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State of Minnesota

HOUSE OF REPRESENTATIVES

SPECIAL SESSION

H. F. No. 164

06/19/2020 Authored by Scott
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to health; prohibiting mandatory contact tracing; prohibiting health tracking
1.3 of employees; classifying data; imposing civil penalties; proposing coding for new
1.4 law in Minnesota Statutes, chapters 144; 181.

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

1.6 Section 1. [144.4187] CONTACT TRACING.

1.7 Subdivision 1. Definitions. (a) As used in this section, the following terms have the
1.8 meanings given them.

1.9 (b) "Commissioner" means the commissioner of health.

1.10 (c) "Communicable disease" has the meaning given in section 144.419, subdivision 1,
1.11 clause (2).

1.12 (d) "Contact tracing" means a program to identify persons who may be at risk of
1.13 contracting a communicable disease by virtue of contact with a contagious person in a
1.14 manner consistent with known or suspected modes of transmission.

1.15 (e) "Contagious person" means a person infected with an infectious agent of a
1.16 communicable disease, having a communicable disease, or harboring a specific infectious
1.17 agent and serving as a potential source of infection of a communicable disease.

1.18 (f) "Infectious agent" means an organism that is capable of producing infection or
1.19 communicable disease in humans.

1.20 (g) "Location information" means information concerning the location of a wireless
1.21 communications device that, in whole or in part, is generated or derived from or obtained

2.1 by the operation of a wireless communications device including, but not limited to, global
2.2 positioning system locations.

2.3 (h) "Registered person" means a person who has registered for an electronic proximity
2.4 tracking program established by the commissioner.

2.5 (i) "Wireless communications device" means (1) a cellular phone, or (2) a portable
2.6 electronic device that is capable of receiving and transmitting data, including but not limited
2.7 to text messages and e-mail, without an access line for service.

2.8 Subd. 2. **Mandatory contact tracing prohibited.** Except as otherwise provided by law,
2.9 the commissioner must not require a contagious person to participate in contact tracing.

2.10 Subd. 3. **Contact tracing by electronic means; mandatory tracking prohibited.** (a)
2.11 The commissioner may establish contact tracing that uses data transmitted between wireless
2.12 communications devices or location information. The commissioner must not:

2.13 (1) require any person to use an application that uses data transmitted between wireless
2.14 communications devices to determine whether the devices were in close proximity to one
2.15 another; or

2.16 (2) require any person to provide location information.

2.17 (b) A program established under paragraph (a) must:

2.18 (1) identify applications that use data transmitted between wireless communications
2.19 devices that have installed the application to determine whether the devices were in close
2.20 proximity to one another;

2.21 (2) permit a person to voluntarily register to receive notifications from the commissioner
2.22 in a manner that does not require the person to provide a name or address; and

2.23 (3) provide notifications to a registered person if information on a wireless
2.24 communications device voluntarily provided by a contagious person shows that the
2.25 contagious person's wireless communications device was in close proximity to the registered
2.26 person's wireless communications device.

2.27 (c) If a contagious person voluntarily provides location information, the commissioner
2.28 may use that information to engage in contact tracing.

2.29 (d) The commissioner may notify any person identified as having had contact with a
2.30 contagious person of the potential exposure to a contagious person. Notifications made
2.31 under this subdivision must not include the name or other identifying information of the

3.1 contagious person. At a minimum, the notification should include information sufficient to
 3.2 help a person understand:

3.3 (1) the person's risk of contracting a communicable disease;

3.4 (2) what the person should do to maintain separation from others who are not exposed;

3.5 (3) how to identify signs of illness; and

3.6 (4) the possibility that the person could spread the infection to others even if the person
 3.7 does not feel ill.

3.8 Subd. 4. **Mandatory disclosure of health status prohibited.** No person must be required
 3.9 to possess, wear, or display a symbol, card, or any other indication that the person tested
 3.10 positive for a communicable disease or has the antibodies for a communicable disease.

