

Position Statement

For 2022 Session

Proposal

Issue:	Both Minnesota and federal laws provide opportunities for information sharing regarding families with multi-system engagement, however these laws lack specificity, allow for various legal interpretations, and lack consistency in application across the state. Clear, explicit language to allow this data sharing across all systems such as child protection, public health, community corrections, law enforcement, and the educational system would ease service planning, burdens placed on families with such multi-system involvement, and support implementation of the Family First Prevention and Services Act (FFPSA).
Implementation Strategy:	MACSSA will support legislative proposals that allows for this level of data exchange between the multi-system partners that are engaged with a family whether it is on a pilot or statewide basis. Some federal data, such as where expressly prohibited (WIC) would be excluded from this proposal. In addition, MACSSA would ask that a legislative proposal that include language that prohibits sharing of this information without a clear business reason.

Systemic Priority Alignment (highlight all that apply and explain why)

- Equity
- Integrated Services
- Fiscal Framework

From the GARE Toolkit (See www.racialequityalliance.org): What are the racial equity impacts of this particular decision? Who will benefit from or be burdened by it? Are there strategies to mitigate unintended consequences?

Comments: Systemically, the entire spectrum of agencies disproportionately impacts the BIPOC community. This position supports integration of services delivered to families with the belief that improved coordination across systems will allow for better delivery of critical services.

Relevant Committee (highlight all that apply and explain why)

- Adult Services
- Behavioral Health
- Children's Services
- Equity
- Healthcare
- Modernization
- Policy
- Self-Sufficiency

Why:

Rationale/Background:

MN Law:

There are several laws in MN to facilitate sharing of information across systems.

13.46 WELFARE DATA. Sub 2, sec 10, sub 7 c

Subd. 2.General.

(a) Data on individuals collected, maintained, used, or disseminated by the welfare system are private data on individuals, and shall not be disclosed except:

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

Subd. 7.Mental health data.

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

(1) client or patient is currently involved in an emergency interaction with the law enforcement agency; and

(2) data is necessary to protect the health or safety of the client or patient or of another person.

The scope of disclosure under this paragraph is limited to the minimum necessary for law enforcement to respond to the emergency. Disclosure under this paragraph may include, but is not limited to, the name and telephone number of the psychiatrist, psychologist, therapist, mental health professional, practitioner, or case manager of the client or patient. A law enforcement agency that obtains mental health data under this paragraph shall maintain a record of the requestor, the provider of the information, and the client or patient name. Mental health data obtained by a law enforcement agency under this paragraph are private data on individuals and must not be used by the law enforcement agency for any other purpose. A law enforcement agency that obtains mental health data under this paragraph shall inform the subject of the data that mental health data was obtained.

260E.35 DATA PRACTICES.

Subd. 4.Data disclosed to reporter.

(b) The agency may provide the data to other mandated reporters with ongoing responsibility for the health, education, or welfare of the child. Mandated reporters with ongoing responsibility for the health, education, or welfare of a child affected by the data include the child's teachers or other appropriate school personnel, foster parents, health care providers, respite care workers, therapists, social workers, child care providers, residential care staff, crisis nursery staff, probation officers, and court services personnel. Under this chapter, a mandated reporter need not have made the report to be considered a person with ongoing responsibility for the health, education, or welfare of a child affected by the data. Data provided under this chapter must be limited to data pertinent to the individual's responsibility for caring for the child.

124D.23 FAMILY SERVICES AND COMMUNITY-BASED COLLABORATIVES.

Subd. 5.Information sharing.

(a) The school district, county, and public health entity members of a family services collaborative may inform each other as to whether an individual or family is being served by the member, without the consent of the subject of the data. If further information sharing is necessary in order for the collaborative to carry out duties under subdivision 2 or 3, the collaborative may share data if the individual, as defined in section [13.02, subdivision 8](#), gives written informed consent. Data on individuals shared under this subdivision retain the original classification as defined under section [13.02](#), as to each member of the collaborative with whom the data is shared.

Section 260E.02 - MULTIDISCIPLINARY CHILD PROTECTION TEAM

Subd. 4.Information sharing.

(a) The local welfare agency may make available to the case consultation committee or subcommittee all records collected and maintained by the agency under this chapter and in connection with case consultation. A case consultation committee or subcommittee member may share information acquired in the member's professional capacity with the committee or subcommittee to assist in case consultation.

