

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 2226

(SENATE AUTHORS: SHERAN)

| DATE | D-PG | OFFICIAL STATUS |
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| 05/18/2015 | | Introduction and first reading Referred to Health, Human Services and Housing |

A bill for an act

relating to health; establishing the Healthcare Access for Recovery and Treatment of Survivors Act (HARTS Act); requiring health insurance coverage for certain coverage relating to domestic and sexual assault and sex trafficking; requiring certain notice be provided to victims; appropriating money; amending Minnesota Statutes 2014, sections 144.6586; 145.4712, subdivision 2; 609.35; 629.341, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 62A; proposing coding for new law as Minnesota Statutes, chapter 62W.

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

Section 1. [62A.3095] COVERAGE FOR CARE RELATING TO DOMESTIC AND SEXUAL ASSAULT AND SEX TRAFFICKING.

Subdivision 1. **Scope of coverage.** This section applies to all health plans as defined in section 62A.011 that provide coverage to a Minnesota resident.

Subd. 2. **Required coverage.** Every health plan included in subdivision 1 must cover medically necessary treatment for victims of domestic or sexual assault and sex trafficking for care needed as a result of the assault. For purposes of this section, domestic assault, sexual assault, and sex trafficking have the meanings given in section 62W.02. No health carrier may reduce or eliminate coverage due to this requirement nor subject an enrollee to any cost sharing or deductible for this requirement.

Subd. 3. **Prescription medication.** Any health plan included under subdivision 1 that covers prescription medication must cover the cost of medication prescribed for care as a result of domestic or sexual assault or sex trafficking. Prescription medication prescribed for care as a result of the assault must not be subject to any cost sharing or deductible for the enrollee.

Subd. 4. **Rate increases prohibited.** The commissioner of commerce shall not approve any rate increases due to coverage required under subdivision 2 or 3. No health

2.1 maintenance organization, as defined in chapter 62D, shall increase rates due to coverage
2.2 required under subdivision 2 or 3.

2.3 **Sec. 2. [62W.01] TITLE AND PURPOSE.**

2.4 Subdivision 1. **Title.** This chapter may be cited as the "Healthcare Access for
2.5 Recovery and Treatment of Survivors Act" or the "HARTS Act."

2.6 Subd. 2. **Purpose.** (a) The legislature finds that the health care needs of victims
2.7 of domestic and sexual assault and sex trafficking are unique to health care needs of the
2.8 general population and recognizes that these victims, regardless of insurance coverage,
2.9 often do not seek medical care due to a variety of factors, including, but not limited to,
2.10 fear of future abuse by an abuser who is known to the victim and may have access to the
2.11 victim's health insurance information. The legislature also finds that untreated physical
2.12 and mental injuries as a result of domestic and sexual assault and sex trafficking results
2.13 in billions of dollars of costs each year to the health care system nationwide and, that
2.14 by victims not filing insurance claims for health care, both the state and private health
2.15 carriers experience initial reduced costs as a result of not having claims submitted. In
2.16 order to support victims' safety, provide adequate care to victims, and support a victim's
2.17 physical and mental recovery after experiencing abuse, the legislature finds it necessary
2.18 to provide a way for victims of domestic and sexual assault and sex trafficking to obtain
2.19 health care while maintaining anonymity.

2.20 (b) As a result of utilizing the initial cost savings of the state and private health
2.21 carriers resulting from unsubmitted claims related to domestic and sexual assault and sex
2.22 trafficking, and by providing victims with a safe and anonymous way to obtain medical
2.23 care, the legislature finds that as a result of timely, comprehensive, and safe medical care
2.24 being provided to these victims, their health will be improved and a future cost reduction
2.25 for the overall health care system is likely.

