

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 5057

(SENATE AUTHORS: HOUSLEY)

DATE
03/18/2024

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Introduction and first reading
Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to child support; adding independent contractors and payors to the
1.3 centralized work reporting system; requiring payors to report independent
1.4 contractors to the centralized work reporting system; amending Minnesota Statutes
1.5 2022, section 256.998, subdivisions 1, 2, 3, 4, 6, 9.

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

1.7 Section 1. Minnesota Statutes 2022, section 256.998, subdivision 1, is amended to read:

1.8 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

1.9 (b) "Date of hiring" means the earlier of: (1) the first day for which an employee or
1.10 independent contractor is owed compensation by an employer or payor; or (2) the first day
1.11 that an employee or independent contractor reports to work or performs labor or services
1.12 for an employer or payor.

1.13 (c) "Earnings" means payment owed by an employer for labor or services rendered by
1.14 an employee or independent contractor.

1.15 (d) "Employee" means a person who resides or works in Minnesota, performs services
1.16 for compensation, in whatever form, for an employer and satisfies the criteria of an employee
1.17 under chapter 24 of the Internal Revenue Code. Employee does not include:

1.18 (1) persons hired for domestic service in the private home of the employer, as defined
1.19 in the Federal Tax Code; or

1.20 (2) an employee of the federal or state agency performing intelligence or
1.21 counterintelligence functions, if the head of such agency has determined that reporting

2.1 according to this law would endanger the safety of the employee or compromise an ongoing
2.2 investigation or intelligence mission.

2.3 (e) "Employer" means a person or entity located or doing business in this state that
2.4 employs one or more employees for payment, and satisfies the criteria of an employer under
2.5 chapter 24 of the Internal Revenue Code. Employer includes a labor organization as defined
2.6 in paragraph ~~(g)~~ (h). Employer also includes the state, political or other governmental
2.7 subdivisions of the state, and the federal government.

2.8 (f) "Hiring" means engaging a person to perform services for compensation and includes
2.9 the reemploying or return to work of any previous employee who was laid off, furloughed,
2.10 separated, granted a leave without pay, or terminated from employment when a period of
2.11 60 days elapses from the date of layoff, furlough, separation, leave, or termination to the
2.12 date of the person's return to work.

2.13 (g) "Independent contractor" means a person over 18 years of age, or a corporation or
2.14 limited liability company with a sole shareholder or member, who performs services for
2.15 compensation in an amount equal to or greater than \$600 per calendar year, to another
2.16 person or entity doing business in this state. Independent contractor includes but is not
2.17 limited to a person who logs in as a driver to the digital network of a transportation company
2.18 doing business in this state or of a company operating a network in this state to facilitate
2.19 delivery of food, goods, or services. Independent contractor does not include domestic
2.20 service in the private home of the service recipient.

2.21 ~~(g)~~ (h) "Labor organization" means entities located or doing business in this state that
2.22 meet the criteria of labor organization under section 2(5) of the National Labor Relations
2.23 Act. This includes any entity, that may also be known as a hiring hall, used to carry out
2.24 requirements described in chapter 7 of the National Labor Relations Act.

2.25 ~~(h)~~ (i) "Payor" means a person or entity located or doing business in Minnesota who
2.26 pays money to an independent contractor according to an agreement for the performance
2.27 of services.

2.28 **EFFECTIVE DATE.** This section is effective January 1, 2025.

2.29 Sec. 2. Minnesota Statutes 2022, section 256.998, subdivision 2, is amended to read:

2.30 Subd. 2. **Work reporting system established.** The commissioner of human services
2.31 shall establish a centralized work reporting system for the purpose of receiving and
2.32 maintaining information from employers and payors on newly hired or rehired employees
2.33 and independent contractors. The commissioner of human services shall take reasonable

3.1 steps to inform the state's employers and payors of the requirements of this section and the
3.2 acceptable processes by which employers and payors can comply with the requirements of
3.3 this section.

3.4 **EFFECTIVE DATE.** This section is effective January 1, 2025.

3.5 Sec. 3. Minnesota Statutes 2022, section 256.998, subdivision 3, is amended to read:

3.6 Subd. 3. **Duty to report.** Employers and payors doing business in this state shall report
3.7 to the commissioner of human services the hiring of any employee or independent contractor
3.8 who resides or works in this state to whom the employer or payor anticipates paying earnings.
3.9 Employers and payors shall submit reports required under this subdivision within 20 calendar
3.10 days of the date of hiring of the employee or independent contractor.

3.11 Employers and payors are not required to report the hiring of any person who will be
3.12 employed or paid for less than two months' duration; and will have gross earnings less than
3.13 \$250 per month.

3.14 **EFFECTIVE DATE.** This section is effective January 1, 2025.

3.15 Sec. 4. Minnesota Statutes 2022, section 256.998, subdivision 4, is amended to read:

3.16 Subd. 4. **Means to report.** Employers and payors may report by delivering, mailing, or
3.17 telefaxing a copy of the employee's or independent contractor's federal W-4 form or W-9
3.18 form or any other document that contains the required information, submitting electronic
3.19 media in a compatible format, toll-free telecommunication, or other means authorized by
3.20 the commissioner of human services that will result in timely reporting.

3.21 **EFFECTIVE DATE.** This section is effective January 1, 2025.

3.22 Sec. 5. Minnesota Statutes 2022, section 256.998, subdivision 6, is amended to read:

3.23 Subd. 6. **Sanctions.** If an employer or payor fails to report under this section, the
3.24 commissioner of human services, by certified mail, shall send the employer or payor a
3.25 written notice of noncompliance requesting that the employer or payor comply with the
3.26 reporting requirements of this section. The notice of noncompliance must explain the
3.27 reporting procedure under this section and advise the employer or payor of the penalty for
3.28 noncompliance. An employer or payor who has received a notice of noncompliance and
3.29 later incurs a second violation is subject to a civil penalty of \$25 for each intentionally
3.30 unreported employee or independent contractor. An employer or payor who has received a
3.31 notice of noncompliance is subject to a civil penalty of \$500 for each intentionally unreported

4.1 employee or independent contractor, if noncompliance is the result of a conspiracy between
4.2 an employer or payor and an employee or independent contractor not to supply the required
4.3 report or to supply a false or incomplete report. These penalties may be imposed and collected
4.4 by the commissioner of human services. An employer or payor who has been served with
4.5 a notice of noncompliance and incurs a second or subsequent violation resulting in a civil
4.6 penalty, has the right to a contested case hearing under chapter 14. An employer or payor
4.7 has 20 days from the date of service of the notice, to file a request for a contested case
4.8 hearing with the commissioner. The order of the administrative law judge constitutes the
4.9 final decision in the case.

4.10 **EFFECTIVE DATE.** This section is effective January 1, 2025.

4.11 Sec. 6. Minnesota Statutes 2022, section 256.998, subdivision 9, is amended to read:

4.12 Subd. 9. **Independent contractors.** The state and all political subdivisions of the state,
4.13 when acting in the capacity of an employer, shall report the hiring of any person as an
4.14 independent contractor to the centralized work reporting system in the same manner as the
4.15 hiring of an employee is reported.

4.16 Other payors ~~may~~ shall report independent contractors to whom they make payments
4.17 that require the filing of a 1099-MISC report. Payors reporting independent contractors
4.18 shall report by use of the same means and provide the same information required under
4.19 subdivisions 4 and 5. The commissioner of human services shall establish procedures for
4.20 payors reporting under this section.

4.21 **EFFECTIVE DATE.** This section is effective January 1, 2025.