

**Senator Latz from the Committee on Judiciary and Public Safety, to which was re-referred**

**S.F. No. 4572:** A bill for an act relating to human services; the Department of Human Services child placement and safety executive bill; amending Minnesota Statutes 2022, sections 243.166, subdivision 7; 256J.08, subdivision 34a; 256J.28, subdivision 1; 256N.22, subdivision 10; 256N.24, subdivision 10; 256N.26, subdivisions 15, 16, 18, 21, 22; 256P.05, by adding a subdivision; 259.37, subdivision 2; 259.79, subdivision 1; 259.83, subdivision 4; 260C.178, subdivision 7; 260C.201, subdivision 1; 260C.202; 260C.209, subdivision 1; 260C.212, subdivision 2; 260C.301, subdivision 1; 260C.515, subdivision 4; 260C.607, subdivisions 1, 6; 260C.611; 260C.613, subdivision 1; 260C.615, subdivision 1; 260E.03, subdivision 23; 393.07, subdivision 10a; Minnesota Statutes 2023 Supplement, sections 119B.011, subdivision 15; 119B.16, subdivisions 1a, 1c; 119B.161, subdivision 2; 124D.142, subdivision 2; 144.2252, subdivision 2; 144.2253; 245A.03, subdivision 7; 256.046, subdivision 3; 256P.06, subdivision 3; 259.83, subdivisions 1, 1b, 3a.

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

Page 16, delete section 11

Page 43, after line 27, insert:

## **"ARTICLE 5**

### **MISCELLANEOUS PROVISIONS**

Section 1. Minnesota Statutes 2023 Supplement, section 13.46, subdivision 4, is amended to read:

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

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

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

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

(b)(1)(i) Except as provided in paragraph (c), the following data on applicants, certification holders, license holders, and former licensees are public: name, address, telephone number of licensees, email addresses except for family child foster care, date of receipt of a completed application, dates of licensure, licensed capacity, type of client preferred, variances granted, record of training and education in child care and child development, type of dwelling, name and relationship of other family members, previous

license history, class of license, the existence and status of complaints, and the number of serious injuries to or deaths of individuals in the licensed program as reported to the commissioner of human services, the local social services agency, or any other county welfare agency. For purposes of this clause, a serious injury is one that is treated by a physician.

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

(iii) When a license denial under section 245A.05 or a sanction under section 245A.07 is based on a determination that a license holder, applicant, or controlling individual is responsible for maltreatment under section 626.557 or chapter 260E, the identity of the applicant, license holder, or controlling individual as the individual responsible for maltreatment is public data at the time of the issuance of the license denial or sanction.

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

(v) A correction order or fine issued to a child care provider for a licensing violation is private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9, if the correction order or fine is seven years old or older.

(2) For applicants who withdraw their application prior to licensure or denial of a license, the following data are public: the name of the applicant, the city and county in which the

3.1 applicant was seeking licensure, the dates of the commissioner's receipt of the initial  
3.2 application and completed application, the type of license sought, and the date of withdrawal  
3.3 of the application.

3.4 (3) For applicants who are denied a license, the following data are public: the name and  
3.5 address of the applicant, the city and county in which the applicant was seeking licensure,  
3.6 the dates of the commissioner's receipt of the initial application and completed application,  
3.7 the type of license sought, the date of denial of the application, the nature of the basis for  
3.8 the denial, the existence of settlement negotiations, the record of informal resolution of a  
3.9 denial, orders of hearings, findings of fact, conclusions of law, specifications of the final  
3.10 order of denial, and the status of any appeal of the denial.

3.11 (4) When maltreatment is substantiated under section 626.557 or chapter 260E and the  
3.12 victim and the substantiated perpetrator are affiliated with a program licensed under chapter  
3.13 245A, the commissioner of human services, local social services agency, or county welfare  
3.14 agency may inform the license holder where the maltreatment occurred of the identity of  
3.15 the substantiated perpetrator and the victim.

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

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

3.24 (d) The following are private data on individuals: the identity of persons who have made  
3.25 reports concerning licensees or applicants that appear in inactive investigative data, and the  
3.26 records of clients or employees of the licensee or applicant for licensure whose records are  
3.27 received by the licensing agency for purposes of review or in anticipation of a contested  
3.28 matter. The names of reporters of complaints or alleged violations of licensing standards  
3.29 under chapters 245A, 245B, 245C, and 245D, and applicable rules and alleged maltreatment  
3.30 under section 626.557 and chapter 260E, are confidential data and may be disclosed only  
3.31 as provided in section 260E.21, subdivision 4; 260E.35; or 626.557, subdivision 12b.

3.32 (e) Data classified as private, confidential, nonpublic, or protected nonpublic under this  
3.33 subdivision become public data if submitted to a court or administrative law judge as part

of a disciplinary proceeding in which there is a public hearing concerning a license which has been suspended, immediately suspended, revoked, or denied.

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

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in section 260E.03, or 626.5572, subdivision 18, are subject to the destruction provisions of sections 260E.35, subdivision 6, and 626.557, subdivision 12b.

(h) Upon request, not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report of substantiated maltreatment as defined in section 626.557 or chapter 260E may be exchanged with the Department of Health for purposes of completing background studies pursuant to section 144.057 and with the Department of Corrections for purposes of completing background studies pursuant to section 241.021.

