 of the person requesting the information, the reason for the request, and the specific
 1.19 information being requested;

1.20 (5) the patient agrees to the disclosure, does not object to the disclosure, or is unable
 1.21 to consent or object; and

1.22 (6) the disclosure is necessary to assist in the provision of care or monitoring of the
 1.23 patient's treatment.

2.1 (b) The information disclosed under this subdivision is limited to diagnosis,
2.2 admission to or discharge from treatment, the name and dosage of the medications
2.3 prescribed, side effects of the medication, consequences of failure of the patient to take the
2.4 prescribed medication, and a summary of the discharge plan.

2.5 (c) If a provider reasonably determines that providing information under this
2.6 subdivision would be detrimental to the physical or mental health of the patient or is
2.7 likely to cause the patient to inflict self harm or to harm another, the provider must not
2.8 disclose the information.

2.9 (d) This subdivision does not apply to disclosures for a medical emergency or to
2.10 family members as authorized or required under subdivision 3a, paragraph (b), clause
2.11 (1), or paragraph (f).

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S.F. No. 1695 - Family and Caretaker Access to Mental Health Care Records (first engrossment)

Author: Senator Wes Skoglund

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

Date: March 20, 2006

This bill amends the medical records statute to authorize the release of records necessary for family and caretaker involvement in mental health care under certain circumstances. A provider would be authorized to disclose information about a patient to a family member or other person who requests the information if:

- (1) the request is in writing;
- (2) the person lives with, provides care for, or is directly involved in monitoring the patient's treatment;
- (3) the involvement is verified by the provider, the attending physician, or someone other than the person requesting the information;
- (4) before the disclosure, the patient is informed in writing of the request, the name of the requestor, the reason, and the information being requested;
- (5) the patient agrees to disclosure, does not object, or is unable to consent or object; and
- (6) the disclosure is necessary to assist in the provision of care or monitoring of the patient.

The information that may be disclosed is limited to diagnosis, admission to or discharge from treatment, name and dosage of medication, side effects, consequences of failure to take medication, and a summary of the discharge plan. If the provider reasonably determines that providing information would be detrimental to the health of the patient or is likely to cause the patient to inflict

self harm or harm to another, the provider must not disclose the information. This subdivision would not apply to disclosures for a medical emergency or to family members as authorized or required under other provisions of the medical records statute.

KP:cs

1.1 **Senator Betzold from the Committee on Judiciary, to which was re-referred**

1.2 **S.F. No. 1040:** A bill for an act relating to civil actions; limiting liability for
1.3 certain conduct of persons released from confinement; proposing coding for new law in
1.4 Minnesota Statutes, chapter 147.

1.5 Reports the same back with the recommendation that the bill be amended as follows:

1.6 Delete everything after the enacting clause and insert:

1.7 "Section 1. [147.231] RELEASED PERSONS; PRESCRIPTIONS.

1.8 (a) Subject to paragraph (b), a physician, physician's assistant, certified nurse
1.9 practitioner, or clinical nurse specialist in psychiatric and mental health nursing is not
1.10 civilly liable for conduct of a former prisoner or civilly committed person that is related
1.11 to the use or nonuse of medicines prescribed by the physician, physician's assistant,
1.12 certified nurse practitioner, or clinical nurse specialist in psychiatric and mental health
1.13 nursing before the prisoner's or committed person's release. This limitation on liability
1.14 applies during the period from release from confinement until the former prisoner or
1.15 committed person is scheduled to receive new medicines pursuant to a new prescription
1.16 written after the release.

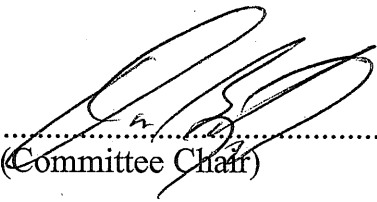
1.17 (b) In order for paragraph (a) to apply, the person must have made the prescription in
1.18 good faith, within the scope of lawful practice, and with reasonable care.

1.19 Sec. 2. Minnesota Statutes 2004, section 604A.31, is amended by adding a subdivision
1.20 to read:

1.21 Subd. 2a. Prescriptions for released persons. A physician, physician's assistant,
1.22 certified nurse practitioner, or clinical nurse specialist in psychiatric and mental health
1.23 nursing who prescribes drugs for a prisoner or committed person is immune from liability
1.24 for conduct of that person related to the use or nonuse of medicine as provided in section
1.25 147.231."

1.26 Amend the title accordingly

1.27 And when so amended the bill do pass. Amendments adopted. Report adopted.

1.28 
1.29 (Committee Chair)

1.30 March 28, 2006
1.31 (Date of Committee recommendation)

1.1 Senator moves to amend S.F. No. 1040 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. [147.231] [RELEASED PERSONS; PRESCRIPTIONS.]

1.4 (a) Subject to paragraph (b), a physician, physician's assistant, certified nurse
1.5 practitioner, or clinical nurse specialist in psychiatric and mental health nursing is not
1.6 civilly liable for conduct of a former prisoner or civilly committed person that is related
1.7 to the use or nonuse of medicines prescribed by the physician, physician's assistant,
1.8 certified nurse practitioner, or clinical nurse specialist in psychiatric and mental health
1.9 nursing before the prisoner's or committed person's release. This limitation on liability
1.10 applies during the period from release from confinement until the former prisoner or
1.11 committed person is scheduled to receive new medicines pursuant to a new prescription
1.12 written after the release.

1.13 (b) In order for paragraph (a) to apply, the person must have made the prescription in
1.14 good faith, within the scope of lawful practice, and with reasonable care.

1.15 Sec. 2. Minnesota Statutes 2004, section 604A.31, is amended by adding a subdivision
1.16 to read:

1.17 Subd. 2a. Prescriptions for released persons. A physician, physician's assistant,
1.18 certified nurse practitioner, or clinical nurse specialist in psychiatric and mental health
1.19 nursing who prescribes drugs for a prisoner or committed person is immune from liability
1.20 for conduct of that person related to the use or nonuse of medicine as provided in section
1.21 147.231."

1.22 Amend the title accordingly

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**S.F. No. 1040 - Limited Liability for Prescriptions for
Prisoners or Committed Persons (author's amendment)**

Author: Senator Don Betzold

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394)

Date: March 28, 2006

This bill provides that a physician, physician's assistant, certified nurse practitioner, or clinical nurse specialist in psychiatric and mental health is not liable for conduct of a former prisoner or civilly committed person that is related to the use or nonuse of medicines prescribed before the person's release. This limitation would apply during the period from release until the former prisoner or committed person is scheduled to receive new medication. In order for this limitation on liability to apply, the person must have made the prescription in good faith, within the scope of lawful practice, and with reasonable care.

A cross-reference to this provision is included in **chapter 604A**, the general law dealing with civil liability limitations.

KP:cs

1.1 **Senator Betzold from the Committee on Judiciary, to which was referred**

1.2 **S.F. No. 3349:** A bill for an act relating to domestic abuse; providing for
1.3 enforcement of foreign protective orders; amending Minnesota Statutes 2004, section
518B.01, by adding a subdivision.

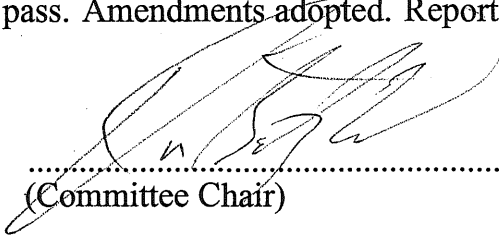
1.5 Reports the same back with the recommendation that the bill be amended as follows:

1.6 Page 1, line 10, delete everything after "tribe"

1.7 Page 1, line 11, delete everything before "or"

1.8 Page 1, line 20, delete "prosecution" and insert "protection"

1.9 And when so amended the bill do pass. Amendments adopted. Report adopted.


.....
(Committee Chair)

1.10

1.11

March 28, 2006
(Date of Committee recommendation)

1.12

1.13

Senator Ranum introduced—

S.F. No. 3349: Referred to the Committee on Judiciary.

1.1 A bill for an act
1.2 relating to domestic abuse; providing for enforcement of foreign protective
1.3 orders; amending Minnesota Statutes 2004, section 518B.01, by adding a
1.4 subdivision.

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

1.6 Section 1. Minnesota Statutes 2004, section 518B.01, is amended by adding a
1.7 subdivision to read:

1.8 Subd. 19a. Entry and enforcement of foreign protective orders. (a) As used in
1.9 this subdivision, "foreign protective order" means an order for protection entered by
1.10 a court of another state; and order by an Indian tribe which includes orders entered in
1.11 child welfare proceedings, or United States territory that would be a protective order
1.12 entered under this chapter; a temporary or permanent order or protective order to exclude
1.13 a respondent from a dwelling; or an order that establishes conditions of release or is
1.14 a protective order or sentencing order in a criminal prosecution arising from a domestic
1.15 abuse assault if it had been entered in Minnesota.

1.16 (b) A person for whom a foreign protection order has been issued or the issuing court
1.17 or tribunal may provide a certified or authenticated copy of a foreign protective order to the
1.18 court administrator in any county that would have venue if the original action was being
1.19 commenced in this state or in which the person in whose favor the order was entered may
1.20 be present, for filing and entering of the same into the state order for prosecution database.

1.21 (c) The court administrator shall file and enter foreign protective orders that are
1.22 not certified or authenticated, if supported by an affidavit of a person with personal
1.23 knowledge, subject to the penalties for perjury. The person protected by the order may
1.24 provide this affidavit.

2.1 (d) The court administrator shall provide copies of the order as required by this
2.2 section.

2.3 (e) A valid foreign protective order has the same effect and shall be enforced in the
2.4 same manner as an order for protection issued in this state whether or not filed with a court
2.5 administrator or otherwise entered in the state order for protection database.

2.6 (f) A foreign protective order is presumed valid if it meets all of the following:

2.7 (1) The order states the name of the protected individual and the individual against
2.8 whom enforcement is sought;

2.9 (2) the order has not expired;

2.10 (3) the order was issued by a court or tribunal that had jurisdiction over the parties
2.11 and subject matter under the law of the foreign jurisdiction; and

2.12 (4) the order was issued in accordance with the respondent's due process rights,
2.13 either after the respondent was provided with reasonable notice and an opportunity to be
2.14 heard before the court or tribunal that issued the order, or in the case of an ex parte order,
2.15 the respondent was granted notice and an opportunity to be heard within a reasonable
2.16 time after the order was issued.

2.17 (g) Proof that a foreign protective order failed to meet all of the factors listed in
2.18 paragraph (f) is an affirmative defense in any action seeking enforcement of the order.

2.19 (h) A peace officer shall treat a foreign protective order as a valid legal document
2.20 and shall make an arrest for a violation of the foreign protective order in the same manner
2.21 that a peace officer would make an arrest for a violation of a protective order issued
2.22 within this state.

2.23 (i) The fact that a foreign protective order has not been filed with the court
2.24 administrator or otherwise entered into the state order for protection database shall not be
2.25 grounds to refuse to enforce the terms of the order unless it is apparent to the officer that
2.26 the order is invalid on its face.

2.27 (j) A peace officer acting reasonably and in good faith in connection with the
2.28 enforcement of a foreign protective order is immune from civil and criminal liability in
2.29 any action arising in connection with the enforcement.

2.30 (k) Filing and service costs in connection with foreign protective orders are waived.

- 1.1 Senator moves to amend S.F. No. 3349 as follows:
- 1.2 Page 1, line 10, delete everything after "tribe"
- 1.3 Page 1, line 11, delete everything before "or".
- 1.4 Page 1, line 20, delete "prosecution" and insert "protection"

**Senate Counsel, Research,
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State of Minnesota

S.F. No. 3349 - Foreign Orders for Protection

Author: Senator Jane Ranum

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

Date: March 28, 2006

This bill amends the Domestic Abuse Act to provide for entry and enforcement of foreign protective orders. A definition of "foreign protective order" is included. A person for whom the order has been issued or the issuing court or tribunal may provide a certified or authenticated copy of the order to the court administrator in the county that would have venue if the original action was commenced in this state or in which the person in whose favor the order was entered may be present, for filing and entering into the state order for protection database.

The court administrator must file and enter foreign orders that are not certified or authenticated if supported by an affidavit, which may be provided by the person protected by the order. Copies of the order must be provided as required in this section.