2.26 **Sec. 3. [62W.02] DEFINITIONS.**

2.27 Subdivision 1. **Applicability.** The following definitions shall apply to this chapter.

2.28 Subd. 2. **Commissioner.** "Commissioner" means the commissioner of health.

2.29 Subd. 3. **Domestic assault.** "Domestic assault" means any of the following acts, if
2.30 alleged to have been perpetrated by a family or household member as defined in section
2.31 518B.01, subdivision 2, paragraph (b):

2.32 (1) first-degree assault, as defined in section 609.221;

2.33 (2) second-degree assault, as defined in section 609.222;

2.34 (3) third-degree assault, as defined in section 609.223;

- 3.1 (4) domestic assault, as defined in section 609.2242;
 3.2 (5) female genital mutilation, as defined in section 609.2245;
 3.3 (6) domestic assault by strangulation, as defined in section 609.2247;
 3.4 (7) terroristic threats, as defined in section 609.713;
 3.5 (8) stalking, as defined in section 609.749;
 3.6 (9) violation of an order for protection, as defined in section 518B.01, subdivision 14;
 3.7 (10) violation of a harassment restraining order, as defined in section 609.748,
 3.8 subdivision 6; or
 3.9 (11) violation of a domestic abuse no contact order, as defined in section 629.75.

3.10 **Subd. 4. Health care for domestic and sexual violence and sex trafficking**
 3.11 **victims account.** "Health care for domestic and sexual violence and sex trafficking
 3.12 victims account" or "account" means the account established in section 62W.04.

3.13 **Subd. 5. Health care provider.** "Health care provider" means hospitals licensed
 3.14 under chapter 144 and any health care practitioner regulated by a health-related licensing
 3.15 board, as defined in section 214.01, subdivision 2, excluding the Board of Examiners of
 3.16 Nursing Home Administrators and the Board of Veterinary Medicine.

3.17 **Subd. 6. Health carrier.** "Health carrier" means a health carrier as defined in section
 3.18 62A.011, subdivision 2, and the commissioner of human services, in the commissioner's
 3.19 capacity as the provider of state-sponsored health care plans.

3.20 **Subd. 7. Health plan.** "Health plan" means a health plan as defined in section
 3.21 62A.011, subdivision 3, and plans offered to enrollees of a state-sponsored health care plan.

3.22 **Subd. 8. Medically necessary care.** "Medically necessary care" means, at a
 3.23 minimum, medically necessary care as defined in section 62Q.53, subdivision 2.

3.24 **Subd. 9. Sex trafficking.** "Sex trafficking" means any of the acts defined in section
 3.25 609.321, subdivision 7a, regardless of the relationship between the victim and the alleged
 3.26 perpetrator of the act.

3.27 **Subd. 10. Sexual assault.** "Sexual assault" means any of the following acts,
 3.28 regardless of the relationship between the victim and the alleged perpetrator of the act:

- 3.29 (1) first-degree criminal sexual conduct, as defined in section 609.342;
 3.30 (2) second-degree criminal sexual conduct, as defined in section 609.343;
 3.31 (3) third-degree criminal sexual conduct, as defined in section 609.344;
 3.32 (4) fourth-degree criminal sexual conduct, as defined in section 609.345;
 3.33 (5) fifth-degree criminal sexual conduct, as defined in section 609.3451; or
 3.34 (6) criminal sexual predatory conduct, as defined in section 609.3453.

3.35 **Subd. 11. State-sponsored health care plan.** "State-sponsored health care
 3.36 plan" means medical assistance fee-for-service coverage and medical assistance or

4.1 MinnesotaCare coverage provided through managed care or county-based purchasing
 4.2 plans under section 256B.69 or 256B.692.

4.3 Subd. 12. **Victim.** "Victim" means a person who alleges or is alleged to have
 4.4 been domestically or sexually assaulted or sex trafficked, and who presents to a health
 4.5 care provider as a patient. For purposes of receiving mental health care and treatment,
 4.6 victim also includes the minor child of a person who alleges, or is alleged to have been,
 4.7 domestically or sexually assaulted or sex trafficked.

