Bill Summary Comparison of

Health and Human Services

|  |  |
| --- | --- |
| Senate File 1458, 2nd Engrossment | Senate File 1458, 1st Unofficial Engrossment |
| Article 2: Chemical and Mental Health Services | Article 8: Chemical and Mental Health |

Prepared by:

Senate Counsel, Research and Fiscal Analysis and House Research

May 4, 2015

This publication can be made available in alternative format upon request.

Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance.

| Article 2: Chemical and Mental Health |  | Article 8: Chemical and Mental Health |
| --- | --- | --- |
| **Section 1 (13.46, subd. 2)** amends the welfare data statute to specifically authorize sharing of data with personnel of the welfare system for purposes of coordinating services for an individual or family. In addition, data can be shared with a health care provider, to the extent necessary to coordinate services, and a health record may be disclosed only with consent. | House adds a requirement that the patient must provide annual written consent for the release and sharing of health records. Senate does not include this requirement. | Sec. 1. General. Amends § 13.46, subd. 2. Adds that welfare data (private data on individuals) may be disclosed to other personnel in the welfare system for the purpose of coordinating services for an individual or family. (Welfare data can presently be shared with personnel in the welfare system to verify an individual’s identity, determine eligibility and the need to provide services to an individual or family across programs, assess parental contributions, and investigate suspected fraud.)Adds that welfare data can be disclosed to a health care provider as defined in the Minnesota Health Records Act to the extent necessary to coordinate services, provided that a health record is disclosed only as allowed under section 144.293 if the patient has provided annual consent (amended in section 4 of this article). |
| **Section 2** **(13.46, subd. 7)** amends the welfare data provision governing mental health data to authorize disclosure to personnel of the welfare system working in the same program or providing services to the same individual or family, and to a health care provider, to the extent necessary to coordinate services, provided that a health record may be disclosed only with consent. | House adds a requirement that the patient must provide annual written consent for the release and sharing of health records. Senate does not include this requirement. | Sec. 2. Mental health data. Amends § 13.46, subd. 7. Adds that mental health data (private data on individuals) may be disclosed to personnel of the welfare system working in the same program or providing services to the same individual or family to the extent necessary to coordinate services, provided that a health record is disclosed only as allowed under section 144.293 if the patient has provided annual consent (amended in section 4 of this article.)Adds that mental health data (private data on individuals) may be disclosed to a health care provider as defined in the Minnesota Health Records Act if the patient has provided annual consent and to the extent necessary to coordinate services, as long as the record is disclosed only as allowed under section 144.293. |
|  | House only section. | Sec. 3. Emergency services. Amends § 62Q.55, subd. 3. Adds emergency mental health services for children and adults to the definition of “emergency services” in the chapter on health plan companies. |
|  | House only section. | Sec. 4. Exceptions to consent requirement. Amends § 144.293, subd. 5. Provides that upon written documentation that access to data are necessary to coordinate services for an individual who is receiving services from the welfare system, the release and disclosure requirements of this section do not apply. |
| **Section 3** **(144.293, subd. 6)** amends the health records statute so that a consent to the release of health records to the welfare system (as provided for under **sections 1 and 2**) would not expire after one year. | Senate only section. |  |
|  | House only section. | Sec. 5. Community-based programs. Amends § 145.56, subd. 2. Instructs the commissioner of health, within available appropriations, to establish grants for community-based programs to provide evidence based suicide prevention and intervention training to education, public safety, and health professionals and to provide postvention training to mental health professionals.  |
|  | House only section. | Sec. 6. Collection and reporting suicide data. Amends § 145.56, subd. 4. Adds paragraphs (b) and (c) which require the commissioner of health to issue a report to the legislature by February 1, 2016, with a plan to identify methods to improve the gathering of suicide-related data. Requires the plan to address how this data can help identify the scope of the suicide problem, identify high risk groups, establish priority prevention activities, and monitor the effects of suicide prevention programs. |
| **Section 4 (245.4661, subd. 5)** corrects a reference to intensive residential treatment service (IRTS). | Senate only section. |  |
| **Section 5 (245.4661, subd 6)** strikes language that allows the transfer of funds from a state-operated services account for mental health specialty treatment services.  (Related to section 246.18, subdivision 8.)  | Senate only section. |  |
| **Section 6 (245.4661, subd. 9)** lists the services and programs for which the adult mental health grants may fund. | Senate only section. |  |