A valid foreign protective order has the same effect and must be enforced in the same manner as an order for protection issued in this state whether or not it is entered into the database. A foreign order is presumed valid if it meets specified requirements. Proof that an order fails to meet one of the specified factors would be an affirmative defense in an action seeking enforcement.

A peace officer must treat a foreign protective order as a valid legal document and make an arrest for a violation. The fact that an order has not been filed or entered into the database is not grounds to refuse to enforce the order unless it is apparent that it is invalid on its face.

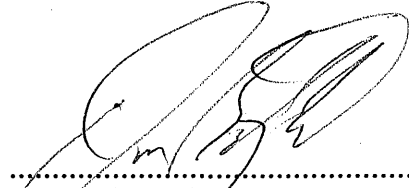
A peace officer acting reasonably and in good faith in connection with enforcement of a foreign order is immune from liability. Filing and service costs are waived.

KP:cs

1.1 **Senator Betzold from the Committee on Judiciary, to which was re-referred**

1.2 **S.F. No. 2735:** A bill for an act relating to legislature; regulating the Legislative
1.3 Audit Commission; amending Minnesota Statutes 2004, section 3.97, subdivisions 2, 3a;
1.4 repealing Minnesota Statutes 2004, sections 3.97, subdivision 3; 3.979, subdivision 5.

1.5 Reports the same back with the recommendation that the bill do pass. Report
1.6 adopted.


.....
(Committee Chair)

1.7
1.8

1.9 March 28, 2006
1.10 (Date of Committee recommendation)

A bill for an act
relating to legislature; regulating the Legislative Audit Commission; amending
Minnesota Statutes 2004, section 3.97, subdivisions 2, 3a; repealing Minnesota
Statutes 2004, sections 3.97, subdivision 3; 3.979, subdivision 5.

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

Section 1. Minnesota Statutes 2004, section 3.97, subdivision 2, is amended to read:

Subd. 2. **Membership; terms; meetings; compensation; powers.** The Legislative
Audit Commission consists of:

(1) ~~the majority leader~~ three members of the senate ~~and the president of the senate or
their designees~~ appointed by the senate committee on committees;

(2) ~~the chair~~ three members of the senate ~~Committee on Governmental Operations
and reform or a designee who is a member of the committee~~ appointed by the senate
minority leader;

(3) ~~a chair of a senate Committee on Finance designated by the majority leader~~ three
members of the house appointed by the speaker of the house; and

(4) ~~four~~ three members of the ~~senate~~ house appointed by the ~~senate~~ house minority
leader;

(5) ~~the speaker of the house and the chair of the house Committee on Rules or
their designees;~~

(6) ~~the chair of the house Committee on Governmental Operations and Gaming or a
designee who is a member of the committee;~~

(7) ~~the chair of the house Ways and Means Committee or a designee who is a
member of the committee; and~~

(8) ~~four members of the house appointed by the house minority leader.~~

2.1 ~~The appointed members of the commission shall serve for a term commencing upon~~
2.2 ~~appointment and expiring at the opening of the next regular session of the legislature in~~
2.3 ~~the odd-numbered year and until a successor is appointed. A vacancy in the membership~~
2.4 ~~of the commission shall be filled for the unexpired term in a manner that will preserve~~
2.5 ~~the representation established by this subdivision. Members shall serve until replaced,~~
2.6 ~~or until they are not members of the legislative body from which they were appointed.~~
2.7 Appointing authorities shall fill vacancies on the commission within 30 days of a vacancy
2.8 being created.

2.9 The commission shall meet in January of each odd-numbered year to elect its chair
2.10 and ~~other officers as it may determine necessary~~ vice-chair. ~~A chair~~ They shall serve
2.11 ~~a two-year term, expiring on January 1 in the odd-numbered year following election,~~
2.12 ~~and until a successor is~~ successors are elected. The chair and vice-chair shall alternate
2.13 biennially between the senate and the house. The commission shall meet at the call of the
2.14 chair ~~or the executive secretary~~. The members shall serve without compensation but be
2.15 reimbursed for their reasonable expenses as members of the legislature. The commission
2.16 may exercise the powers prescribed by section 3.153.

2.17 Sec. 2. Minnesota Statutes 2004, section 3.97, subdivision 3a, is amended to read:

2.18 Subd. 3a. **Evaluation topics.** ~~(a)~~ The commission shall periodically select topics for
2.19 the legislative auditor to evaluate. Topics may include any agency, program, or activity
2.20 established by law to achieve a state purpose, or any topic that affects the operation of
2.21 state government, but the commission shall give primary consideration to topics that
2.22 are likely, upon examination, to produce recommendations for cost savings, increased
2.23 productivity, or the elimination of duplication among public agencies. Legislators and
2.24 legislative committees may suggest topics for evaluation, but the legislative auditor shall
2.25 only conduct evaluations approved by the commission.

2.26 ~~(b) The commission is requested to direct the auditor, in response to a suggestion~~
2.27 ~~from an individual legislator of an evaluation topic, to estimate the scope of the proposed~~
2.28 ~~evaluation and the time required to complete it. The estimate must be reported to the~~
2.29 ~~legislator who submitted the suggestion and to the commission. The commission must~~
2.30 ~~determine within 60 days of receiving the estimate whether to proceed with the suggested~~
2.31 ~~evaluation and must convey its decision to the legislator along with the reasons for its~~
2.32 ~~decision.~~

2.33 Sec. 3. **REPEALER.**

3.1 Minnesota Statutes 2004, sections 3.97, subdivision 3; and 3.979, subdivision 5, are
3.2 repealed.

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State of Minnesota

**S.F. No. 2735 - Legislative Audit Commission - Judiciary
Issues**

Author: Senator Ann Rest

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

Date: March 27, 2006

This bill changes the membership of the Legislative Audit Commission, eliminates obsolete portions of the law governing the commission, and appropriates money.

Under **section 5, Minnesota Statutes, section 3.979, subdivision 5** (copy attached), is repealed. This is a current law that grants the Legislative Audit Commission the power to request data that is withheld by a state agency after a ruling by the Commissioner of Administration that an individual is entitled to access to the data.

KP:cs

apply for purposes of this subdivision.

Subd. 4. **Review of data; data protection.** If, before releasing a report, the legislative auditor provides a person with data relating to the audit for the purpose of review and verification of the data, the person must protect the data from unlawful disclosure or be subject to the penalties and liabilities provided in sections 13.08 and 13.09.

Subd. 5. **Commissioner's opinion; legislative auditor access to data.** If, after the commissioner of administration issues an opinion under section 13.072 that a person requesting access to data held by a state agency is entitled to that access, the state agency continues to refuse to provide the data or the person making the request is told that the data sought does not exist, the Legislative Audit Commission may instruct the legislative auditor to review all state agency data related to the request. Following the review, the legislative auditor shall provide all public data obtained, if any, to the Legislative Audit Commission.

HIST: 1973 c 492 s 12; 1973 c 720 s 76 subd 2; 1975 c 204 s 90; 1980 c 484 s 1-3; 1981 c 311 s 39; 1982 c 545 s 24; 1983 c 317 s 1; 1985 c 248 s 70; 1986 c 444; 1988 c 469 art 1 s 1; 1989 c 351 s 1; 1991 c 345 art 1 s 38; 1993 c 4 s 5; 1994 c 632 art 3 s 15; 1997 c 184 s 1; 1999 c 99 s 23; 1Sp2001 c 10 art 2 s 11

Please direct all comments concerning issues or legislation
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For Legislative Staff or for directions to the Capitol, visit the Contact Us page.

General questions or comments.

1.1 **Senator Betzold from the Committee on Judiciary, to which was re-referred**

1.2 **S.F. No. 2002:** A bill for an act relating to consumer protection; authorizing credit
 1.3 blocks in cases of identity theft; authorizing a consumer to place a security freeze on the
 1.5 consumer's credit report; providing notice of this right; providing protections against
 1.6 identity theft; providing Social Security number protections; providing credit monitoring;
 1.7 providing for the adequate destruction of personal records; providing civil and criminal
 penalties; proposing coding for new law in Minnesota Statutes, chapters 13C; 325E; 325G.

1.8 Reports the same back with the recommendation that the bill be amended as follows:

1.9 Page 1, before line 10, insert:

1.10 **"ARTICLE 1**

1.11 **IDENTITY THEFT**

1.12 Section 1. Minnesota Statutes 2004, section 13.6905, is amended by adding a
 1.13 subdivision to read:

1.14 Subd. 33. Victim of identity theft data. Data maintained by the Department of
 1.15 Public Safety that document victims of identity theft and determinations of innocence are
 5 classified under section 325E.66, subdivision 6."

1.17 Page 1, line 14, delete "his or her" and insert "the consumer's"

1.18 Page 2, lines 1 and 6, delete "he or she" and insert "the consumer"

1.19 Page 4, lines 30 and 32, delete "or entity"

1.20 Page 5, line 10, delete "....." and insert "Minnesota Statutes, section 13C.05."

1.21 Page 6, line 22, delete "government or governmental subdivision or agency,"

1.22 Page 6, line 29, delete everything after "parties"

1.23 Page 6, line 30, delete everything before the period

1.24 Page 7, line 13, delete "he"

1.25 Page 7, line 14, delete "or she" and insert "the person"

5 Page 7, line 16, delete "his or her" and insert "the person's"

1.27 Page 8, line 11, delete everything after the period

1.28 Page 8, delete lines 12 to 15 and insert "The data are private data on individuals as
 1.29 defined in section 13.02, subdivision 12. Law enforcement agencies have access to the
 1.30 data in order to assist victims of identify theft."

1.31 Page 8, line 34, delete "such" and insert "the"

1.32 Page 9, line 25, delete "his"

1.33 Page 9, line 26, delete "or her" and insert "the consumer's"

1.34 Page 10, line 13, delete "any such" and insert "the"

1.35 Page 11, line 2, delete "Such" and delete "may not be" and insert "are not"

1.36 Page 11, line 13, delete "and/or" and insert "or"

Page 11, line 23, delete "such" and insert "the"

1.38 Page 12, after line 14, insert:

1.39

"ARTICLE 2

2.1

DATA WAREHOUSES

2.2 Section 1. Minnesota Statutes 2005 Supplement, section 325E.61, subdivision 1, is
2.3 amended to read:

2.4 Subdivision 1. **Disclosure of personal information; notice required.** (a) Any
2.5 person or business that conducts business in this state, and that owns or licenses data that
2.6 includes personal information, shall disclose any breach of the security of the system
2.7 following discovery or notification of the breach in the security of the data to any resident
2.8 of this state whose unencrypted personal information was, or is reasonably believed to
2.9 have been, acquired by an unauthorized person. The disclosure must be made in the most
2.10 expedient time possible and without unreasonable delay, consistent with the legitimate
2.11 needs of law enforcement, as provided in paragraph (c), or with any measures necessary
2.12 to determine the scope of the breach, identify the individuals affected, and restore the
2.13 reasonable integrity of the data system.

2.14 (b) Any person or business that maintains data that includes personal information
2.15 that the person or business does not own shall notify the owner or licensee of the
2.16 information of any breach of the security of the data immediately following discovery,
2.17 if the personal information was, or is reasonably believed to have been, acquired by
2.18 an unauthorized person.

2.19 (c) The notification required by this section may be delayed to a date certain if a law
2.20 enforcement agency affirmatively determines that the notification will impede a criminal
2.21 investigation.

2.22 (d) For purposes of this section, "breach of the security of the system" means
2.23 unauthorized acquisition of computerized data that compromises the security,
2.24 confidentiality, or integrity of personal information maintained by the person or business.
2.25 Good faith acquisition of personal information by an employee or agent of the person or
2.26 business for the purposes of the person or business is not a breach of the security system,
2.27 provided that the personal information is not used or subject to further unauthorized
2.28 disclosure.

2.29 (e) For purposes of this section, "personal information" means an individual's first
2.30 name or first initial and last name in combination with any one or more of the following
2.31 data elements, when either the name or the data elements is not encrypted or is encrypted
2.32 with an encryption key that was also acquired:

33 (1) Social Security number;

2.34 (2) driver's license number or Minnesota identification card number; ~~or~~

3.1 (3) account number or credit or debit card number, in combination with any required
3.2 security code, access code, or password that would permit access to an individual's
3.3 financial account;

3.4 (4) account passwords, personal identification numbers, or other access codes; or

3.5 (5) biometric data. For purposes of this clause, "biometric data" means biological
3.6 data derived from direct measurement of a part of the human body. Direct measurement
3.7 technologies include, but are not limited to, fingerprinting, iris recognition, hand geometry,
3.8 and facial recognition.