3.11 Subd. 5. **Contact data.** (a) Information identifying a person who may be at risk of
 3.12 contracting a communicable disease by virtue of contact with a contagious person is health
 3.13 data as defined in section 13.3805, subdivision 1, paragraph (a), clause (2).

3.14 (b) Information provided by a registered person is data on individuals as defined in
 3.15 section 13.02, subdivision 5.

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

3.17 **Sec. 2. [181.975] HEALTH TRACKING PROHIBITED.**

3.18 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
 3.19 the meanings given.

3.20 (b) "Communicable disease" has the meaning given in section 144.419, subdivision 1,
 3.21 clause (2).

3.22 (c) "Contagious person" means a person infected with an infectious agent of a
 3.23 communicable disease, having a communicable disease, or harboring a specific infectious
 3.24 agent and serving as a potential source of infection of a communicable disease.

3.25 (d) "Employer" means any person having one or more employees in Minnesota, and
 3.26 includes the state and any political subdivisions of the state.

3.27 (e) "Employee" means a person who performs services for hire in Minnesota for an
 3.28 employer, including independent contractors.

3.29 (f) "Infectious agent" means an organism that is capable of producing infection or
 3.30 communicable disease in humans.

4.1 (g) "Location information" means information concerning the location of a wireless
4.2 device that, in whole or in part, is generated or derived from or obtained by the operation
4.3 of a wireless communications device including, but not limited to, global positioning system
4.4 locations.

4.5 (h) "Wireless communications device" means (1) a cellular phone, or (2) a portable
4.6 electronic device that is capable of receiving and transmitting data, including but not limited
4.7 to text messages and e-mail, without an access line for service.

4.8 Subd. 2. **Health tracking prohibited.** (a) No employer or employment agency shall
4.9 directly or indirectly:

4.10 (1) require an employee to install an application on the employee's personal wireless
4.11 communications device that uses data transmitted between wireless communications devices
4.12 that have installed the application to determine whether the devices were in close proximity
4.13 to one another;

4.14 (2) affect the terms or conditions of employment or terminate the employment of any
4.15 person based on an employee's refusal to install an application described in clause (1);

4.16 (3) require an employee to provide location information for the purposes of determining
4.17 whether the employee may be at risk of contracting a communicable disease by virtue of
4.18 contact with a contagious person;

4.19 (4) affect the terms or conditions of employment or terminate the employment of any
4.20 person based on an employee's refusal to provide location information for the purposes
4.21 described in clause (3);

4.22 (5) install an application on a wireless communications device provided to the employee
4.23 that uses data transmitted between wireless communications devices that have installed the
4.24 application to determine whether the device provided to the employee was in close proximity
4.25 to a contagious person's wireless communications device; or

4.26 (6) use location information obtained in any manner for the purposes of determining
4.27 whether an employee may be at risk of contracting a communicable disease by virtue of
4.28 contact with a contagious person.

4.29 (b) Nothing in this section shall limit an employer's ability to develop and maintain
4.30 lawful workplace policies governing an employee's use of the employer's wireless
4.31 communications devices, equipment, or vehicles, including policies regarding Internet and
4.32 e-mail use; social networking and application use; and location tracking for purposes other

5.1 than determining whether the employee had contact with, or was in close proximity to, a
5.2 contagious person.

5.3 (c) Nothing in this section shall limit an employer's ability to develop and maintain
5.4 lawful workplace policies to prevent an employee who is a contagious person from exposing
5.5 the employer, other employees, customers, or others to a communicable disease.

5.6 Subd. 3. **Penalties.** Any person aggrieved by a violation of this section may bring a civil
5.7 action in which the court may award:

5.8 (1) up to three times the actual damages suffered due to the violation;

5.9 (2) punitive damages;

5.10 (3) reasonable costs and attorney fees; and

5.11 (4) injunctive or other equitable relief as the court may deem appropriate.

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