(i) Data on individuals collected according to licensing activities under chapters 245A and 245C, data on individuals collected by the commissioner of human services according to investigations under section 626.557 and chapters 245A, 245B, 245C, 245D, and 260E may be shared with the Department of Human Rights, the Department of Health, the Department of Corrections, the ombudsman for mental health and developmental disabilities, and the individual's professional regulatory board when there is reason to believe that laws or standards under the jurisdiction of those agencies may have been violated or the information may otherwise be relevant to the board's regulatory jurisdiction. Background study data on an individual who is the subject of a background study under chapter 245C for a licensed service for which the commissioner of human services is the license holder may be shared with the commissioner and the commissioner's delegate by the licensing division. Unless otherwise specified in this chapter, the identity of a reporter of alleged maltreatment or licensing violations may not be disclosed.

(j) In addition to the notice of determinations required under sections 260E.24, subdivisions 5 and 7, and 260E.30, subdivision 6, paragraphs (b), (c), (d), (e), and (f), if the commissioner or the local social services agency has determined that an individual is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in section 260E.03, and the commissioner or local social services agency knows that the individual is a person responsible for a child's care in another facility, the commissioner or local social services agency shall notify the head of that facility of this determination. The

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

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

5.10 **EFFECTIVE DATE.** This section is effective January 1, 2025.

5.11 Sec. 2. Minnesota Statutes 2023 Supplement, section 245C.02, subdivision 6a, is amended  
5.12 to read:

5.13 Subd. 6a. **Child care background study subject.** (a) "Child care background study  
5.14 subject" means an individual who is affiliated with a licensed child care center, certified  
5.15 license-exempt child care center, licensed family child care program, or legal nonlicensed  
5.16 child care provider authorized under chapter 119B, and who is:

5.17 (1) employed by a child care provider for compensation;

5.18 (2) assisting in the care of a child for a child care provider;

5.19 (3) a person applying for licensure, certification, or enrollment;

5.20 (4) a controlling individual as defined in section 245A.02, subdivision 5a;

5.21 (5) an individual 13 years of age or older who lives in the household where the licensed  
5.22 program will be provided and who is not receiving licensed services from the program;

5.23 (6) an individual ten to 12 years of age who lives in the household where the licensed  
5.24 services will be provided when the commissioner has reasonable cause as defined in section  
5.25 245C.02, subdivision 15;

5.26 (7) an individual who, without providing direct contact services at a licensed program,  
5.27 certified program, or program authorized under chapter 119B, may have unsupervised access  
5.28 to a child receiving services from a program when the commissioner has reasonable cause  
5.29 as defined in section 245C.02, subdivision 15; ~~or~~

5.30 (8) a volunteer, contractor providing services for hire in the program, prospective  
5.31 employee, or other individual who has unsupervised physical access to a child served by a

program and who is not under supervision by an individual listed in clause (1) or (5), regardless of whether the individual provides program services; or

(9) an authorized agent in a license-exempt certified child care center as defined in section 245H.01, subdivision 2a.

(b) Notwithstanding paragraph (a), an individual who is providing services that are not part of the child care program is not required to have a background study if:

(1) the child receiving services is signed out of the child care program for the duration that the services are provided;

(2) the licensed child care center, certified license-exempt child care center, licensed family child care program, or legal nonlicensed child care provider authorized under chapter 119B has obtained advanced written permission from the parent authorizing the child to receive the services, which is maintained in the child's record;

(3) the licensed child care center, certified license-exempt child care center, licensed family child care program, or legal nonlicensed child care provider authorized under chapter 119B maintains documentation on site that identifies the individual service provider and the services being provided; and

(4) the licensed child care center, certified license-exempt child care center, licensed family child care program, or legal nonlicensed child care provider authorized under chapter 119B ensures that the service provider does not have unsupervised access to a child not receiving the provider's services.

**EFFECTIVE DATE.** This section is effective October 1, 2024.

Sec. 3. Minnesota Statutes 2022, section 245E.08, is amended to read:

**245E.08 REPORTING OF SUSPECTED FRAUDULENT ACTIVITY.**

(a) A person who, in good faith, makes a report of or testifies in any action or proceeding in which financial misconduct is alleged, and who is not involved in, has not participated in, or has not aided and abetted, conspired, or colluded in the financial misconduct, shall have immunity from any liability, civil or criminal, that results by reason of the person's report or testimony. For the purpose of any proceeding, the good faith of any person reporting or testifying under this provision shall be presumed.

(b) If a person that is or has been involved in, participated in, aided and abetted, conspired, or colluded in the financial misconduct reports the financial misconduct, the department

7.1 may consider that person's report and assistance in investigating the misconduct as a  
7.2 mitigating factor in the department's pursuit of civil, criminal, or administrative remedies.

7.3 (c) After an investigation is complete, the reporter's name must be kept confidential.  
7.4 The subject of the report may compel disclosure of the reporter's name only with the consent  
7.5 of the reporter or upon a written finding by a district court that the report was false and there  
7.6 is evidence that the report was made in bad faith. This subdivision does not alter disclosure  
7.7 responsibilities or obligations under the Rules of Criminal Procedure, except that when the  
7.8 identity of the reporter is relevant to a criminal prosecution the district court shall conduct  
7.9 an in-camera review before determining whether to order disclosure of the reporter's identity."

7.10 Renumber the sections in sequence

7.11 Amend the title accordingly

7.12 And when so amended the bill do pass and be re-referred to the Committee on Health  
7.13 and Human Services. Amendments adopted. Report adopted.

7.14   
7.15 .....  
(Committee Chair)

7.16 March 22, 2024.....  
7.17 (Date of Committee recommendation)