3.9 (f) For purposes of this section, "personal information" does not include publicly
3.10 available information that is lawfully made available to the general public from federal,
3.11 state, or local government records.

3.12 (g) For purposes of this section, "notice" may be provided by one of the following
3.13 methods:

3.14 (1) written notice to the most recent available address the person or business has
3.15 in its records;

3.16 (2) electronic notice, if the notice provided is consistent with the provisions
3.17 regarding electronic records and signatures in United States Code, title 15, section 7001; or

3.18 (3) substitute notice, if the person or business demonstrates that the cost of providing
3.19 notice would exceed \$250,000, or that the affected class of subject persons to be notified
3.20 exceeds 500,000, or the person or business does not have sufficient contact information.

3.21 Substitute notice must consist of all of the following:

3.22 (i) e-mail notice when the person or business has an e-mail address for the subject
3.23 persons;

3.24 (ii) conspicuous posting of the notice on the Web site page of the person or business,
3.25 if the person or business maintains one; and

3.26 (iii) notification to major statewide media.

3.27 (h) Notwithstanding paragraph (g), a person or business that maintains its own
3.28 notification procedures as part of an information security policy for the treatment of
3.29 personal information and is otherwise consistent with the timing and content requirements
3.30 of this section, shall be deemed to be in compliance with the notification requirements
3.31 of this section if the person or business notifies subject persons in accordance with its
3.32 policies in the event of a breach of security of the system.

3.33 Sec. 2. Minnesota Statutes 2005 Supplement, section 325E.61, is amended by adding a
3.34 subdivision to read:

3.35 Subd. 1a. Content of notice. The notice required by this section must be clear
3.36 and conspicuous. The notice must include:

4.1 (a) to the extent possible, a description of the categories of information that were, or
4.2 are reasonably believed to have been, acquired by an unauthorized person, including Social
3 Security numbers, driver's license or state identification numbers, and financial data;

4.4 (b) the steps taken by the person or business to protect personal information from
4.5 further unauthorized access;

4.6 (c) a toll-free telephone number:

4.7 (1) that the individual may use to contact a live representative of the agency or
4.8 person; and

4.9 (2) from whom the individual may learn:

4.10 (i) what types of information the agency or person maintained about that individual
4.11 or about individuals in general; and

4.12 (ii) whether the agency or person maintained information about that individual;

4.13 (d) the toll-free telephone numbers and addresses for the major consumer reporting
4.14 agencies, along with a description of, and an explanation of how to exercise, the following
4.15 rights under the federal Fair Credit Reporting Act:

4.16 (1) the right to obtain a credit report free of charge from each nationwide credit
4.17 reporting agency;

4.18 (2) the right to place a fraud alert in consumer reports to put creditors on notice that
4.19 the individual may be a victim of fraud; and

4.20 (3) the right to block or delete specific items in consumer reports relating to
4.21 fraudulent transactions; and


4.22 (e) the toll-free telephone number and Web site address of the Federal Trade
4.23 Commission, along with a recommendation that the individual should report any incidents
4.24 of identity theft to a local law enforcement agency and the Federal Trade Commission."

4.25 Renumber the sections in sequence

4.26 Amend the title accordingly

4.27 And when so amended the bill do pass. Amendments adopted. Report adopted.

4.28
4.29


.....
(Committee Chair)

4.30
4.31

March 28, 2006
(Date of Committee recommendation)

A bill for an act
relating to consumer protection; authorizing credit blocks in cases of identity
theft; authorizing a consumer to place a security freeze on the consumer's credit
report; providing notice of this right; providing protections against identity theft;
providing Social Security number protections; providing credit monitoring;
providing for the adequate destruction of personal records; providing civil and
criminal penalties; proposing coding for new law in Minnesota Statutes, chapters
13C; 325E; 325G.

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

Section 1. **[13C.032] IDENTITY THEFT; CREDIT BLOCKS.**

(a) If a consumer submits to a credit reporting agency a copy of a valid police report, or a valid investigative report made by an investigator with peace officer status, the consumer credit reporting agency shall promptly and permanently block reporting any information that the consumer alleges appears on his or her credit report as a result of a violation of section 609.527 so that the information cannot be reported. The consumer credit reporting agency shall promptly notify the furnisher of the information that the information has been blocked. Furnishers of information and consumer credit reporting agencies shall ensure that information is unblocked only upon a preponderance of the evidence establishing the facts required under paragraph (b), clause (1), (2), or (3).

(b) The permanently blocked information must be unblocked only if:

(1) the information was blocked due to a material misrepresentation of fact by the consumer or fraud;

(2) the consumer agrees that the blocked information, or portions of the blocked information, were blocked in error; or

(3) the consumer knowingly obtained possession of goods, services, or money as a result of the blocked transaction or transactions or the consumer should have known

2.1 that he or she obtained possession of goods, services, or money as a result of the blocked
2.2 transaction or transactions.

2.3 (c) If blocked information is unblocked pursuant to this section, the consumer must
2.4 be promptly notified. The prior presence of the blocked information in the consumer
2.5 credit reporting agency's file on the consumer is not evidence of whether the consumer
2.6 knew or should have known that he or she obtained possession of any goods, services, or
2.7 money. For the purposes of this section, fraud may be demonstrated by circumstantial
2.8 evidence. In unblocking information pursuant to this section, furnishers and consumer
2.9 credit reporting agencies are subject to their respective requirements pursuant to this
2.10 chapter regarding the completeness and accuracy of information.

2.11 **Sec. 2. [13C.05] SECURITY FREEZE ON CONSUMER CREDIT REPORTS.**

2.12 **Subdivision 1. Definitions.** For the purposes of this section, the following terms
2.13 have the meanings given them:

2.14 (1) "security freeze" means a notice, at the request of the consumer and subject to
2.15 certain exceptions, prohibiting the consumer reporting agency from releasing all or any
2.16 part of the consumer's credit report or any information derived from it without the express
2.17 authorization of the consumer. If a security freeze is in place, such a report or information
2.18 may not be released to a third party without prior express authorization from the consumer.
2.19 This subdivision does not prevent a consumer reporting agency from advising a third party
2.20 that a security freeze is in effect with respect to the consumer's credit report; and

2.21 (2) "reviewing the account" or "account review" includes activities related to account
2.22 maintenance, monitoring, credit line increases, and upgrades and enhancements.

2.23 **Subd. 2. Timing; covered entities; cost.** (a) A consumer may elect to place a
2.24 security freeze on a credit report by:

2.25 (1) making a request by certified mail;

2.26 (2) making a request by telephone by providing certain personal identification; or

2.27 (3) making a request directly to the consumer reporting agency through a secure
2.28 electronic mail connection if the connection is made available by the agency.

2.29 (b) A consumer reporting agency shall place a security freeze on a consumer's credit
2.30 report no later than five business days after receiving a written or telephone request from
2.31 the consumer or three business days after receiving a secure electronic mail request.

2.32 (c) The consumer reporting agency shall send a written confirmation of the security
2.33 freeze to the consumer within five business days of placing the freeze and at the same time
2.34 shall provide the consumer with a unique personal identification number or password to

3.1 be used by the consumer when providing authorization for the release of the consumer's
3.2 credit for a specific party or period of time.

3.3 (d) If the consumer wishes to allow the consumer's credit report to be accessed for a
3.4 specific party or period of time while a freeze is in place, the consumer shall contact the
3.5 consumer reporting agency via telephone, certified mail, or secure electronic mail; request
3.6 that the freeze be temporarily lifted; and provide the following:

3.7 (1) proper identification;

3.8 (2) the unique personal identification number or password provided by the consumer
3.9 reporting agency pursuant to paragraph (c); and

3.10 (3) the proper information regarding the third party who is to receive the credit report
3.11 or the time period for which the report must be available to users of the credit report.

3.12 (e) A consumer reporting agency that receives a request from a consumer to
3.13 temporarily lift a freeze on a credit report pursuant to paragraph (d) shall comply with the
3.14 request no later than three business days after receiving the request.

3.15 (f) A consumer reporting agency may develop procedures involving the use of
3.16 telephone or fax, or upon the consent of the consumer in the manner required by the
3.17 Electronic Signatures in Global and National Commerce Act, United States Code, title 15,
3.18 section 7001 et seq., for legally required notices, by the Internet, e-mail, or other electronic
3.19 media to receive and process a request from a consumer to temporarily lift a freeze on a
3.20 credit report pursuant to paragraph (d) in an expedited manner.

3.21 (g) A consumer reporting agency shall remove or temporarily lift a freeze placed
3.22 on a consumer's credit report only in the following cases:

3.23 (1) upon consumer request, pursuant to paragraph (d) or (j); or

3.24 (2) if the freeze was due to a material misrepresentation of fact by the consumer.

3.25 If a consumer reporting agency intends to remove a freeze upon a consumer's credit report
3.26 pursuant to this paragraph, the consumer reporting agency shall notify the consumer in
3.27 writing five business days before removing the freeze on the consumer's credit report.

3.28 (h) If a third party requests access to a consumer credit report on which a security
3.29 freeze is in effect, and this request is in connection with an application for credit or any
3.30 other use, and the consumer does not allow the consumer's credit report to be accessed for
3.31 that specific party or period of time, the third party may treat the application as incomplete.

3.32 (i) If a third party requests access to a consumer credit report on which a security
3.33 freeze is in effect for the purpose of receiving, extending, or otherwise using the credit in
3.34 the report, and not for the sole purpose of account review, the consumer reporting agency
3.35 must notify the consumer that an attempt has been made to access the credit report.

4.1 (j) Except as otherwise provided in paragraph (g), clause (2), a security freeze shall
4.2 remain in place until the consumer requests that the security freeze be removed. A
4.3 consumer reporting agency shall remove a security freeze within three business days of
4.4 receiving a request for removal from the consumer, who provides both of the following:

4.5 (1) proper identification; and

4.6 (2) the unique personal identification number or password provided by the consumer
4.7 reporting agency pursuant to paragraph (c).

4.8 (k) A consumer reporting agency shall require proper identification of the person
4.9 making a request to place or remove a security freeze.

4.10 (l) A consumer reporting agency may not suggest or otherwise state or imply to a
4.11 third party that the consumer's security freeze reflects a negative credit score, history,
4.12 report, or rating.

4.13 (m) This section does not apply to the use of a consumer credit report by any of
4.14 the following:

4.15 (1) a person, or the person's subsidiary, affiliate, agent, or assignee with which
4.16 the consumer has or, prior to assignment, had an account, contract, or debtor-creditor
4.17 relationship for the purposes of reviewing the account or collecting the financial obligation
4.18 owing for the account, contract, or debt;

4.19 (2) a subsidiary, affiliate, agent, assignee, or prospective assignee of a person to
4.20 whom access has been granted under paragraph (d) for purposes of facilitating the
4.21 extension of credit or other permissible use;

4.22 (3) any person acting pursuant to a court order, warrant, or subpoena;

4.23 (4) a state or local agency which administers a program for establishing and
4.24 enforcing child support obligations;

4.25 (5) the Department of Health or its agents or assigns acting to investigate fraud;

4.26 (6) the Department of Revenue or its agents or assigns acting to investigate or collect
4.27 delinquent taxes or unpaid court orders to fulfill any of its other statutory responsibilities;

4.28 (7) a person for the purpose of prescreening as defined by the federal Fair Credit
4.29 Reporting Act;

4.30 (8) any person or entity administering a credit file monitoring subscription service to
4.31 which the consumer has subscribed; and

4.32 (9) any person or entity for the purpose of providing a consumer with a copy of the
4.33 consumer's credit report upon the consumer's request.

4.34 (n) A consumer may not be charged for any security freeze services, including but
4.35 not limited to the placement or lifting of a security freeze. A consumer may be charged no
4.36 more than \$5 only if the consumer fails to retain the original personal identification number

5.1 given to the consumer by the agency, but the consumer may not be charged for a onetime
5.2 reissue of the same or a new personal identification number. The consumer may be charged
5.3 no more than \$5 for subsequent instances of loss of the personal identification number.