4.8 **Sec. 4. [62W.03] STANDARDIZED FEES.**

4.9 (a) The commissioner of human services shall establish a work group for the
 4.10 purposes of standardizing fees for the treatments listed under paragraph (b) that are
 4.11 charged by health care providers to health carriers for costs associated with domestic and
 4.12 sexual assault and sex trafficking. The work group shall include, at a minimum:

4.13 (1) the commissioner of health or a designee;

4.14 (2) the commissioner of commerce or a designee;

4.15 (3) representatives of health carriers that provide health plans to Minnesota
 4.16 residents; and

4.17 (4) representatives of health care providers.

4.18 (b) The work group shall convene in order to make recommendations to the
 4.19 commissioner of human services for amounts to be charged by health care providers for
 4.20 treatment of a victim of domestic or sexual assault or sex trafficking for care needed as a
 4.21 result of the assault, including:

4.22 (1) emergency examinations of sexual assault victims, as provided in section 609.35;

4.23 (2) emergency contraceptives;

4.24 (3) medication prescribed to reduce the chances of contracting or to eliminate
 4.25 sexually transmitted diseases;

4.26 (4) medication prescribed to treat pain or risk of infection for physical injuries;

4.27 (5) emergency mental health assessments; and

4.28 (6) medication prescribed for mental health treatment.

4.29 (c) The commissioner of human services shall convene the work group by August 1,
 4.30 2016. The commissioner of human services, after consultation with the work group, shall
 4.31 establish standardized fees for care included in paragraph (b) by January 1, 2016.

4.32 **Sec. 5. [62W.04] UNCOMPENSATED COSTS; ACCOUNT.**

4.33 Subdivision 1. **Establishment.** The commissioner shall maintain a Healthcare
 4.34 Access for Recovery and Treatment of Survivors (HARTS) account for the purposes of

5.1 providing grants to health care providers for uncompensated costs relating to medically
5.2 necessary care provided to victims of domestic or sexual assault or sex trafficking. The
5.3 HARTS account shall be funded and managed in accordance with this section.

5.4 Subd. 2. **Funding.** (a) Every health carrier that enrolls a Minnesota resident in a
5.5 health plan shall annually pay \$4.50 per enrollee to the commissioner. All funds received
5.6 by the commissioner from a health carrier shall be directly deposited into the HARTS
5.7 account. Funds shall be collected by the commissioner on an annual basis.

5.8 (b) The cost under paragraph (a) for enrollees in a state-sponsored health care
5.9 program shall be paid by the commissioner of human services.

5.10 (c) The commissioner shall assess the need and use of the HARTS account on a yearly
5.11 basis in order to evaluate the per-enrollee assessment that will be charged to health carriers.
5.12 The commissioner shall report the need of any change in the per-enrollee share, whether it
5.13 be a reduction or an increase, to the chairs and ranking minority members of the legislative
5.14 committees with jurisdiction over health and human services by January 15 of each year.

5.15 (d) Self-insured employers may choose to pay a per-enrollee contribution into the
5.16 HARTS account on an annual basis. Any self-insured employer that chooses to pay this
5.17 cost shall pay a contribution equal to the assessment under paragraph (a) and shall pay for
5.18 all employees enrolled in the self-insured employer's plan.

5.19 (e) The commissioner of commerce shall not approve any premium rate increases
5.20 as a result of either the mandatory or voluntary payments to the HARTS account under
5.21 this subdivision.

5.22 Subd. 3. **Appropriation.** Any funds collected by the commissioner and deposited
5.23 in the HARTS account is appropriated to the commissioner for use in implementing this
5.24 chapter. No more than one percent of the total of the HARTS account upon the collection
5.25 of enrollee fees may be used by the commissioner for administrative purposes.

5.26 Sec. 6. **[62W.05] REIMBURSEMENT.**

5.27 Subdivision 1. **Commissioner duties.** (a) The commissioner shall reimburse any
5.28 health care provider for uncompensated costs under the HARTS account who submits the
5.29 forms created by the commissioner under paragraphs (b) and (c).