| **Section 7 (245.4661, subd. 10)** requires the commissioner to report biennially on the use of the adult mental health grant funds, specifically the amount of funding to mental health initiatives, the programs and services that were funded, and outcome data related to those services and programs. | Senate only section.  |  |
| **Section 8 (245.467, subd. 6)** makes conforming changes in the human services chapter with regard to the modification to access to mental health data under section 13.46, subdivision 7. | Amendments to existing language are identical. House adds new language that limits access to mental health data and requires access to be recorded in a data audit trail. A person who willfully entered, updated, accessed, shared, or disseminated data in violation of this section is subject to civil and criminal liability. | Sec. 7. Restricted access to data. Amends § 245.467, subd. 6. Requires county boards to have a procedure in place to allow personnel of the welfare system and health care providers who have access to mental health data under section 13.46, subdivision 7 (amended in section 2 of this article), to have access to the names and addresses of persons who are receiving mental health services through the county. (Current law allows certain county employees and staff who provide mental health treatment to have access to this data.)Permits authorized individuals to access case management data and mental health services billing data according to the official duties of the individual and in compliance with statutory authorization. If this information is stored in an information system not operated by a state agency, all actions related to accessing the records must be recorded in a data audit trail. Data contained in the data audit trail are public data. Requires immediate revocation of authorization to access records and investigation if an individual has accessed data in violation of this section. Makes an individual subject to civil and criminal liability for willful access to records without authorization. |
| **Section 9** **(245.469, subd. 3)** expands mental health crisis services to include oversight and training of mobile crisis service providers, specialty consultation for persons with traumatic brain injury or an intellectual disability who are experiencing a mental health crisis, a single statewide crisis phone number, and the expansion of mobile crisis teams statewide. |  Senate section is statutory language and House language is uncodified.Senate specifies effective dates for service implementation.House adds language giving priority to regions unable to meet the needs of the residents in the region and to distribute at least 50 percent of the grant funds to programs in rural Minnesota. | Sec. 18. Mental health crisis services. Directs the commissioner to increase access to mental health crisis services for children and adults. Provides a list of actions to be taken by the commissioner that will result in increased access. Requires the commissioner to give priority to regions unable to meet the needs of the residents in the region and to distribute at least 50 percent of the grant funds to programs in rural Minnesota. |
| **Section 10 (245.4876, subd. 7)** makes conforming changes in the human services chapter with regard to the modification to access to mental health data under section 13.46, subdivision 7. | Amendments to existing language are identical. House adds new language that limits access to mental health data and requires access to be recorded in a data audit trail. A person who willfully entered, updated, accessed, shared, or disseminated data in violation of this section is subject to civil and criminal liability. | Sec. 8. Restricted access to data. Amends § 245.4876. Requires county boards to have a procedure in place to allow personnel of the welfare system and health care providers who have access to mental health data under section 13.46, subdivision 7 (amended in section 2 of this article), to have access to the names and addresses of children who are receiving mental health services through the county. (Current law allows certain county employees and staff who provide mental health treatment or case management to have access to this data.)Permits authorized individuals to access case management data and mental health services billing data according to the official duties of the individual and in compliance with statutory authorization. If this information is stored in an information system not operated by a state agency, all actions related to accessing the records must be recorded in a data audit trail. Data contained in the data audit trail are public data. Requires immediate revocation of authorization to access records and investigation if an individual has accessed data in violation of this section. Makes an individual subject to civil and criminal liability for willful access to records without authorization. |
| **Section 11 (245.4889, subd. 1)** lists the services and programs for which children’s mental health grants may fund. | Senate only section. |  |
| **Section 12** **(245.4889, subd. 3)** requires the commissioner to report on the use of the children’s mental health grants biennially, specifically the amount of grants awarded, the programs and services funded, and outcome data related to the funded services and programs. | Senate only section. |  |