5.4 Subd. 3. Notice of rights. At any time that a consumer is required to receive a
5.5 summary of rights required under section 609 of the federal Fair Credit Reporting Act, the
5.6 following notice must be included:

5.7 "Minnesota Consumers Have the Right to Obtain a Security Freeze

5.8 You may obtain a security freeze on your credit report at no charge to protect your
5.9 privacy and ensure that credit is not granted in your name without your knowledge. You
5.10 have a right to place a "security freeze" on your credit report pursuant to

5.11 The security freeze will prohibit a consumer reporting agency from releasing any
5.12 information in your credit report without your express authorization or approval.

5.13 The security freeze is designed to prevent credit, loans, and services from being
5.14 approved in your name without your consent. When you place a security freeze on your
5.15 credit report, within five business days you will be provided a personal identification
5.16 number or password to use if you choose to remove the freeze on your credit report or
5.17 to temporarily authorize the release of your credit report for a specific party, parties, or
5.18 period of time after the freeze is in place. To provide that authorization, you must contact
5.19 the consumer reporting agency and provide all of the following:

5.20 (1) the unique personal identification number or password provided by the consumer
5.21 reporting agency;

5.22 (2) proper identification to verify your identity; and

5.23 (3) the proper information regarding the third party or parties who are to receive
5.24 the credit report or the period of time for which the report shall be available to users
5.25 of the credit report.

5.26 A consumer reporting agency that receives a request from a consumer to lift
5.27 temporarily a freeze on a credit report shall comply with the request no later than three
5.28 business days after receiving the request.

5.29 A security freeze does not apply to circumstances where you have an existing
5.30 account relationship and a copy of your report is requested by your existing creditor
5.31 or its agents or affiliates for certain types of account review, collection, fraud control,
5.32 or similar activities.

5.33 If you are actively seeking credit, you should understand that the procedures
5.34 involved in lifting a security freeze may slow your own application for credit. You should
5.35 plan ahead and lift a freeze, either completely if you are shopping around, or specifically
5.36 for a certain creditor, a few days before actually applying for new credit.

6.1 You have a right to bring a civil action against someone who violates your rights
6.2 under the credit reporting laws. The action can be brought against a consumer reporting
6.3 agency or a user of your credit report.

6.4 Subd. 4. **Violations; penalties.** (a) If a consumer reporting agency erroneously,
6.5 whether by accident or design, violates the security freeze by releasing credit information
6.6 that has been placed under a security freeze, the affected consumer is entitled to:

6.7 (1) notification within five business days of the release of the information, including
6.8 specificity as to the information released and the third-party recipient of the information;

6.9 (2) file a complaint with the Federal Trade Commission, the state attorney general,
6.10 and the Department of Commerce; and

6.11 (3) in a civil action against the consumer reporting agency recover:

6.12 (i) injunctive relief to prevent or restrain further violation of the security freeze;

6.13 (ii) a civil penalty in an amount not to exceed \$10,000 for each violation plus any
6.14 damages available under other civil laws; and

6.15 (iii) reasonable expenses, court costs, investigative costs, and attorney fees.

6.16 (b) Each violation of the security freeze must be counted as a separate incident for
6.17 purposes of imposing penalties under this section.

6.18 **Sec. 3. [325E.65] DEFINITIONS.**

6.19 Subdivision 1. **Scope.** For the purposes of sections 325E.65 to 325E.67, the terms in
6.20 subdivisions 2 to 6 have the meanings given.

6.21 Subd. 2. **Person.** "Person" means any individual, partnership, corporation, trust,
6.22 estate, cooperative, association, government or governmental subdivision or agency,
6.23 or other entity.

6.24 Subd. 3. **Consumer.** "Consumer" means an individual.

6.25 Subd. 4. **Consumer reporting agency.** "Consumer reporting agency" means any
6.26 person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly
6.27 engages in whole or in part in the practice of assembling or evaluating consumer credit
6.28 information or other information on consumers for the purpose of furnishing consumer
6.29 reports to third parties, and which uses any means or facility of interstate commerce for
6.30 the purpose of preparing or furnishing consumer reports.

6.31 Subd. 5. **Consumer report; credit report.** "Consumer report" or "credit report"
6.32 means any written, oral, or other communication of any information by a consumer
6.33 reporting agency bearing on a consumer's creditworthiness, credit standing, credit
6.34 capacity, character, general reputation, personal characteristics, or mode of living which

7.1 is used or expected to be used or collected in whole or in part for the purpose of serving
7.2 as a factor in establishing the consumer's eligibility for:

7.3 (1) credit or insurance to be used primarily for personal, family, or household
7.4 purposes, except that nothing in sections 325E.65 to 325E.67 authorizes the use of credit
7.5 evaluations or credit scoring in the underwriting of personal lines of property or casualty
7.6 insurance;

7.7 (2) employment purposes; or

7.8 (3) any other purpose authorized under United States Code, title 15, section 1681b.

7.9 Subd. 6. **Identity theft.** "Identity theft" means theft, fraud, or attempted theft or
7.10 fraud committed using any identifying information of another person.

7.11 Sec. 4. **[325E.66] FACTUAL DECLARATION OF INNOCENCE AFTER**
7.12 **IDENTITY THEFT.**

7.13 Subdivision 1. **Judicial determination.** A person who reasonably believes that he
7.14 or she is the victim of identity theft may petition a court, or the court, on its own motion
7.15 or upon application of the prosecuting attorney, may move for an expedited judicial
7.16 determination of his or her factual innocence, where the perpetrator of the identity theft
7.17 was arrested for, cited for, or convicted of a crime under the victim's identity, or where a
7.18 criminal complaint has been filed against the perpetrator in the victim's name, or where
7.19 the victim's identity has been mistakenly associated with a record of criminal conviction.
7.20 Any judicial determination of factual innocence made pursuant to this section may be
7.21 heard and determined upon declarations, affidavits, police reports, or other material,
7.22 relevant, and reliable information submitted by the parties or ordered to be part of the
7.23 record by the court. Where the court determines that the petition or motion is meritorious
7.24 and that there is no reasonable cause to believe that the victim committed the offense for
7.25 which the perpetrator of the identity theft was arrested, cited, convicted, or subject to a
7.26 criminal complaint in the victim's name, or that the victim's identity has been mistakenly
7.27 associated with a record of criminal conviction, the court shall find the victim factually
7.28 innocent of that offense. If the victim is found factually innocent, the court shall issue an
7.29 order certifying this determination.

7.30 Subd. 2. **Court order.** After a court has issued a determination of factual innocence
7.31 pursuant to this section, the court may order the name and associated personal identifying
7.32 information contained in court records, files, and indexes accessible by the public
7.33 deleted, sealed, or labeled to show that the data is impersonated and does not reflect
7.34 the defendant's identity.

8.1 Subd. 3. Documentation. Upon making a determination of factual innocence, the
8.2 court must provide the consumer written documentation of such order.

8.3 Subd. 4. Vacating determination. A court that has issued a determination of
8.4 factual innocence pursuant to this section may at any time vacate that determination if
8.5 the petition, or any information submitted in support of the petition, is found to contain
8.6 any material misrepresentation or fraud.

8.7 Subd. 5. Form. The Supreme Court shall develop a form for use in issuing an order
8.8 pursuant to this section.

8.9 Subd. 6. Database. The Department of Public Safety shall establish and maintain a
8.10 database of individuals who have been victims of identity theft and that have received
8.11 determinations of factual innocence. The Department of Public Safety shall provide
8.12 a victim of identity theft or his or her authorized representative access to the database
8.13 in order to establish that the individual has been a victim of identity theft. Access to
8.14 the database shall be limited to criminal justice agencies, victims of identity theft, and
8.15 individuals and agencies authorized by the victims.

8.16 Sec. 5. [325E.67] CONSUMER-DRIVEN CREDIT MONITORING.

8.17 Subdivision 1. Disclosures. Every consumer credit reporting agency shall, upon
8.18 request from a consumer that is not covered by the free disclosures provided in United
8.19 States Code, title 15, section 1681j, subsections (a) to (d), clearly and accurately disclose
8.20 to the consumer:

8.21 (1) all information in the consumer's file at the time of the request, except that
8.22 nothing in this subdivision requires a consumer reporting agency to disclose to a consumer
8.23 any information concerning credit scores or other risk scores or predictors that are
8.24 governed by United States Code, title 15, section 1681g(f);

8.25 (2) the sources of the information;

8.26 (3) identification of each person, including each end-user identified under United
8.27 States Code, title 15, section 1681e, that procured a consumer report:

8.28 (i) for employment purposes, during the two-year period preceding the date on
8.29 which the request is made; or

8.30 (ii) for any purpose, during the one-year period preceding the date on which the
8.31 request is made;

8.32 (4) an identification of a person under clause (3) shall include:

8.33 (i) the name of the person or, if applicable, the trade name (written in full) under
8.34 which such person conducts business; and

8.35 (ii) upon request of the consumer, the address and telephone number of the person;

9.1 (5) clause (3) does not apply if:

9.2 (i) the end user is an agency or department of the United States government that
9.3 procures the report from the person for purposes of determining the eligibility of the
9.4 consumer to whom the report relates to receive access or continued access to classified
9.5 information (as defined in United States Code, title 15, section 1681b(b)(4)(E)(i)); and

9.6 (ii) the head of the agency or department makes a written finding as prescribed under
9.7 United States Code, title 15, section 1681b(b)(4)(A);

9.8 (6) the dates, original payees, and amounts of any checks upon which is based any
9.9 adverse characterization of the consumer, included in the file at the time of the disclosure
9.10 or which can be inferred from the file;

9.11 (7) a record of all inquiries received by the agency during the one-year period
9.12 preceding the request that identified the consumer in connection with a credit or insurance
9.13 transaction that was not initiated by the consumer;

9.14 (8) if the consumer requests the credit file and not the credit score, a statement that
9.15 the consumer may request and obtain a credit score.

9.16 Subd. 2. Cost of disclosure. In the case of a request under subdivision 1, a
9.17 consumer reporting agency may impose a reasonable charge on a consumer for making
9.18 a disclosure pursuant to this section, which charge must:

9.19 (1) not exceed \$3 for each of the first 12 requests from the consumer in a calendar
9.20 year;

9.21 (2) not exceed \$8 for any additional request beyond the initial 12 requests from the
9.22 consumer in a calendar year; and

9.23 (3) be indicated to the consumer before making the disclosure.

9.24 Subd. 3. Format of disclosure. In the case of a request under subdivision 1, a
9.25 consumer reporting agency must provide the consumer with an opportunity to access his
9.26 or her report through the following means:

9.27 (1) in writing;

9.28 (2) in person, upon the appearance of the consumer at the place of business of the
9.29 consumer reporting agency where disclosures are regularly provided, during normal
9.30 business hours, and on reasonable notice;

9.31 (3) by telephone, if the consumer has made a written request for disclosure;

9.32 (4) by electronic means, if the agency offers electronic access for any other purpose;

9.33 (5) by any other reasonable means that is available from the agency.

9.34 Subd. 4. Timing of disclosure. A consumer reporting agency shall provide a
9.35 consumer report under subdivision 1 no later than:

- 10.1 (1) 24 hours after the date on which the request is made, if the disclosure is made by
10.2 electronic means, as requested under subdivision 3, clause (4); and
10.3 (2) five days after the date on which the request is made, if the disclosure is made
10.4 in writing, in person, by telephone, or by any other reasonable means that is available
10.5 from the agency.

10.6 Sec. 6. **[325E.68] ADEQUATE DESTRUCTION OF PERSONAL RECORDS.**

10.7 Subdivision 1. Definitions. For the purposes of this section, the following terms
10.8 shall have the meanings given them:

10.9 (a) "Business" means sole proprietorship, partnership, corporation, association,
10.10 or other group, however organized and whether or not organized to operate at a profit.
10.11 The term includes a financial institution organized, chartered, or holding a license or
10.12 authorization certificate under the laws of this state, any other state, the United States, or
10.13 any other country, or the parent or the subsidiary of any such financial institution. The
10.14 term also includes an entity that destroys records.

10.15 (b) "Dispose" includes:

10.16 (1) the discarding or abandonment of records containing personal information; and
10.17 (2) the sale, donation, discarding, or transfer of any medium, including computer
10.18 equipment, or computer media, containing records of personal information, or other
10.19 nonpaper media upon which records of personal information is stored, or other equipment
10.20 for nonpaper storage of information.

