

1.1 **Senator Mathews from the Committee on Civil Law and Data Practices Policy, to**
1.2 **which was referred**

1.3 **S.F. No. 3193:** A bill for an act relating to data practices; authorizing the exchange of
1.4 mental health data among law enforcement mental health units, social services, and health
1.5 care providers to coordinate necessary services; amending Minnesota Statutes 2020, sections
1.6 13.46, subdivisions 2, 7; 13.82, by adding a subdivision; Minnesota Statutes 2021
1.7 Supplement, section 144.293, subdivision 5.

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

1.9 Delete everything after the enacting clause and insert:

1.10 "Section 1. Minnesota Statutes 2020, section 13.46, subdivision 7, is amended to read:

1.11 **Subd. 7. Mental health data.** (a) Mental health data are private data on individuals and
1.12 shall not be disclosed, except:

1.13 (1) pursuant to section 13.05, as determined by the responsible authority for the
1.14 community mental health center, mental health division, or provider;

1.15 (2) pursuant to court order;

1.16 (3) pursuant to a statute specifically authorizing access to or disclosure of mental health
1.17 data or as otherwise provided by this subdivision;

1.18 (4) to personnel of the welfare system working in the same program or providing services
1.19 to the same individual or family to the extent necessary to coordinate services, provided
1.20 that a health record may be disclosed only as provided under section 144.293;

1.21 (5) to a health care provider governed by sections 144.291 to 144.298, to the extent
1.22 necessary to coordinate services; or

1.23 (6) with the consent of the client or patient.

1.24 (b) An agency of the welfare system may not require an individual to consent to the
1.25 release of mental health data as a condition for receiving services or for reimbursing a
1.26 community mental health center, mental health division of a county, or provider under
1.27 contract to deliver mental health services.

1.28 (c) Notwithstanding section 245.69, subdivision 2, paragraph (f), or any other law to the
1.29 contrary, ~~the responsible authority~~ for a community mental health center, mental health
1.30 division of a county, or a mental health provider must disclose mental health data to a law
1.31 enforcement agency if the law enforcement agency provides the name of a client or patient
1.32 and communicates that the:

- 2.1 (1) client or patient is currently involved in an emergency interaction with a mental
- 2.2 health crisis as defined in section 256B.0624, subdivision 2, paragraph (1), to which the law
- 2.3 enforcement agency has responded; and
- 2.4 (2) data is necessary to protect the health or safety of the client or patient or of another
- 2.5 person.
- 2.6 The scope of disclosure under this paragraph is limited to the minimum necessary for
- 2.7 law enforcement to safely respond to the emergency mental health crisis. Disclosure under
- 2.8 this paragraph may include, ~~but is not limited to;~~ the name and telephone number of the
- 2.9 psychiatrist, psychologist, therapist, mental health professional, practitioner, or case manager
- 2.10 of the client or patient, if known; and strategies to address the mental health crisis. A law
- 2.11 enforcement agency that obtains mental health data under this paragraph shall maintain a
- 2.12 record of the requestor, the provider of the information data, and the client or patient name.
- 2.13 Mental health data obtained by a law enforcement agency under this paragraph are private
- 2.14 data on individuals and must not be used by the law enforcement agency for any other
- 2.15 purpose. A law enforcement agency that obtains mental health data under this paragraph
- 2.16 shall inform the subject of the data that mental health data was obtained.
- 2.17 (d) In the event of a request under paragraph (a), clause (6), a community mental health
- 2.18 center, county mental health division, or provider must release mental health data to Criminal
- 2.19 Mental Health Court personnel in advance of receiving a copy of a consent if the Criminal
- 2.20 Mental Health Court personnel communicate that the:
- 2.21 (1) client or patient is a defendant in a criminal case pending in the district court;
- 2.22 (2) data being requested is limited to information that is necessary to assess whether the
- 2.23 defendant is eligible for participation in the Criminal Mental Health Court; and
- 2.24 (3) client or patient has consented to the release of the mental health data and a copy of
- 2.25 the consent will be provided to the community mental health center, county mental health
- 2.26 division, or provider within 72 hours of the release of the data.
- 2.27 For purposes of this paragraph, "Criminal Mental Health Court" refers to a specialty
- 2.28 criminal calendar of the Hennepin County District Court for defendants with mental illness
- 2.29 and brain injury where a primary goal of the calendar is to assess the treatment needs of the
- 2.30 defendants and to incorporate those treatment needs into voluntary case disposition plans.
- 2.31 The data released pursuant to this paragraph may be used for the sole purpose of determining
- 2.32 whether the person is eligible for participation in mental health court. This paragraph does
- 2.33 not in any way limit or otherwise extend the rights of the court to obtain the release of mental
- 2.34 health data pursuant to court order or any other means allowed by law.

- 3.1 Sec. 2. Minnesota Statutes 2020, section 144.294, subdivision 2, is amended to read:
- 3.2 Subd. 2. **Disclosure to law enforcement agency.** Notwithstanding section 144.293,
- 3.3 subdivisions 2 and 4, a provider must disclose health records relating to a patient's mental
- 3.4 health to a law enforcement agency if the law enforcement agency provides the name of
- 3.5 the patient and communicates that the:
- 3.6 (1) patient is currently involved in an emergency interaction with a mental health crisis
- 3.7 as defined in section 256B.0624, subdivision 2, paragraph (j), to which the law enforcement
- 3.8 agency has responded; and
- 3.9 (2) disclosure of the records is necessary to protect the health or safety of the patient or
- 3.10 of another person.
- 3.11 The scope of disclosure under this subdivision is limited to the minimum necessary for
- 3.12 law enforcement to safely respond to the emergency mental health crisis. The disclosure
- 3.13 may include the name and telephone number of the psychiatrist, psychologist, therapist,
- 3.14 mental health professional, practitioner, or case manager of the patient, if known; and
- 3.15 strategies to address the mental health crisis. A law enforcement agency that obtains health
- 3.16 records under this subdivision shall maintain a record of the requestor, the provider of the
- 3.17 information, and the patient's name. Health records obtained by a law enforcement agency
- 3.18 under this subdivision are private data on individuals as defined in section 13.02, subdivision
- 3.19 12, and must not be used by law enforcement for any other purpose. A law enforcement
- 3.20 agency that obtains health records under this subdivision shall inform the patient that health
- 3.21 records were obtained.
- 3.22 Sec. 3. Minnesota Statutes 2020, section 626.5571, subdivision 1, is amended to read:
- 3.23 Subdivision 1. **Establishment of team.** A county may establish a multidisciplinary adult
- 3.24 protection team comprised of the director of the local welfare agency or designees, the
- 3.25 county attorney or designees, the county sheriff or designees, and representatives of health
- 3.26 care. In addition, representatives of mental health or other appropriate human service
- 3.27 agencies, community corrections agencies, representatives from local tribal governments,
- 3.28 local law enforcement agencies or designees thereof, and adult advocate groups may be
- 3.29 added to the adult protection team."
- 3.30 Amend the title numbers accordingly
- 3.31 And when so amended the bill do pass and be re-referred to the Committee on Health
- 3.32 and Human Services Finance and Policy. Amendments adopted. Report adopted.

04/01/22

SENATEE

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Andrew Mathews
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(Committee Chair)

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March 31, 2022.....
(Date of Committee recommendation)