5.30 (b) The commissioner shall establish a standardized form for use by a health care
5.31 provider to seek reimbursement. The form must not include the victim's name or any
5.32 other unique identifying information about the victim. The form must include, but is not
5.33 limited to, spaces for the provider to state:

5.34 (1) the care provided to the victim;

5.35 (2) the cost of the care provided to the victim;

6.1 (3) a unique identifying code for an individual victim;
6.2 (4) the date, time, and location of the services provided to the victim;
6.3 (5) whether the alleged assault was a sexual assault, domestic assault, sex trafficking,
6.4 or a combination; and

6.5 (6) any other information the commissioner needs in order to process the
6.6 reimbursement request.

6.7 (c) The commissioner shall also create a standardized form to be distributed to all
6.8 health care providers to be filled out either by the victim or by a health care provider on
6.9 behalf of the victim based on information told to the provider by the victim. The form
6.10 must not include the victim's name or any other unique identifying information about the
6.11 victim. The form must include:

6.12 (1) whether or not law enforcement was contacted;

6.13 (2) the gender of the victim;

6.14 (3) the age of the victim;

6.15 (4) whether or not the victim has health insurance; and

6.16 (5) whether the alleged perpetrator was known to the victim prior to the assault.

6.17 (d) The standardized forms developed by the commissioner under paragraphs (b)
6.18 and (c) may be on the same form, as long as the health care provider allows the victim the
6.19 option of filling out the information required under paragraph (c).

6.20 **Subd. 2. Health care provider duties.** (a) A health care provider must inform any
6.21 victim who alleges physical or mental injury as a result of a domestic or sexual assault or
6.22 sex trafficking of the victim's right to anonymous coverage for the costs of the victim's
6.23 medically necessary needs, regardless of whether or not the victim has health insurance.
6.24 The health care provider must determine, based on information provided by the victim,
6.25 whether or not the victim has alleged a domestic or sexual assault or sex trafficking as
6.26 defined in section 62W.02. The health care provider may, with the victim's permission,
6.27 work with a victim advocacy agency or other staff in order to determine whether the
6.28 victim has alleged a domestic or sexual assault or sex trafficking.

6.29 (b) A health care provider shall inform the victim, orally and in writing, that the
6.30 victim may use private insurance or state-sponsored health care program insurance to
6.31 cover the cost of the care.

6.32 (c) If a victim chooses not to use private insurance or state-sponsored health care
6.33 coverage, regardless of whether the victim is enrolled in coverage, a health care provider
6.34 shall inform the victim, orally and in writing, that:

6.35 (1) no identifying information about the victim will be transmitted to the
6.36 commissioner;

7.1 (2) costs must be reimbursed regardless of whether or not law enforcement has
7.2 been contacted about the alleged assault;

7.3 (3) no mail, phone calls, or other communication shall come from the commissioner;

7.4 (4) the victim's medical information shall only be released by the commissioner as
7.5 part of an audit as allowed under section 62W.06 and shall not include any identifying
7.6 information about the victim; and

7.7 (5) costs shall be compensated only if the health care provider and the victim
7.8 provide the information required under subdivision 1. If a victim refuses to give the
7.9 information required under subdivision 1, the costs of the care shall not be compensated
7.10 through the HARTS account.

7.11 (d) In order to seek reimbursement for care associated with a victim's domestic or
7.12 sexual assault or sex trafficking, a health care provider must submit both forms described
7.13 in subdivision 1 to the commissioner of health.

7.14 (e) Any health care provider that seeks reimbursement under this chapter shall
7.15 keep records for all victims for whom reimbursement was sought. Records shall be
7.16 kept with a unique identifying code for the individual victim and shall not contain any
7.17 individually identifiable information, including, but not limited to, the victim's name
7.18 or address. Upon request by the commissioner for an audit of records as provided in
7.19 section 62W.06, subdivision 1, a health care provider must provide only those records
7.20 kept according to this paragraph.

7.21 Subd. 3. **Emergency examinations for sexual assault victims.** Nothing in this
7.22 chapter shall be construed to negate or otherwise change a county's obligation to pay the
7.23 costs incurred for the examination of a victim under section 609.35.