10.21 (c) "Personal information" means any information that identifies, relates to,
10.22 describes, or is capable of being associated with a particular individual, including, but
10.23 not limited to, a name, signature, Social Security number, fingerprint, photograph or
10.24 computerized image, physical characteristics or description, address, telephone number,
10.25 passport number, driver's license or state identification card number, date of birth, medical
10.26 information, bank account number, credit card number, debit card number, or any other
10.27 financial information.

10.28 (d) "Records" means any material on which written, drawn, spoken, visual, or
10.29 electromagnetic information is recorded or preserved, regardless of physical form or
10.30 characteristics. "Records" does not include publicly available directories containing
10.31 information an individual has voluntarily consented to have publicly disseminated or
10.32 listed, such as name, address, or telephone number.

10.33 Subd. 2. Disposal of records containing personal information. Any business that
10.34 conducts business in Minnesota and any business that maintains or otherwise possesses
10.35 personal information of residents of Minnesota must take all reasonable measures to

11.1 protect against unauthorized access to or use of the information in connection with, or
11.2 after its disposal. Such reasonable measures must include, but may not be limited to:

11.3 (1) implementing and monitoring compliance with policies and procedures that
11.4 require the burning, pulverizing, or shredding of papers containing personal information
11.5 so that the information cannot practicably be read or reconstructed;

11.6 (2) implementing and monitoring compliance with policies and procedures that
11.7 require the destruction or erasure of electronic media and other nonpaper media containing
11.8 personal information so that the information cannot practicably be read or reconstructed;

11.9 (3) after due diligence, entering into and monitoring compliance with a written
11.10 contract with another party engaged in the business of record destruction to dispose of
11.11 personal information in a manner consistent with this statute. Due diligence should
11.12 ordinarily include, but may not be limited to, one or more of the following: reviewing an
11.13 independent audit of the disposal company's operations and/or its compliance with this
11.14 statute or its equivalent; obtaining information about the disposal company from several
11.15 references or other reliable sources and requiring that the disposal company be certified by
11.16 a recognized trade association or similar third party with a reputation for high standards
11.17 of quality review; reviewing and evaluating the disposal company's information security
11.18 policies or procedures; or taking other appropriate measures to determine the competency
11.19 and integrity of the disposal company; and

11.20 (4) for disposal companies explicitly hired to dispose of records containing personal
11.21 information: implementing and monitoring compliance with policies and procedures that
11.22 protect against unauthorized access to or use of personal information during or after
11.23 the collection and transportation and disposing of such information in accordance with
11.24 clauses (1) and (2).

11.25 Subd. 3. **Business policy.** Procedures relating to the adequate destruction or proper
11.26 disposal of personal records must be comprehensively described and classified as official
11.27 policy in the writings of the business entity, including corporate and employee handbooks
11.28 and similar corporate documents.

11.29 Subd. 4. **Penalties and civil liability.** (a) Any person or business that violates this
11.30 section is subject to a civil penalty of not more than \$3,000.

11.31 (b) Any individual aggrieved by a violation may bring a civil action in district
11.32 court to enjoin further violations and to recover actual damages, costs, and reasonable
11.33 attorney fees.

11.34 Sec. 7. **[325G.052] CREDIT CARD OFFERS AND SOLICITATIONS; ADDRESS**
11.35 **VERIFICATIONS.**

12.1 (a) A credit card issuer that mails an offer or solicitation to receive a credit card and,
12.2 in response, receives a completed application for a credit card that lists an address that is
12.3 different from the address on the offer or solicitation shall verify the change of address
12.4 before issuing a credit card.

12.5 (b) Notwithstanding any other provision of law, a person to whom an offer or
12.6 solicitation to receive a credit card is made is not liable for the unauthorized use of a credit
12.7 card issued in response to that offer or solicitation if the credit card issuer does not verify
12.8 the change of address before issuing a credit card.

12.9 (c) When a credit card issuer receives a written or oral request for a change of the
12.10 cardholder's billing address and then receives a written or oral request for an additional
12.11 credit card within ten days after the requested address change, the credit card issuer shall
12.12 not mail the requested additional credit card to the new address or, alternatively, activate
12.13 the requested additional credit card, unless the credit card issuer has verified the change
12.14 of address.

1.1 To: Senator Betzold, Chair
 1.2 Committee on Judiciary
 Senator Skoglund,
 1.4 Chair of the Subcommittee on Data Practices, to which was referred

1.5 **S.F. No. 2002:** A bill for an act relating to consumer protection; authorizing credit
 1.6 blocks in cases of identity theft; authorizing a consumer to place a security freeze on the
 1.7 consumer's credit report; providing notice of this right; providing protections against
 1.8 identity theft; providing Social Security number protections; providing credit monitoring;
 1.9 providing for the adequate destruction of personal records; providing civil and criminal
 1.10 penalties; proposing coding for new law in Minnesota Statutes, chapters 13C; 325E; 325G.

1.11 Reports the same back with the recommendation that the bill be amended as follows:

1.12 Page 1, after line 9, insert:

1.13 "Section 1. Minnesota Statutes 2004, section 13.6905, is amended by adding a
 1.14 subdivision to read:

1.15 Subd. 33. Victim of identity theft data. Data maintained by the Department of
 1.16 Public Safety that document victims of identity theft and determinations of innocence are
 1.17 classified under section 325E.66, subdivision 6."

1.18 Page 1, line 14, delete "his or her" and insert "the consumer's"

1.19 Page 2, lines 1 and 6, delete "he or she" and insert "the consumer"

1.20 Page 4, lines 30 and 32, delete "or entity"

1.21 Page 5, line 10, delete "....." and insert "Minnesota Statutes, section 13C.05."

1.22 Page 6, line 22, delete "government or governmental subdivision or agency."

1.23 Page 6, line 29, delete everything after "parties"

1.24 Page 6, line 30, delete everything before the period

1.25 Page 7, line 13, delete "he"

6 Page 7, line 14, delete "or she" and insert "the person"

1.27 Page 7, line 16, delete "his or her" and insert "the person's"

1.28 Page 8, line 11, delete everything after the period

1.29 Page 8, delete lines 12 to 15 and insert "The data are private data on individuals as
 1.30 defined in section 13.02, subdivision 12. Law enforcement agencies have access to the
 1.31 data in order to assist victims of identify theft."

1.32 Page 8, line 34, delete "such" and insert "the"

1.33 Page 9, line 25, delete "his"

1.34 Page 9, line 26, delete "or her" and insert "the consumer's"

1.35 Page 10, line 13, delete "any such" and insert "the"

1.36 Page 11, line 2, delete "Such" and delete "may not be" and insert "are not"

1.37 Page 11, line 13, delete "and/or" and insert "or"

1.38 Page 11, line 23, delete "such" and insert "the"

1.39 Renumber the sections in sequence

2.1 Amend the title accordingly

2.2 And when so amended that the bill be recommended to pass and be referred to
2.3 the full committee.

2.4 
2.5 (Subcommittee Chair)

2.6 March 23, 2006
2.7 (Date of Subcommittee action)

1.1 Senator moves to amend S.F. No. 2002 as follows:

1.2 Page 1, line 5, delete "providing Social Security number protections;"

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State of Minnesota

S.F. No. 2002 - Consumer Identity Theft Protections

Author: Senator Dan Sparks

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) 

Date: March 20, 2006

This bill contains a number of provisions to protect consumers from identity theft.

Section 1 establishes a procedure for blocking information in a consumer credit report that is alleged to appear as a result of a violation of section 609.527 (identify theft). The consumer must submit a police report or other investigative report regarding the alleged violation. Consumer credit reporting agencies must notify furnishers of information that it has been blocked. The circumstances under which information may be unblocked are specified. The consumer must be notified if information is unblocked. The legal effect of the prior presence of blocked information is specified.

Section 2 contains a process under which a consumer may place a security freeze on a credit report.

Subdivision 1 contains the definitions.

Subdivision 2 contains the process for a consumer to place a security freeze on a credit report. A consumer may allow the report to be given to a specific party or for a specific period of time while the freeze is in place. Consumer reporting agencies may develop procedures for receiving and processing requests to temporarily lift a freeze. Provisions are included dealing with the effect of third-party requests for access to a credit report on which a freeze is in effect. Exceptions to the freeze are included for specified entities. A consumer may not be charged for a security freeze.

Subdivision 3 requires a notice of the right to obtain a security freeze to be included as part of the summary of rights required under the federal Fair Credit Reporting Act and specifies the notice language.

Subdivision 4 governs violations, penalties, and remedies.

Sections 2 to 4 contain procedural protections and notices regarding identity theft.

Section 2 contains the definitions.

Section 4 authorizes a person who has learned or reasonably suspects that the person is a victim of identity theft, a court, or prosecuting attorney, to move for an expedited judicial determination of the facts if a perpetrator was arrested, cited for, or convicted of a crime involving the victim or the victim's name has been involved in a complaint or record of conviction. The court may find a victim factually innocent of the offense and issue an order certifying this determination. The court may also order that related information associated with the identify theft be removed from court records and other records accessible to the public. Provisions are included for documentation of an order, vacating a determination, the form, and the establishment of a database within the Department of Public Safety of individuals who have been victims of identity theft and have received a determination of factual innocence. Access to the database is limited to criminal justice agencies, victims, and individuals and agencies authorized by victims.

Section 5 establishes a procedure for consumer-driven monitoring of information in a credit report. Information that must be disclosed is specified and exceptions are included. Provisions are also included dealing with the cost of disclosure, format, and timing.

Section 6 establishes a process governing adequate destruction of personal records.

Subdivision 1 contains the definitions.

Subdivision 2 requires a business that conducts business in Minnesota and maintains or possess personal information of Minnesota residents to take reasonable measures to protect against unauthorized access or use of disposed information. Reasonable measures are specified.

Subdivision 3 requires these procedures to be part of business policy, such as corporate and employee handbooks and similar corporate documents.

Subdivision 4 contains the penalties and civil liability.

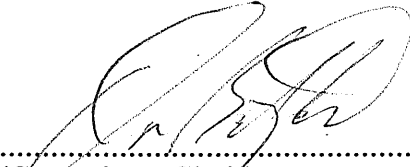
Section 7 regulates credit card offers and solicitations and contains address verification requirements. If the credit card issuer has not verified the address before issuing a credit card, the person to whom an offer was made is not liable for unauthorized use. Requirements are included governing situations where there is a request for a change in a billing address.

KP:cs

1.1 **Senator Betzold from the Committee on Judiciary, to which was referred**

1.2 **S.F. No. 2965:** A bill for an act relating to consumer protection; regulating
1.3 the disclosure of personal information by data warehouses; providing notice content
1.4 requirements; removing an exemption for financial institutions and health care entities;
1.5 amending Minnesota Statutes 2005 Supplement, section 325E.61, subdivision 1, by
1.6 adding a subdivision; repealing Minnesota Statutes 2005 Supplement, section 325E.61,
1.7 subdivision 4.

1.8 Reports the same back with the recommendation that the bill do pass. Report
1.9 adopted.

1.10 
1.11
(Committee Chair)

1.12 March 28, 2006
1.13 (Date of Committee recommendation)

Senators Chaudhary and Skoglund introduced--

S.F. No. 2965: Referred to the Committee on Judiciary.

A bill for an act

relating to consumer protection; regulating the disclosure of personal information by data warehouses; providing notice content requirements; removing an exemption for financial institutions and health care entities; amending Minnesota Statutes 2005 Supplement, section 325E.61, subdivision 1, by adding a subdivision; repealing Minnesota Statutes 2005 Supplement, section 325E.61, subdivision 4.

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

Section 1. Minnesota Statutes 2005 Supplement, section 325E.61, subdivision 1, is amended to read:

Subdivision 1. **Disclosure of personal information; notice required.** (a) Any person or business that conducts business in this state, and that owns or licenses data that includes personal information, shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in paragraph (c), or with any measures necessary to determine the scope of the breach, identify the individuals affected, and restore the reasonable integrity of the data system.

(b) Any person or business that maintains data that includes personal information that the person or business does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

2.1 (c) The notification required by this section may be delayed to a date certain if a law
2.2 enforcement agency affirmatively determines that the notification will impede a criminal
2.3 investigation.