| **Section 13 (245.735, subd. 1)** requires the Commissioner of Human services to develop and execute projects to reform the mental health system by participating in the federal Excellence in Mental Health demonstration project.  | Identical except Senate uses “shall” and House uses “may.” | Sec. 9. Excellence in mental health demonstration project. Creates § 245.735.  Subd. 1. Excellence in Mental Health demonstration project. Allows the commissioner of human services to participate in the demonstration project. |
| **Subdivision 2** requires the commissioner to submit a proposal to the federal Department of Health and Human Services for the demonstration project. | Identical except Senate uses “shall” and House uses “may.” | Subd. 2. Federal proposal. Allows the commissioner to submit a proposal of the project, including state plan amendments and waiver requests, to the United States Department of Health and Human Services. |
| **Subdivision 3** gives the commissioner rulemaking authority to establish standards for reform projects under subdivision 4. | Senate only subdivision. |    |
| **Subdivision 4** requires the commissioner to establish standards for state certification of   certified community behavioral health clinics, and specifies what the certification standards must include. The commissioner is also required to establish standards and methodologies for a prospective payment system for MA payments for mental health services delivered in the clinics.  | Identical except Senate uses “shall” and House uses “may.” House does not include paragraph (a), clause (6), requiring that the certification standards include that clinics comply with quality assurance reporting requirements. | Subd. 3. Reform projects. Allows the commissioner to establish standards for certification of behavioral health clinics. Lists the required standards. Requires the commissioner to establish standards and methodologies for a payment system. |
| **Subdivision 5** requires the commissioner to consult with mental health providers, and others in developing the projects under subdivision 4. | Identical |  Subd. 4. Public participation. Requires the commissioner to consult with stakeholders, recipients of mental health services, and mental health professionals. |
| **Subdivision 6** requires the commissioner and the state chief information officer to provider information systems support to the projects as necessary to comply with federal requirements and deadlines. | Identical |  Subd. 5. Information systems support. Requires the commissioner and the state chief information officer to provide information systems support to the projects. |
| **Section 14 (246.18, subd. 8)** strikes language that allows the transfer of funds from a state-operated services account for mental health specialty treatment services.  (Related to 245.4661, subdivision 6.) | Senate only section. |  |
| **Section 15 (253B.18, subd. 4c)** requires the civil commitment special review board to review each denied petition for a reduction in custody for barriers and obstacles preventing a patient from progressing in treatment, and provide to the commissioner an annual summation of the barriers to treatment progress, and recommendations to achieve the common goal of making progress in treatment.  | Identical.Senate adds effective date of January 1, 2016. | Article 9, Sec. 2. Special review board. Amends § 253B.18, subd. 4c. Makes structural changes to create new paragraph (b) which requires the special review board to review each petition for a reduction in custody from a person who has been committed as mentally ill and dangerous to determine if barriers and obstacles prevent a patient from progressing in treatment. Requires the board to report to the commissioner the trends in barriers and obstacles noted in cases before the board in the previous year. |
| **Section 16 (253B.18, subdivision 5)** requires the head of the treatment facility to schedule a hearing before the special review board for any patient who has not appeared before the board in the previous three years, and schedule a hearing at least every three years, thereafter.  | Identical.Senate adds effective date of January 1, 2016, with hearings to begin no later than February 1, 2016. | Article 9, Sec. 3. Petition; notice of hearing; attendance; order. Amends § 253B.18, subd. 5. Requires the head of the treatment facility to schedule a hearing before the special review board for any patient who has not appeared before the board in the previous three years to ensure each patient has a hearing before the special review board at least once every three years thereafter. |
| **Section 17 (254B.05, subd. 5)** requires the commissioner to establish a rate for high-intensity residential treatment services that provide 30 hours of clinical services each week for clients who have been committed to the commissioner who present complex and difficult care needs, and are a potential threat to the community. This section affects CARE sites, which will remain open, transition to 16-bed facilities, and capture federal funding for services. | Senate only section.Related House provision in Article 9, section 4, prohibits the commissioner from closing the CARE program in Fergus Falls earlier than July 1, 2019. |  |
| **Section 18 (254B.12, subd. 2)** strikes language requiring the commissioner to receive legislative approval before implementing the payment methodology under section 254B.05, subd. 5, or for chemical dependency services provided by a state-operated vendor.  | Senate only section. |  |
| **Section 19 (256B.0615, subd. 3)** corrects a reference to intensive residential treatment services (IRTS) | Senate only section. |  |
| **Section 20 (256B.0622, subd. 1)** updates the name of the services to “assertive community treatment” (ACT) and “intensive residential treatment services” (IRTS). | Senate only section. |  |