7.24 Subd. 4. **Data privacy.** All data submitted to the commissioner by a health care
7.25 provider are private data on individuals as defined in section 13.02, subdivision 12. All
7.26 health records must be kept in accordance with applicable federal and state law.

7.27 Sec. 7. **[62W.06] COMMISSIONER'S DUTIES.**

7.28 Subdivision 1. **Audits.** The commissioner may audit the health care providers that
7.29 have received reimbursement under this chapter. The commissioner shall not access a
7.30 victim's identifiable information and shall only access the records of the victim through the
7.31 unique identifying code kept by the health care provider, as required in section 62W.05,
7.32 subdivision 2, paragraph (e). The commissioner shall provide written notice to a health
7.33 care provider prior to conducting an audit.

8.1 Subd. 2. **Reports.** The commissioner shall report publicly on the department's Web
 8.2 site and to the chairs and ranking minority members of the legislative committees with
 8.3 jurisdiction over health and human services and commerce the following reports:

8.4 (1) annually, beginning January 15, 2016, a report of summary data collected
 8.5 from health care providers on all information collected on the forms outlined in section
 8.6 62W.05, subdivision 1;

8.7 (2) annually, beginning January 15, 2017, the total amount submitted to the HARTS
 8.8 account by health carriers and self-insured employers and the total amount expended from
 8.9 the HARTS account for reimbursement to a health care provider; and

8.10 (3) annually, beginning January 15, 2016, a report on all self-insured companies that
 8.11 chose to pay the per-enrollee fee under section 62W.04, subdivision 2, paragraph (c), and a
 8.12 list of self-insured companies that chose not to pay the per-enrollee fee. The commissioner
 8.13 may consult with the commissioner of commerce in order to prepare this report.

8.14 Sec. 8. Minnesota Statutes 2014, section 144.6586, is amended to read:

8.15 **144.6586 NOTICE OF RIGHTS TO SEXUAL OR DOMESTIC ASSAULT OR**
 8.16 **SEX TRAFFICKING VICTIM.**

8.17 Subdivision 1. **Notice required.** A hospital shall give a verbal and written notice
 8.18 about victim rights and available resources to a person seeking medical services in the
 8.19 hospital who reports to hospital staff or presents evidence of a sexual or domestic assault
 8.20 or other unwanted sexual contact or sexual penetration, including, but not limited to,
 8.21 those that are a result of sex trafficking. The hospital shall make a good faith effort to
 8.22 provide this notice prior to medical treatment or the examination performed for the
 8.23 purpose of gathering evidence, subject to applicable federal and state laws and regulations
 8.24 regarding the provision of medical care, and in a manner that does not interfere with any
 8.25 medical screening examination or initiation of treatment necessary to stabilize a victim's
 8.26 emergency medical condition.

8.27 Subd. 2. **Contents of notice.** The commissioners of health and public safety, in
 8.28 consultation with sexual and domestic assault and sex trafficking victim advocates and
 8.29 health care professionals, shall develop the notice required by subdivision 1. The notice
 8.30 must inform the victim, at a minimum, of:

8.31 (1) the obligation under section 609.35 of the county where the criminal sexual
 8.32 conduct occurred to pay for the examination performed for the purpose of gathering
 8.33 evidence, that payment is not contingent on the victim reporting the criminal sexual conduct
 8.34 to law enforcement, and that the victim may incur expenses for treatment of injuries; ~~and~~

9.1 (2) the victim's rights if the crime is reported to law enforcement, including the
9.2 victim's right to apply for reparations under sections 611A.51 to 611A.68, information on
9.3 how to apply for reparations, and information on how to obtain an order for protection or a
9.4 harassment restraining order; and

9.5 (3) the victim's right to receive medically necessary care at no cost to the victim, as
9.6 provided in chapter 62W.