(b) Case consultation committee or subcommittee members must annually sign a data sharing agreement, approved by the commissioner of human services, assuring compliance with chapter 13. Not public data, as defined in section 13.02, subdivision 8a, may be shared with members appointed to the committee or subcommittee in connection with an individual case when the members have signed the data sharing agreement.

(c) All data acquired by the case consultation committee or subcommittee in exercising case consultation duties are confidential as defined in section 13.02, subdivision 3, and shall not be disclosed except to the extent necessary to perform case consultation, and shall not be subject to subpoena or discovery.

(d) No members of a case consultation committee or subcommittee meeting shall disclose what transpired at a case consultation meeting, except to the extent necessary to carry out the case consultation plan. The proceedings and records of the case consultation meeting are not subject to discovery, and may not be introduced into evidence in any civil or criminal action against a professional or local welfare agency arising out of the matter or matters which are the subject of consideration of the case consultation meeting. Information, documents, or records otherwise available from original sources are not immune from discovery or use in any civil or criminal action merely because they were presented during a case consultation meeting. Any person who presented information before the consultation committee or subcommittee or who is a member shall not be prevented from testifying as to matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information before the case consultation committee or subcommittee or about opinions formed as a result of the case consultation meetings.

(e) A person who violates this subdivision is subject to the civil remedies and penalties provided under chapter 13.

164.512 - Uses and disclosures for which an authorization or opportunity to agree or object is not required.

(j) *Standard: Uses and disclosures to avert a serious threat to health or safety - (1) Permitted disclosures.* A covered entity may, consistent with applicable law and standards of ethical conduct, use or disclose protected health information, if the covered entity, in good faith, believes the use or disclosure:

(i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and

(B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or

(ii) Is necessary for law enforcement authorities to identify or apprehend an individual:

(A) Because of a statement by an individual admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim; or

(B) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody, as those terms are defined in § 164.501.

Federal Laws:

There are many federal laws that provide guidance related to information sharing, though none are comprehensive. The Family First Transition Act (2019), The Victims of Child Abuse Reauthorization Act (2018), The Family First Prevention Services Act (2018), The Supporting Grandparents Raising Grandchildren Act (2018), The Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (2018), The Every Student Succeeds Act (2015), and reauthorizations of the Child Abuse Prevention and treatment Act (original passage, 1974) allow for some types of disclosures from child welfare/protection entities, other entities and schools. Finally, the Juvenile Justice and Delinquency Prevention Act (2002), laid a foundation for data/information sharing between child welfare and juvenile justice systems.

Research:

While there are many federal laws on sharing of information across systems, however what is lacking is a coherent data sharing process. *In Addressing the Needs of Multi-System Youth: Strengthening the Connection between Child Welfare and Juvenile Justice (2012)* There are six major impacts of our systemic failure to share data between systems: "Lost Prevention Opportunities, No Coordinated Response to Identification, Lack of Coordinated Engagement with the Court and Legal System, Ineffective Service Delivery, Failure to Recognize the Impact of Trauma on Behavior, Failure to Engage Families and Lack of Engagement of the Educational and Behavioral Health Systems." There are promising programs in this area where their data-sharing practices should be explored. Two such programs are the Crossover Youth Practice Model (CYPM) and the Systems Integration Initiative (SII). While they do not address the educational or health systems in significant detail, they do bring attention to the need for the collaborative efforts, particularly around data sharing and how this benefits our communities.

In addition, in MN, there is already a multi-year project funded by: The Minnesota Juvenile Justice Advisory Committee with a grant from the Juvenile Justice and Delinquency Prevention Act looking at was in which systems can share information and we should look at the information developed by these systems in creating information/data sharing laws. MN has many of these programs we can utilize for legislation.



Child_Welfare_Juvenile_Justice_System



JJ21 Information Sharing Guide for P



JJ21 - Information Sharing and Juvenil

Current Programming (MN Specific)

- All Children Succeed in Hennepin County (County Attorney's Office)
- All Children Succeed in Ramsey County (County Attorney's Office)
- Child Protection Multi-Disciplinary Teams
- CYPM: Carver, Hennepin, Kandiyohi, Olmstead, and Stearns Counties



MACSSA
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Submitted by:

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