

**Sec. 8. APPROPRIATION.**

The sum of \$30,000 is appropriated to the commissioner for establishment of the grain buyers and storage fund pursuant to section 4. The amount appropriated pursuant to this section shall be repaid to the general fund by June 30, 1983.

**Sec. 9. REPEALER.**

Minnesota Statutes 1980, Sections 223.04; 223.07; 223.08; 223.09; 223.10; 223.11; 232.01; 232.02, Subdivisions 4, 5, 6, 7, 8 and 9; 232.03; 232.04; and 232.06, Subdivision 5; Minnesota Statutes 1981 Supplement, Sections 223.01; 223.02; 223.03; 223.05; and 232.02, Subdivisions 1, 2 and 3, are repealed. Sections 1 to 6 are repealed July 1, 1983. Any claims under sections 1 to 6 which are not settled before July 1, 1983, may be settled under the provisions of section 4, subdivisions 7 and 8, as they existed prior to July 1, 1983.

**Sec. 10. EFFECTIVE DATE.**

This act is effective July 1, 1982.

Approved March 23, 1982

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**CHAPTER 636 — H.F.No. 2058**

*An act relating to public welfare; providing for classification, access, and destruction of certain child abuse report records; clarifying the classification of reports regarding vulnerable adults; prescribing penalties; amending Minnesota Statutes 1980, Sections 626.556, Subdivisions 3, 7, and by adding a subdivision; 626.557, Subdivision 19, and by adding a subdivision; and Minnesota Statutes 1981 Supplement, Section 626.556, Subdivision 11.*

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

Section 1. Minnesota Statutes 1980, Section 626.556, Subdivision 3, is amended to read:

Subd. 3. **PERSONS MANDATED TO REPORT.** A professional or his delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement who has knowledge of or reasonable cause to believe a child is being neglected or physically or sexually abused shall immediately report the information to the local welfare agency, police department or the county sheriff. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency. The local welfare agency, upon receiving a report, shall immediately notify the local police department or the

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county sheriff. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school or agency.

Any person not required to report under the provisions of this subdivision may voluntarily report to the local welfare agency, police department or the county sheriff if he has knowledge of or reasonable cause to believe a child is being neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency.

Any person who makes a report shall, upon request to the local welfare agency, receive a concise summary of the disposition of the report, unless release would be detrimental to the best interests of the child.

Sec. 2. Minnesota Statutes 1980, Section 626.556, Subdivision 7, is amended to read:

Subd. 7. **REPORT.** An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed as soon as possible by a report in writing to the appropriate police department, the county sheriff or local welfare agency. Any report shall be of sufficient content to identify the child, the parent, guardian, or other person responsible for his care, the nature and extent of the child's injuries and the name and address of the reporter. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department shall be forwarded immediately to the local police department or the county sheriff.

A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to sections 15.1611 to 15.1699 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11.

Sec. 3. Minnesota Statutes 1981 Supplement, Section 626.556, Subdivision 11, is amended to read:

Subd. 11. **RECORDS.** All records maintained by a local welfare agency under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Report records maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority. The welfare board shall make available to the investigating, petitioning, or prosecuting authority any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information

relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of sections 15.1611 to 15.1699. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be ~~disclosed by the local welfare agency, police department, or county sheriff only upon court order or as required by law or a rule of civil or criminal procedure~~ confidential while the report is under investigation. After the investigation is completed, the name of the reporter shall be confidential but shall be accessible to the individual subject of the record upon court order.

Records maintained by local welfare agencies, the police department or county sheriff under this section shall be destroyed as follows described in clauses (a) to (c):

(a) ~~All records relating to reports which, upon investigation, are found to be false shall be destroyed immediately; If upon investigation a report is found to be unsubstantiated, notice of intent to destroy records of the report shall be mailed to the individual subject of the report. At the subject's request the records shall be maintained as private data. If no request from the subject is received within 30 days of mailing the notice of intent to destroy, the records shall be destroyed.~~

(b) All records relating to reports which, upon investigation, are found to be substantiated shall be destroyed seven years after the date of the final entry in the case record ; and.

(c) All records of reports which, upon initial investigation, cannot be substantiated or disproved to the satisfaction of the local welfare agency, local police department or county sheriff may be kept for a period of one year. If the local welfare agency, local police department or county sheriff is unable to substantiate the report within that period, each agency unable to substantiate the report shall destroy its records relating to the report in the manner provided by clause (a).

Sec. 4. Minnesota Statutes 1980, Section 626.556, is amended by adding a subdivision to read:

Subd. 13. APPLICATION OF DATA PRACTICES ACT. The classification of reports and records created or maintained for the purposes of this section shall be determined as provided by this section, notwithstanding any other classifications established by sections 15.1611 to 15.1699.

Sec. 5. Minnesota Statutes 1980, Section 626.557, is amended by adding a subdivision to read:

Subd. 12a. APPLICATION OF DATA PRACTICES ACT. The classification of reports and records created or maintained for the purposes of this section shall be determined as provided by this section, notwithstanding any other classifications established by sections 15.1611 to 15.1699.

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Sec. 6. Minnesota Statutes 1980, Section 626.557, Subdivision 19, is amended to read:

Subd. 19. **PENALTY.** Any caretaker, as defined in subdivision 2, or operator or employee thereof, or volunteer worker thereat, who intentionally abuses or neglects a vulnerable adult, or being a caretaker, knowingly permits conditions to exist which result in the abuse or neglect of a vulnerable adult, ~~may be charged with a violation of section 609.23~~ is guilty of a gross misdemeanor.

Sec. 7. **EFFECTIVE DATE.**

Sections 1 to 6 are effective the day following final enactment.

Approved March 23, 1982

## CHAPTER 637 — H.F.No. 2065

*An act relating to public welfare; providing for regulation of aversive or deprivation procedures for behavior modification of mentally retarded individuals; proposing new law coded in Minnesota Statutes, Chapter 245.*

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

Section 1. **[245.825] USE OF AVERSIVE OR DEPRIVATION PROCEDURES IN FACILITIES SERVING MENTALLY RETARDED PERSONS. [Subdivision 1.] RULES.**

The commissioner of public welfare shall by October, 1983 promulgate rules governing the use of aversive and deprivation procedures in all licensed facilities serving mentally retarded persons. No provision of these rules shall encourage or require the use of aversive and deprivation procedures. The rules shall prohibit: (a) the application of certain aversive or deprivation procedures in facilities except as authorized and monitored by the designated regional review committees; and (b) the use of aversive or deprivation procedures that restrict the consumers' normal access to nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, and necessary clothing. The rule shall further specify that consumers may not be denied ordinary access to legal counsel and next of kin. In addition, the rule may specify other prohibited practices and the specific conditions under which permitted practices are to be carried out.

Sec. 2. **[245.825] [Subd. 2.] REGIONAL REVIEW COMMITTEE.**

After the rules have been promulgated the commissioner shall appoint regional review committees to monitor the rules.

Approved March 23, 1982

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