9.7 Sec. 9. Minnesota Statutes 2014, section 145.4712, subdivision 2, is amended to read:

9.8 Subd. 2. **Emergency care to male and female sexual assault victims.** It shall be
9.9 the standard of care for all hospitals that provide emergency care to, at a minimum:

9.10 (1) provide each sexual assault victim with factually accurate and unbiased written
9.11 and oral medical information about prophylactic antibiotics for treatment of sexually
9.12 transmitted diseases;

9.13 (2) orally inform each sexual assault victim of the option of being provided
9.14 prophylactic antibiotics for treatment of sexually transmitted diseases at the hospital; ~~and~~

9.15 (3) immediately provide prophylactic antibiotics for treatment of sexually
9.16 transmitted diseases to each sexual assault victim who requests it, provided it is not
9.17 medically contraindicated and is ordered by a legal prescriber;

9.18 (4) provide each sexual assault victim with medically necessary care for any injury
9.19 attributable to the assault; and

9.20 (5) orally, and in writing, inform the victim of the victim's ability to receive
9.21 medically necessary care at no cost to the victim, as provided in chapter 62W.

9.22 Sec. 10. Minnesota Statutes 2014, section 609.35, is amended to read:

9.23 **609.35 COSTS OF MEDICAL EXAMINATION.**

9.24 (a) Costs incurred by a county, city, or private hospital or other emergency medical
9.25 facility or by a private physician for the examination of a victim of criminal sexual
9.26 conduct when the examination is performed for the purpose of gathering evidence shall be
9.27 paid by the county in which the criminal sexual conduct occurred. These costs include,
9.28 but are not limited to, full cost of the rape kit examination, associated tests relating to the
9.29 complainant's sexually transmitted disease status, and pregnancy status.

9.30 (b) Nothing in this section shall be construed to limit the duties, responsibilities,
9.31 or liabilities of any insurer, whether public or private. However, a county may seek
9.32 insurance reimbursement from the victim's insurer only if authorized by the victim. This
9.33 authorization may only be sought after the examination is performed. When seeking this
9.34 authorization, the county shall inform the victim that if the victim does not authorize this,

10.1 the county is required by law to pay for the examination and that the victim is in no way
10.2 liable for these costs or obligated to authorize the reimbursement.

10.3 (c) The applicability of this section does not depend upon whether the victim reports
10.4 the offense to law enforcement or the existence or status of any investigation or prosecution.

10.5 (d) A county's obligation to pay the costs incurred for an examination is in no way
10.6 altered by chapter 62W.

10.7 Sec. 11. Minnesota Statutes 2014, section 629.341, subdivision 3, is amended to read:

10.8 Subd. 3. **Notice of rights.** The peace officer shall tell the victim whether a shelter or
10.9 other services are available in the community and give the victim immediate notice of
10.10 the legal rights and remedies available. The notice must include furnishing the victim a
10.11 copy of the following statement:

10.12 "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or
10.13 county attorney to file a criminal complaint. You also have the right to go to court and
10.14 file a petition requesting an order for protection from domestic abuse. The order could
10.15 include the following:

10.16 (1) an order restraining the abuser from further acts of abuse;

10.17 (2) an order directing the abuser to leave your household;

10.18 (3) an order preventing the abuser from entering your residence, school, business,
10.19 or place of employment;

10.20 (4) an order awarding you or the other parent custody of or parenting time with
10.21 your minor child or children; or

10.22 (5) an order directing the abuser to pay support to you and the minor children if
10.23 the abuser has a legal obligation to do so."

10.24 The notice must include the resource listing, including telephone number, for the area
10.25 battered women's shelter, to be designated by the Department of Corrections. The notice
10.26 must also include the victim's right to seek medical treatment for injuries, both physical
10.27 and mental, as a result of the assault, at no cost to the victim, as provided in chapter 62W.

10.28 Sec. 12. **APPROPRIATION; STATE-SPONSORED HEALTH CARE**
10.29 **PROGRAMS.**

10.30 \$3,915,000 is appropriated in fiscal years 2016 and 2017 to the commissioner of
10.31 human services for the payment of the per-enrollee fee under the Healthcare Access
10.32 for Recovery and Treatment of Survivors Act (HARTS Act) under Minnesota Statutes,
10.33 chapter 62W.