2.4 (d) For purposes of this section, "breach of the security of the system" means
2.5 unauthorized acquisition of computerized data that compromises the security,
2.6 confidentiality, or integrity of personal information maintained by the person or business.
2.7 Good faith acquisition of personal information by an employee or agent of the person or
2.8 business for the purposes of the person or business is not a breach of the security system,
2.9 provided that the personal information is not used or subject to further unauthorized
2.10 disclosure.

2.11 (e) For purposes of this section, "personal information" means an individual's first
2.12 name or first initial and last name in combination with any one or more of the following
2.13 data elements, when either the name or the data elements is not encrypted or is encrypted
2.14 with an encryption key that was also acquired:

2.15 (1) Social Security number;

2.16 (2) driver's license number or Minnesota identification card number; ~~or~~

2.17 (3) account number or credit or debit card number, in combination with any required
2.18 security code, access code, or password that would permit access to an individual's
2.19 financial account;

2.20 (4) account passwords, personal identification numbers, or other access codes; or

2.21 (5) biometric data. For purposes of this clause, "biometric data" means biological
2.22 data derived from direct measurement of a part of the human body. Direct measurement
2.23 technologies include, but are not limited to, fingerprinting, iris recognition, hand geometry,
2.24 and facial recognition.

2.25 (f) For purposes of this section, "personal information" does not include publicly
2.26 available information that is lawfully made available to the general public from federal,
2.27 state, or local government records.

2.28 (g) For purposes of this section, "notice" may be provided by one of the following
2.29 methods:

2.30 (1) written notice to the most recent available address the person or business has
2.31 in its records;

2.32 (2) electronic notice, if the notice provided is consistent with the provisions
2.33 regarding electronic records and signatures in United States Code, title 15, section 7001; or

2.34 (3) substitute notice, if the person or business demonstrates that the cost of providing
2.35 notice would exceed \$250,000, or that the affected class of subject persons to be notified

3.1 exceeds 500,000, or the person or business does not have sufficient contact information.

3.2 Substitute notice must consist of all of the following:

3.4 (i) e-mail notice when the person or business has an e-mail address for the subject persons;

3.5 (ii) conspicuous posting of the notice on the Web site page of the person or business, if the person or business maintains one; and

3.6 (iii) notification to major statewide media.

3.7 (h) Notwithstanding paragraph (g), a person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing and content requirements of this section, shall be deemed to be in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the system.

3.14 Sec. 2. Minnesota Statutes 2005 Supplement, section 325E.61, is amended by adding a subdivision to read:

3.15 Subd. 1a. Content of notice. The notice required by this section must be clear and conspicuous. The notice must include:

3.16 (a) to the extent possible, a description of the categories of information that were, or are reasonably believed to have been, acquired by an unauthorized person, including Social Security numbers, driver's license or state identification numbers, and financial data;

3.17 (b) the steps taken by the person or business to protect personal information from further unauthorized access;

3.18 (c) a toll-free telephone number:

3.19 (1) that the individual may use to contact a live representative of the agency or person; and

3.20 (2) from whom the individual may learn:

3.21 (i) what types of information the agency or person maintained about that individual or about individuals in general; and

3.22 (ii) whether the agency or person maintained information about that individual;

3.23 (d) the toll-free telephone numbers and addresses for the major consumer reporting agencies, along with a description of, and an explanation of how to exercise, the following rights under the federal Fair Credit Reporting Act:

3.24 (1) the right to obtain a credit report free of charge from each nationwide credit reporting agency;

4.1 (2) the right to place a fraud alert in consumer reports to put creditors on notice that
4.2 the individual may be a victim of fraud; and

4.3 (3) the right to block or delete specific items in consumer reports relating to
4.4 fraudulent transactions; and

4.5 (e) the toll-free telephone number and Web site address of the Federal Trade
4.6 Commission, along with a recommendation that the individual should report any incidents
4.7 of identity theft to a local law enforcement agency and the Federal Trade Commission.

4.8 **Sec. 3. REPEALER.**

4.9 Minnesota Statutes 2005 Supplement, section 325E.61, subdivision 4, is repealed.

APPENDIX
Repealed Minnesota Statutes: 06-5600

325E.61 DATA WAREHOUSES; NOTICE REQUIRED FOR CERTAIN DISCLOSURES.

Subd. 4. **Exemption.** This section does not apply to any "financial institution" as defined by United States Code, title 15, section 6809(3), and to entities subject to the federal privacy and security regulations adopted under the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

1.1 To: Senator Betzold, Chair

1.2 Committee on Judiciary

Senator Skoglund,

1.4 Chair of the Subcommittee on Data Practices, to which was referred

1.5 **S.F. No. 2965:** A bill for an act relating to consumer protection; regulating
1.6 the disclosure of personal information by data warehouses; providing notice content
1.7 requirements; removing an exemption for financial institutions and health care
1.8 entities; amending Minnesota Statutes 2005 Supplement, section 325E.61, subdivision 1,
1.9 by adding a subdivision; repealing Minnesota Statutes 2005 Supplement, section 325E.61,
1.10 subdivision 4.

1.11 Reports the same back with the recommendation that the bill do pass and be referred
1.12 to the full committee.



.....
(Subcommittee Chair)

March 23, 2006
(Date of Subcommittee action)

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S.F. No. 2965 - Data Warehouses

Author: Senator Satveer Chaudhary

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

Date: March 20, 2006

This bill contains amendments to the data warehouse privacy provisions enacted last session.

Section 1 amends the disclosure requirements in cases where there has been a breach of a security system to modify the definition of "personal information." It would include data elements that are encrypted if the encryption key was also acquired; account passwords, personal identification numbers, or other access codes; or biometric data.

Section 2 specifies the contents of a notice.

Section 3 repeals an exemption for certain financial institutions and entities subject to HIPAA (the federal medical records privacy law).

KP:cs

1.1 **Senator Betzold from the Committee on Judiciary, to which was re-referred**

1.2 **S.F. No. 3234:** A bill for an act relating to commerce; regulating statutory housing
1.3 warranties; clarifying the legislature's intent that the warranties remain unaffected by
1.4 corporate dissolution; amending Minnesota Statutes 2004, sections 302A.781, by adding a
1.5 subdivision; 322B.863, by adding a subdivision; 327A.02, by adding a subdivision.

1.6 Reports the same back with the recommendation that the bill be amended as follows:

1.7 Delete everything after the enacting clause and insert:

1.8 "Section 1. Minnesota Statutes 2004, section 60A.08, subdivision 6, is amended to
1.9 read:

1.10 **Subd. 6. Bankruptcy or, insolvency, or dissolution clause.** Every bond or
1.11 policy of insurance issued in this state insuring against either actual loss suffered by the
1.12 insured, and imposed by law for damages on account of personal injury, death, or injury
1.13 to property caused by accident, or legal liability imposed upon the insured by reason of
1.14 such injuries or death, shall, notwithstanding anything in the policy to the contrary, be
deemed to contain the following condition:

1.16 The bankruptcy ~~or~~, insolvency, or dissolution of the insured shall not relieve the
1.17 insurer of any of its obligations under this policy, and in case an execution against the
1.18 insured on a final judgment is returned unsatisfied, then such judgment creditor shall have
1.19 a right of action on this policy against the company to the same extent that the insured
1.20 would have, had the insured paid the final judgment.

1.21 Sec. 2. Minnesota Statutes 2004, section 302A.781, is amended by adding a
1.22 subdivision to read:

1.23 **Subd. 4. Statutory homeowner warranty claims preserved.** The statutory
1.24 warranties provided under section 327A.02 are not affected by a dissolution under this
1.25 chapter.

1.26 Sec. 3. Minnesota Statutes 2004, section 322B.863, is amended by adding a
1.27 subdivision to read:

1.28 **Subd. 4. Statutory homeowner warranty claims preserved.** The statutory
1.29 warranties provided under section 327A.02 are not affected by a dissolution under this
1.30 chapter.

1.31 Sec. 4. Minnesota Statutes 2004, section 327A.02, is amended by adding a subdivision
1.32 to read:

1.33 **Subd. 2a. Remedies unaffected by corporate dissolution.** The statutory
1.34 warranties provided in this section are not affected by the dissolution of a vendor or home
1.35 improvement contractor that is a corporation or limited liability company.

1.36 Sec. 5. **EFFECTIVE DATE.**

2.1 This act is effective the day following final enactment and applies to all homes
 2.2 constructed or improved after January 1, 1994, that have existing warranties under
 2.3 Minnesota Statutes, section 327A.02."

2.4 Amend the title accordingly

2.5 And when so amended the bill do pass. Amendments adopted. Report adopted.

2.6 
 2.7 (Committee Chair)

2.8 March 28, 2006
 2.9 (Date of Committee recommendation)

**Senators Anderson, Metzen and Pogemiller introduced—
S.F. No. 3234: Referred to the Committee on Commerce.**

1.1 A bill for an act
1.2 relating to commerce; regulating statutory housing warranties; clarifying the
1.3 legislature’s intent that the warranties remain unaffected by corporate dissolution;
1.4 amending Minnesota Statutes 2004, sections 302A.781, by adding a subdivision;
1.5 322B.863, by adding a subdivision; 327A.02, by adding a subdivision.

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

1.7 Section 1. Minnesota Statutes 2004, section 302A.781, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 4. Statutory homeowner warranty claims preserved. The statutory
1.10 warranties provided under section 327A.02 are not affected by a dissolution under this
1.11 chapter.

1.12 Sec. 2. Minnesota Statutes 2004, section 322B.863, is amended by adding a
1.13 subdivision to read:

1.14 Subd. 4. Statutory homeowner warranty claims preserved. The statutory
1.15 warranties provided under section 327A.02 are not affected by a dissolution under this
1.16 chapter.

1.17 Sec. 3. Minnesota Statutes 2004, section 327A.02, is amended by adding a subdivision
1.18 to read:

1.19 Subd. 2a. Remedies unaffected by corporate dissolution. The statutory
1.20 warranties provided in this section are not affected by the dissolution of a vendor or home
improvement contractor that is a corporation or limited liability company.

- 2.1 **EFFECTIVE DATE.** This section is effective retroactive to the effective dates of
- 2.2 Minnesota Statutes, section 327A.02, subdivisions 1 and 3, and is intended to clarify the
- 2.3 intent of the legislature in enacting those subdivisions.

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**S.F. No. 3234 - Home Warranty Enforcement (author's
amendment)**

Author: Senator Ellen Anderson

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394)

Date: March 28, 2006

Section 1 amends the law governing contracts of insurance to expand the current statute that provides that bankruptcy or insolvency of the insured does not relieve the insurer of any obligations under a policy, to add dissolution of the insured.

Section 2 amends the corporate statute dealing with reopening of certain claims after dissolution of a corporation. New provisions are added under which a claimant seeking recovery under a statutory home warranty may bring a claim to recover money damages against the corporation for undistributed assets of the corporation or, if those assets are not sufficient, against a shareholder for any distributions made to the shareholder as part of the dissolution.

Section 3 makes the same changes with respect to the dissolution of a limited liability company.

Section 4 provides that the act is effective the day following final enactment and applies to claims pending on or commenced on or after that date.

KP:cs

Senators Kubly, Belanger, Sparks, Michel and Metzen introduced--
S.F. No. 3279: Referred to the Committee on Judiciary.

A bill for an act
relating to courts; providing conciliation court with jurisdiction to determine
certain fraudulent bank transactions; amending Minnesota Statutes 2004, section
491A.01, by adding a subdivision.

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

Section 1. Minnesota Statutes 2004, section 491A.01, is amended by adding a
subdivision to read:

Subd. 11. Jurisdiction; fraudulent debits. The conciliation court has jurisdiction
to determine a civil action commenced by a plaintiff, who is a resident of the county, to
recover the amount of a debit fraudulently drawn on an account issued by a bank or other
financial institution with a business location in the county, even though the defendant or
defendants are not residents of the county, if notice has previously been given that the
bank or other financial institution issuing the account from on which the debit was drawn
may commence a conciliation court action in the county where the bank or other financial
institution has a business location in order to recover the amount of the debit.

**Senate Counsel, Research,
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S.F. No. 3279 - Conciliation Court Jurisdiction

Author: Senator Gary Kubly

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

Date: March 28, 2006


This bill amends the conciliation court law to provide that a conciliation court has jurisdiction where a plaintiff who is a resident of the county is seeking to recover the amount of a debit fraudulently drawn on an account issued by a bank or other financial institution with a business location in the county, even though the defendant may not be a resident of the county, if notice has previously been given that the bank or other financial institution may commence a conciliation court action in the county where it has a business location in order to recover the amount of the debit.