| **Section 21 (256B.0622, subd. 2)** strikes an old reference, adds a definition for ACT, and strikes outdated language. | Senate only section. |  |
| **Section 22 (256B.0622, subd. 3)** modifies eligibility for ACT and IRTS by changing the reference to “two or more” inpatient hospitalizations in the past year, to “recurring or prolonged” inpatient hospitalizations in the past year. | Senate only section. |  |
| **Section 23 (256B.0622, subd. 4)** updates references to ACT and IRTS. | Senate only section. |  |
| **Section 24 (256B.0622, subd. 5)** amends the standards for ACT and IRTS providers by modifying when the functional assessment must be updated, and when the individual treatment plan must be completed and refined. | Senate only section. |  |
| **Sections 25, 26, 27, and 28 (256B.0622, subd. 7, 256B.0622, subd. 8, 256B.0622, subd. 9, 256B.0622, subd. 10)** update references to ACT and IRTS, make changes to align with state plan, allow physician services to be delivered by telemedicine, strike obsolete references related to county rate setting due to the implementation of the statewide rate methodology, and add rate language for new programs. | Senate only section. |  |
| **Section 29 (256B.0622, subd. 11)** allows the commissioner to disburse grants directly to providers ACT and IRTS to maintain access to these services. | Senate only section. |  |
| **Section 30 (256B.0624, subd. 7)** clarifies staffing requirements for adult crisis stabilization services. | Senate only section. |  |
| **Section 31 (256B.0625, subd. 45a)** adds psychiatric residential treatment facility services for persons under 21 years of age to the services eligible for medical assistance coverage.  The commissioner is required to develop admissions and discharge procedures and establish rates consistent with the guidelines from Centers for Medicare and Medicaid Services (CMS). The commissioner is required to enroll 150 certified psychiatric residential treatment facility services beds at up to six sites. The commissioner shall select the providers though a request for proposals (RFP) process. This section is effective July 1, 2017, or upon federal approval, whichever is later. | Identical, except for effective dates.House section is effective July 1, 2016, and Senate section is effective July 1, 2017. Both are subject to federal approval. | Sec. 10. Psychiatric residential treatment facility services for persons under 21 years of age. Amends § 256B.0625, by adding subd. 45a. Paragraph (a) provides MA coverage of psychiatric residential treatment facility services for persons under age 21. Allows persons who reach age 21 at the time they are receiving services to continue to receive services until the services are no longer required, or they reach age 22, whichever occurs first.Paragraph (b) defines “psychiatric residential treatment facility” as a facility other than a hospital that provides psychiatric services, as defined in federal regulations, to individuals under age 21 in an inpatient setting.Paragraph (c) requires the commissioner to develop admissions and discharge procedures and to establish rates consistent with federal guidelines.Provides that this section is effective July 1, 2016, or upon federal approval which is later. |
| **Section 32 (256B.0625, subd. 48)** amends the medical assistance benefit chapter of law, specifically the benefit that allows psychiatric consultation to primary care practitioners, to include medical assistance reimbursement for consultation done by licensed independent clinical social workers and licensed marriage and family therapists. | Senate only section. |  |
| **Section 33 (256B.7631)** increases by two percent the chemical dependency provider rate for services listed under section 254B.05, subdivision 5. | Senate increases the provider rate by 2 percent.House increases the provider rate by 2.5 percent. | Sec. 11. Chemical dependency provider rate increase. Adds § 256B.7631. Effective July 1, 2015, increases MA payment rates for chemical dependency services by 10 percent over the rates in effect on January 1, 2014. |
|  | House only section. | Sec. 12. Report to legislature; performance measures for chemical dependency treatment services. Requires the commissioner, in consultation with specified parties, to develop performance measures to assess the outcomes of chemical dependency treatment services. Requires the commissioner to report these measures to members of the health and human services policy and finance committees in the House and Senate, on or before January 15, 2016. |
| **Section 34** requires the commissioner of human services, in consultation with stakeholders, to develop service standards and a payment methodology for Clubhouse program mental health services to be covered under medical assistance, and seek federal approval.  Upon federal approval, the commissioner shall seek and obtain legislative approval allowing MA coverage for Clubhouse services. | Identical language except Senate language is mandatory (shall) and House language is permissive (may). | Sec. 15. Clubhouse program services. Allows the commissioner of human services to develop service standards and a payment methodology for Clubhouse program services to be covered under medical assistance. Allows the commissioner to seek federal approval for the services and medical assistance reimbursement. Upon federal approval, requires the commissioner to obtain legislative approval to implement the services and payment system. |