KP:cs

1.1 **Senator Betzold from the Committee on Judiciary, to which was re-referred**

1.2 **S.F. No. 2887:** A bill for an act relating to manufactured homes; regulating
1.3 manufactured home park conversions; amending Minnesota Statutes 2004, section
327C.095, subdivisions 1, 5.

1.5 Reports the same back with the recommendation that the bill do pass. Report
1.6 adopted.


.....
(Committee Chair)

1.7
1.8

1.9 March 28, 2006
1.10 (Date of Committee recommendation)

SENATE
STATE OF MINNESOTA
EIGHTY-FOURTH LEGISLATURE

S.F. No. 2887

(SENATE AUTHORS: DIBBLE and LeClair; Companion to H.F. No. 3449)

DATE	D-PG	OFFICIAL STATUS
03/08/2006	3861	Introduction and first reading
03/08/2006		Referred to Jobs, Energy and Community Development
03/27/2006		Committee report: To pass as amended
03/27/2006		Second reading

1.2 A bill for an act
 1.3 relating to manufactured homes; regulating manufactured home park conversions;
 1.4 amending Minnesota Statutes 2004, section 327C.095, subdivisions 1, 5.

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

1.6 Section 1. Minnesota Statutes 2004, section 327C.095, subdivision 1, is amended to
 1.7 read:

1.8 Subdivision 1. **Conversion of use; minimum notice.** At least nine months before
 1.9 the conversion of all or a portion of a manufactured home park to another use, or before
 1.10 closure of a manufactured home park or cessation of use of the land as a manufactured
 1.11 home park, the park owner must prepare a closure statement and provide a copy to
 1.12 the commissioners of health and the housing finance agency, the local planning agency,
 1.13 and a copy to a resident of each manufactured home where the residential use is being
 1.14 converted. A resident may not be required to vacate until 60 days after the conclusion of
 1.15 the public hearing required under subdivision 4. If a lot is available in another section of
 1.16 the park that will continue to be operated as a park, the park owner must allow the resident
 1.17 to relocate the home to that lot unless the home, because of its size or local ordinance,
 is not compatible with that lot.

1.18 Sec. 2. Minnesota Statutes 2004, section 327C.095, subdivision 5, is amended to read:

1.19 Subd. 5. **Park conversions.** If the planned cessation of operation is for the
 1.20 purpose of converting the part of the park occupied by the resident to a common interest
 1.21 community pursuant to chapter 515B, the provisions of section 515B.4-111, except
 1.22 subsection (a), shall apply. The nine-month notice required by this section shall state that
 1.23 the cessation is for the purpose of conversion and shall set forth the rights conferred by

2.1 this subdivision and section 515B.4-111, subsection (b). Not less than 120 days before the
2.2 end of the nine months, the park owner shall serve upon the resident a form of purchase
2.3 agreement setting forth the terms of sale contemplated by section 515B.4-111, subsection
2.4 (d). Service of that form shall operate as the notice described by section 515B.4-111,
2.5 subsection (a). This subdivision does not apply to a common interest community that is a
2.6 cooperative incorporated under chapter 308A or 308B and that does not require persons
2.7 who are residents at the time of conversion to become members of the cooperative.

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Senate

State of Minnesota

**S.F. No. 2887 - Manufactured Home Park Conversions
(first engrossment)**

Author: Senator D. Scott Dibble

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

Date: March 27, 2006

Section 1 requires notices of manufactured home park conversions to be given to the Commissioner of Health and the Housing Finance Agency.

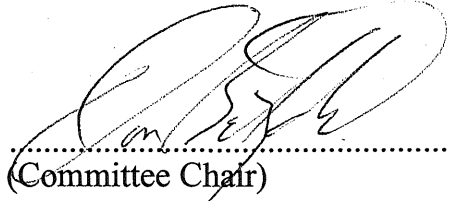
Section 2 amends the statute governing park conversions where the purpose is to convert part of the park to a common interest community. Certain notice requirements and other special provisions that apply to these cases would not be applicable to a common interest community that is a cooperative under **chapter 308A or 308B** and that does not require persons who are residents at the time of the conversion to become members of the cooperative.

KP:cs

1.1 **Senator Betzold from the Committee on Judiciary, to which was re-referred**

1.2 **S.F. No. 3216:** A bill for an act relating to housing; regulating condominium
1.3 conversions; amending Minnesota Statutes 2005 Supplement, section 515B.1-106.

1.4 Reports the same back with the recommendation that the bill do pass. Report
1.5 adopted.


.....
(Committee Chair)

1.6
1.7

1.8 March 28, 2006
1.9 (Date of Committee recommendation)

Senator Dibble introduced—

S.F. No. 3216: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act
2 relating to housing; regulating condominium conversions; amending Minnesota
3 Statutes 2005 Supplement, section 515B.1-106.

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

5 Section 1. Minnesota Statutes 2005 Supplement, section 515B.1-106, is amended to
6 read:

7 **515B.1-106 APPLICABILITY OF LOCAL REQUIREMENTS.**

8 (a) Except as provided in subsections (b) and (c), a zoning, subdivision, building
9 code, or other real estate use law, ordinance, charter provision, or regulation may not
10 directly or indirectly prohibit the common interest community form of ownership or
11 impose any requirement upon a common interest community, upon the creation or
12 disposition of a common interest community or upon any part of the common interest
13 community conversion process which it would not impose upon a physically similar
14 development under a different form of ownership. Otherwise, no provision of this chapter
15 invalidates or modifies any provision of any zoning, subdivision, building code, or other
16 real estate use law, ordinance, charter provision, or regulation.

17 (b) Subsection (a) shall not apply to any ordinance, rule, regulation, charter provision
18 or contract provision relating to the financing of housing construction, rehabilitation, or
19 purchases provided by or through a housing finance program established and operated
20 pursuant to state or federal law by a state or local agency or local unit of government.

21 (c) A statutory or home rule charter city, pursuant to an ordinance or charter
22 provision establishing standards to be applied uniformly within its jurisdiction, may
23 prohibit or impose reasonable conditions upon the conversion of buildings occupied
24 wholly or partially for residential use to the common interest community form of

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State of Minnesota

**S.F. No. 3216 - Common Interest Community Local
Regulation**

Author: Senator D. Scott Dibble

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) K.P.

Date: March 27, 2006

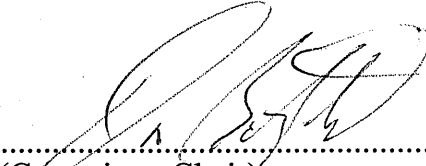
This bill amends the statute limiting local regulation of the common interest community form of ownership, subject to specified exceptions. Language under current law that provides that any ordinance or charter provision enacted under this section is not effective for a period exceeding 18 months is stricken.

KP:cs

1.1 **Senator Betzold from the Committee on Judiciary, to which was re-referred**

1.2 **S.F. No. 3263:** A bill for an act relating to commerce; regulating statutory housing
1.3 warranties; modifying remedies; amending Minnesota Statutes 2004, section 327A.05.

1.4 Reports the same back with the recommendation that the bill do pass. Report
1.5 adopted.


.....
(Committee Chair)

1.6
1.7

1.8 March 28, 2006
1.9 (Date of Committee recommendation)

1 A bill for an act
 1.2 relating to health; establishing a controlled substances reporting program;
 1.3 providing for disciplinary action; proposing coding for new law in Minnesota
 1.4 Statutes, chapter 152.

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

1.6 Section 1. [152.126] ALL SCHEDULES PRESCRIPTION ELECTRONIC
 1.7 REPORTING PROGRAM.

1.8 Subdivision 1. Definitions. For purposes of this section, the terms defined in this
 1.9 subdivision have the meanings given.

1.10 (a) "Advisory committee" means the Prescription Electronic Reporting Advisory
 1.11 Committee established under subdivision 3.

1.12 (b) "Board" means the Minnesota State Board of Pharmacy established under
 1.13 chapter 151.

1.14 (c) "Controlled substances" means those substances listed in section 152.02,
 1.15 subdivisions 3 to 6, and those substances defined by the board pursuant to section 152.02,
 1.16 subdivisions 7, 8, and 12.

1.17 (d) "Dispense" or "dispensing" has the meaning given in section 151.01, subdivision
 1.18 30.

1.19 (e) "Dispenser" means a person authorized by law to dispense, pursuant to a valid
 1.20 prescription, a controlled substance. A dispenser does not include a licensed hospital
 1.21 pharmacy that distributes controlled substances for inpatient hospital care.

1.22 (f) "Prescriber" means a licensed health care professional who is authorized to
 1.23 prescribe a controlled substance under section 152.12, subdivision 1.

1.24 (g) "Prescription" has the meaning given in section 151.01, subdivision 16.

2.1 Subd. 2. Establishment of a prescription electronic reporting program. The
2.2 board shall establish by January 1, 2008, an electronic system for reporting the information
2.3 required under subdivision 4 for all controlled substances dispensed within the state.

2.4 Subd. 3. Prescription Electronic Reporting Advisory Committee. (a) The
2.5 advisory committee consists of seven members appointed by the board to three-year
2.6 terms. The board shall include at least one representative of:

2.7 (1) the Department of Health;

2.8 (2) the Department of Human Services;

2.9 (3) each health-related licensing board that licenses prescribers;

2.10 (4) a professional medical association, which may include an association of pain
2.11 management and chemical dependency specialists;

2.12 (5) a professional pharmacy association; and

2.13 (6) a consumer or patient rights organization.

2.14 (b) The advisory committee shall advise the board on the development and operation
2.15 of the electronic reporting system, including, but not limited to:

2.16 (1) technical standards for electronic prescription drug reporting;

2.17 (2) proper analysis and interpretation of prescription monitoring data; and

2.18 (3) an evaluation process for the program.

2.19 Subd. 4. Reporting requirements. (a) Each dispenser must submit the following
2.20 data to the board or its designated vendor:

2.21 (1) name of the prescriber;

2.22 (2) national provider identifier of the prescriber;

2.23 (3) name of the dispenser;

2.24 (4) national provider identifier of the dispenser;

2.25 (5) name of the patient for whom the prescription was written;

2.26 (6) date of birth of the patient for whom the prescription was written;

2.27 (7) date the prescription was written;

2.28 (8) date the prescription was filled;

2.29 (9) name and strength of the controlled substance;

2.30 (10) quantity of controlled substance prescribed; and

2.31 (11) quantity of controlled substance dispensed.

2.32 (b) The dispenser must submit the required information by a procedure and in a
2.33 format established by the board.

2.34 (c) A dispenser is not required to submit this data for those controlled substance
2.35 prescriptions dispensed for individuals residing in licensed skilled nursing or intermediate
2.36 care facilities.

3.1 Subd. 5. Use and analysis of data by board. The board shall develop and maintain
3.2 a database of the data reported under subdivision 4 and shall use the database for the
3.3 identification of:

3.4 (1) individuals receiving prescriptions for controlled substances from prescribers
3.5 who subsequently obtain controlled substances from dispensers in quantities or with a
3.6 frequency inconsistent with generally recognized standards of dosage for those controlled
3.7 substances; and

3.8 (2) individuals presenting forged or otherwise false or altered prescriptions for
3.9 controlled substances to dispensers.

3.10 Subd. 6. Access to prescription electronic reporting program data. (a) Except as
3.11 indicated in paragraphs (b), (c), and (d), the data submitted to the board under subdivision
3.12 4 is private data on individuals as defined in section 13.02, subdivision 12.

3.13 (b) If in the course of reviewing data submitted under subdivision 4, the board
3.14 determines there is reasonable cause to believe that a violation of law has occurred, the
3.15 board shall notify the appropriate law enforcement authorities, and provide all relevant
3.16 data to the appropriate authority.

3.17 (c) The board may provide data submitted under subdivision 4 for public research,
3.18 policy or education purposes, to the extent that any information that is likely to reveal the
3.19 identity of the patient or other person who is the subject of the data has been removed.

3.20 (d) The following persons may access the data submitted under subdivision 4 in the
3.21 same or similar manner, and for the same or similar purposes, as those persons who are
3.22 authorized to access similar private data on individuals under federal and state law:

3.23 (1) a prescriber, to the extent the information relates specifically to a current patient
3.24 of the prescriber, to whom the practitioner is prescribing or considering prescribing any
3.25 controlled substance;

3.26 (2) a dispenser to the extent the information relates specifically to a current patient to
3.27 whom that dispenser is dispensing or considering dispensing any controlled substance;

3.28 (3) an individual who is the recipient of a controlled substance prescription for
3.29 which data was submitted under subdivision 4;

3.30 (4) personnel of the board specifically assigned to conduct investigations related to
3.31 controlled substances laws under the jurisdiction of the board;

3.32 (5) personnel of the board engaged in the collection of controlled substance
3.33 prescription information as part of the assigned duties and responsibilities of their
3.34 employment;

4.1 (6) a designated representative of a health-related licensing board responsible for the
4.2 licensure, regulation, or discipline of prescribers or dispensers provided that the requested
4.3 data relates to a bona fide investigation of a specific licensee;

4.4 (7) federal, state, and local law enforcement authorities engaged in a bona fide
4.5 investigation of a specific person; and

4.6 (8) personnel of the medical assistance program assigned to use the data collected
4.7 under this section to identify recipients whose usage of controlled substances may warrant
4.8 restriction to a single primary care physician, a single outpatient pharmacy, or a single
4.9 hospital.

4.10 (e) The board shall not release data submitted under this section unless it is provided
4.11 with evidence, satisfactory to the board, that the person requesting the information is
4.12 entitled to receive the data.

4.13 Subd. 7. **Disciplinary action.** (a) A dispenser who knowingly fails to submit data to
4.14 the board as required under this section is subject to disciplinary action by the appropriate
4.15 health-related licensing board.

4.16 (b) A prescriber or dispenser authorized to access the data who knowingly discloses
4.17 the data in violation of state or federal laws relating to the privacy of healthcare data shall
4.18 be subject to disciplinary action by the appropriate health-related licensing board.

4.19 Subd. 8. **Evaluation and reporting.** (a) The board, in consultation with the
4.20 advisory committee, shall evaluate the prescription electronic reporting program to
4.21 determine if the program is cost-effective. The board may contract with a vendor to
4.22 design and conduct the evaluation.

4.23 (b) The board shall submit the evaluation of the program to the legislature by
4.24 January 15, 2009.

4.25 Subd. 9. **Rules.** The board may promulgate rules necessary to implement the
4.26 provisions of this section.

4.27 **EFFECTIVE DATE.** This section is effective July 1, 2006, or upon receiving
4.28 sufficient nonstate funds to implement the prescription electronic reporting program,
4.29 whichever is later. In the event that nonstate funds are not secured by the Board of
4.30 Pharmacy to adequately fund the implementation of the prescription electronic reporting
4.31 program, the board is not required to implement section 1, without a subsequent
4.32 appropriation from the legislature.

4.33 Sec. 2. **FEDERAL GRANTS.**

4.34 The Board of Pharmacy shall apply for any applicable federal grants or other nonstate
4.35 funds to establish and fully implement the prescription electronic reporting program.

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

- 1.1 Senator moves to amend S.F. No. 2899 as follows:
- 1.2 Page 1, delete lines 10 and 11
- 1.3 Page 1, line 12, delete "(b)" and insert "(a)"
- 1.4 Page 1, line 14, delete "(c)" and insert "(b)"
- 1.5 Page 1, line 17, delete "(d)" and insert "(c)"
- 1.6 Page 1, line 19, delete "(e)" and insert "(d)"
- 1.7 Page 1, line 22, delete "(f)" and insert "(e)"
- 1.8 Page 1, line 24, delete "(g)" and insert "(f)"
- 1.9 Page 2, delete lines 5 and 6, and insert "board may convene an advisory committee.
- 1.10 If the board convenes a committee, the committee must include at least one representative
- 1.11 of:"
- 1.12 Page 3, line 1, delete "and analysis"
- 1.13 Page 3, delete lines 13 to 16
- 1.14 Page 3, line 17, delete "(c)" and insert "(b)"
- 1.15 Page 3, line 20, delete "(d)" and insert "(c)"
- 1.16 Page 4, line 10, delete "(e)" and insert "(d)"
- 1.17 Page 4, line 19, delete ", in consultation with the "
- 1.18 Page 4, line 20, delete "advisory committee,"
- 1.19 Page 4, delete lines 25 and 26

1.1 Senator moves to amend S.F. No. 2899 as follows:

1.2 Page 2, line 1, before "The" insert "(a)"

1.3 Page 2, after line 3, insert:"

1.4 (b) The board may contract with a vendor for the purpose of obtaining technical
1.5 assistance in the design, implementation, and maintenance of the electronic reporting
1.6 system. The vendor's role shall be limited to providing technical support to the board
1.7 concerning the software, databases, and computer systems required to interface with the
1.8 existing systems currently used by pharmacies to dispense prescriptions and transmit
1.9 prescription data to other third parties."

1.10 Page 3, after line 34, insert:"

1.11 (6) authorized personnel of a vendor under contract with the board who are engaged
1.12 in the design, implementation, and maintenance of the electronic reporting system as part
3 of the assigned duties and responsibilities of their employment, provided that access to data
1.14 is limited to the minimum amount necessary to test and maintain the system databases;"

1.15 Page 4, line 1, delete "(6)" and insert "(7)"

1.16 Page 4, line 4, delete "(7)" and insert "(8)"

1.17 Page 4, line 6, delete "(8)" and insert "(9)"

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State of Minnesota

S.F. No. 2899 - Controlled Substance Electronic Reporting System (First Engrossment)

Author: Senator Linda Berglin

Prepared by: Katie Cavanor, Senate Counsel (651/296-3801) *KTC*

Date: March 27, 2006

S.F. No. 2899 establishes a controlled substances reporting system that would require dispensers of controlled substances to electronically report specified information to the Board of Pharmacy.

Section 1 (152.126) establishes the prescription electronic reporting system.

Subdivision 1 defines the following terms: “advisory committee,” “board,” “controlled substances,” “dispense,” “dispenser,” “prescriber,” and “prescription.”

Subdivision 2 requires the Board of Pharmacy to establish by January 1, 2008, an electronic system for reporting prescribing information for all controlled substances dispensed within the state.

Subdivision 3 establishes an advisory committee of seven members appointed by the Board. Describes the members of the committee and the committee’s duties.

Subdivision 4 requires each dispenser to submit the following data to the Board or the Board’s designated vendor:

- (1) name of the prescriber;
- (2) national provider identifier of the prescriber;
- (3) name of the dispenser;

- (4) national provider identifier of the dispenser;
- (5) name of the patient for whom the prescription was written;
- (6) date of birth of the patient for whom the prescription was written;
- (7) date the prescription was written;
- (8) date the prescription was filled;
- (9) name and strength of the controlled substance;
- (10) quantity of controlled substance prescribed; and
- (11) quantity of controlled substance dispensed.

The dispenser is required to submit this data by a procedure and in the format established by the Board. A dispenser is not required to submit this data for individuals residing in a skilled nursing facility or a intermediated care facility.

Subdivision 5 requires the Board to develop and maintain a database of the reported data and use the data for the identification of:

- (1) individuals receiving prescriptions for controlled substances from prescribers who subsequently obtain controlled substances from dispensers in quantities or with a frequency inconsistent with generally recognized standards of dosage for those controlled substances; and
- (2) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to dispensers.

Subdivision 6, paragraph (a), except as allowed under paragraphs (b), (c), and (d), classifies the data submitted to the Board as private data on individuals.

Paragraph (b), if the Board, after reviewing data submitted, determines that there is reasonable cause to believe that a violation of law has occurred, permits the Board to notify the appropriate law enforcement authorities and provide the relevant data to the appropriate authority.

Paragraph (c) permits the Board to provide the data submitted for public research and policy or education purposes so long as any information that is likely to identify the patient or other person who is subject to the data has been removed.

Paragraph (d) authorizes the following persons to access to the data in the same or similar manner and for the same or similar purposes as those persons authorized to access similar private data on individuals under state and federal law:

- (1) a prescriber to the extent the information relates to a current patient;
- (2) a dispenser to the extent the information relates to a current patient;
- (3) an individual who is the recipient of a controlled substance prescription for which data was submitted;
- (4) personnel of the Board assigned to conduct investigations related to controlled substances laws;
- (5) personnel of the Board engaged in the collection of controlled substance prescription information;
- (6) a designated representative of a health related licensing Board;
- (7) law enforcement officials engaged in a bona fide investigation of a specific licensee; and
- (8) personnel of the medical assistance program assigned to use the data collected to identify recipients whose usage of controlled substances may warrant restriction to a single primary care physician, a single outpatient pharmacy, or a single hospital.

Paragraph (e) states that the Board may not release the data submitted unless it is provided with evidence that the person requesting the information is entitled to receive the data.

Subdivision 7 states that a dispenser who knowingly fails to submit data to the Board as required or who has access to the data and knowingly discloses the data in violation of state or federal law is subject to disciplinary action by the appropriate health-related licensing board.

Subdivision 8 requires the Board to evaluate the prescription electronic reporting program to determine if the program is cost effective and submit the evaluation to the Legislature by January 15, 2009. The Board may contract with a vendor to design and conduct the evaluation.

Subdivision 9 authorizes the Board to promulgate any rules necessary to implement this section.

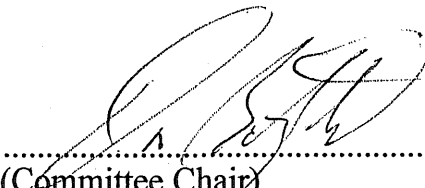
Section 2 requires the Board of Pharmacy to apply for any applicable federal grants or other nonstate funds to establish and fully implement the program.

KC:ph

1.1 **Senator Betzold from the Committee on Judiciary, to which was re-referred**

1.2 **S.F. No. 3263:** A bill for an act relating to commerce; regulating statutory housing
1.3 warranties; modifying remedies; amending Minnesota Statutes 2004, section 327A.05.

1.4 Reports the same back with the recommendation that the bill do pass. Report
1.5 adopted.

1.6 
1.7 (Committee Chair)

1.8 March 28, 2006
1.9 (Date of Committee recommendation)

Senators Pogemiller and Anderson introduced—

S.F. No. 3263: Referred to the Committee on Commerce.

1 A bill for an act
1.2 relating to commerce; regulating statutory housing warranties; modifying
1.3 remedies; amending Minnesota Statutes 2004, section 327A.05.

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

1.5 Section 1. Minnesota Statutes 2004, section 327A.05, is amended to read:

1.6 **327A.05 REMEDIES.**

1.7 Subdivision 1. **New home warranties.** Upon breach of any warranty imposed by
1.8 section 327A.02, subdivision 1, the vendee shall have a cause of action against the vendor
1.9 for damages arising out of the breach, or for specific performance. If the vendee is the
1.10 prevailing party, the vendee may also be awarded the vendee's costs, disbursements, and
1.11 reasonable attorney fees. Damages shall be limited to:

1.12 ~~(a)~~ (1) the amount necessary to remedy the defect or breach; or

1.13 ~~(b)~~ (2) the difference between the value of the dwelling without the defect and
1.14 the value of the dwelling with the defect.

1.15 Subd. 2. **Home improvement warranty.** Upon breach of any warranty imposed by
1.16 section 327A.02, subdivision 3, the owner shall have a cause of action against the home
1.17 improvement contractor for damages arising out of the breach, or for specific performance.
1.18 If the owner is the prevailing party, the owner may also be awarded the owner's costs,
1.19 disbursements, and reasonable attorney fees. Damages shall be limited to the amount
1.20 necessary to remedy the defect or breach.

1.21 EFFECTIVE DATE. This section is effective the day following final enactment
1.22 and applies to causes of action pending on or commenced on or after that date.

**Senate Counsel, Research,
and Fiscal Analysis**

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State of Minnesota

S.F. No. 3263 - Statutory Housing Warranties

Author: Senator Lawrence Pogemiller

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) KP

Date: March 28, 2006

This bill amends the remedies for new home warranties and home improvement warranties to provide that if a vendee or owner is the prevailing party, that person is entitled to costs, disbursements, and reasonable attorney fees.

An immediate effective date is included and the amendments would apply to causes of action pending on or commenced on or after that date.

KP:cs