| **Section 35** requires the commissioner to report to legislative committees on the progress of the Excellence in Mental Health demonstration project under section 245.735, and include any recommendations for legislative changes necessary to implement the reform projects. | Identical except for technical difference in cross reference to the reform projects. (House deleted a subdivision in the Excellence in Mental Health statutory language, so the subdivisions in that section do not align.) | Sec. 14. Excellence in mental health demonstration project. Requires the commissioner of human services to report to the legislature on the progress of the Excellence in Mental Health demonstration project by January 15, 2016. Instructs the commissioner to include recommendations for legislative changes needed to implement the reform projects. |
| **Section 36** requires the commissioner to conduct a comprehensive analysis of the current rate-setting methodology for community-based mental health services for adults and children.  The report must include alternative payment structures, and recommendations for establishing pay-for-performance measures for providers delivering services consistent with evidence-based practices. The commissioner shall consult with stakeholders and experts in Medicaid financing. The report is due January 1, 2017. | Senate includes a sentence requiring the commissioner’s report to include an assessment of alternative payment structures to improve sustainability of community-based mental health programs regardless of geographic location. | Sec. 13. Rate-setting methodology for community-based mental health services. Instructs the commissioner of human services to conduct a comprehensive analysis of the current rate-setting methodology for community-based mental health services for children and adults. Requires the commissioner to issue a report to the chairs of legislative committees with jurisdiction over health and human services finance by January 1, 2017. |
| **Section 37** requires the commissioner to report on the fiscal impact, including estimated savings, resulting from the modifications to the data practices act permitting the sharing of public data to coordinate care. The report is due January 1, 2017. | Senate only section. |  |
| **Section 38** provides that in order to receive the funds appropriated for the planning and development of a comprehensive mental health program in Beltrami county, Beltrami county must submit to the commissioner a formal commitment and plan to fund, operate, and sustain the program and services after the onetime state grant is expended.  The planning and development of the program by the county must include an integrated case model for mental health and substance use disorder treatment for individuals who are under arrest, under a civil commitment transport hold, or in immediate need of mental health crisis services.  The commissioner of human services, in consultation with Beltrami County, shall report on the status of the planning and development of the mental health program by November 1, 2017. | Significant differences.Senate provides that the grant to Beltrami County is contingent upon the county’s submission of a formal commitment and plan. Requires the county to provide documentation of a stable funding stream that will sustain the program beyond the onetime appropriation. Prohibits use of grant funds for any project that could be funded by state bond proceeds. House requires specific data to be collected by the program, including reduction in incarcerations and hospitalizations for the populations served. Requires the commissioner to use the data to evaluate program effectiveness and issue a report to the legislature beginning February 1, 2017.Senate requires the commissioner’s report to the legislature to the address the status of planning and development of the mental health program by November 1, 2017.Both include identical language requiring the commissioner to work with other executive branch agencies to support the program. | Sec. 19. Comprehensive mental health center. Paragraph (a) instructs the commissioner to establish a grant for Beltrami County to develop a comprehensive mental health center for individuals who are under arrest or are subject to arrest who are experiencing a mental health crisis, or under a transport hold.Paragraph (b) requires the program to maintain certain data for the purpose of measuring program effectiveness. Requires the commissioner to issue a report to the legislature every two years, beginning February 1, 2017.Paragraph (c) requires the commissioner to encourage the commissioners of health, corrections, and the Minnesota Housing Finance Agency to work with the program to support its mission and function. |
|  | House only section. | Sec. 17. Instructions to the commissioner. Instructs the commissioner of human services to consult with stakeholders in order to develop funding recommendations for children’s mental health crisis residential services that will allow timely access without requiring county authorization or child welfare placement. |
|  | House only section. | Sec. 20. Report on intensive community rehabilitation services. Requires the commissioner, in consultation with stakeholders, to issue a report to the legislature that analyzes how intensive community rehabilitation services programs provide mental health services and supports that are not covered services under medical assistance and how other states provide these services and the mechanisms those states use to cover the costs. Requires the report to include recommendations for sustainable funding. |