

him in whole or in part, to the standing he possessed before ~~such~~ the reduction in sentence was taken away.

Sec. 18. **TEMPORARY PROVISION.** The commissioner of corrections shall amend 11 MCAR Section 2.111 (G)(1.) by striking the word "Health" and insert the word "Corrections."

Notwithstanding sections 15.0411 to 15.052, the amendment shall be effective on the date of its publication in the State Register.

Sec. 19. **REPEALER.** Laws 1925, Chapter 12; Laws 1927, Chapter 142; Minnesota Statutes 1945, Sections 643.21, 643.22, 643.23, 643.24, 643.25, 643.26, 643.27, and 643.28; and Minnesota Statutes 1978, Sections 641.17, 641.27, 641.28, 641.29, 641.30, 641.31, 641.32, 641.33, 641.34, 641.35, 641.36, 641.37, 641.38, 642.14, 643.03, 643.04, 643.05, 643.06, 643.07, 643.08, 643.09, 643.10, 643.11, 643.12, 643.13, 643.14, 643.15, 643.16, 643.17, 643.19 and 643.20, are repealed.

Approved April 23, 1980

CHAPTER 603—H.F.No. 2040

An act relating to privacy; providing for the collection and dissemination of government data; classifying data as private, confidential, nonpublic or public; amending Minnesota Statutes 1978, Sections 15.162, Subdivision 3, and by adding subdivisions; 15.165, Subdivision 3; 600.23, Subdivision 3; and Chapter 15, by adding sections; Minnesota Statutes, 1979 Supplement, Sections 15.162, Subdivision 2a; 15.1621, by adding a subdivision; 15.1642, Subdivisions 1, 5, 5a, and by adding a subdivision; 15.166, Subdivision 4; 15.1691, Subdivision 3; 15.1692, Subdivisions 1 and 2; 15.1693, Subdivision 2; and 15.1698, Subdivision 1, and by adding a subdivision; and Laws 1978, Chapter 790, Section 5, Subdivision 2; repealing Minnesota Statutes, 1979 Supplement, Section 15.1692, Subdivision 4; and 15.1698, Subdivision 2.

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

Section 1. Minnesota Statutes, 1979 Supplement, Section 15.162, Subdivision 2a, is amended to read:

Subd. 2a. "Confidential data on individuals" means data which is: (a) made not public by statute or federal law applicable to the data and is inaccessible to the individual subject of that data; or (b) collected by a civil or criminal investigative agency as part of an active investigation undertaken for the purpose of the commencement of a legal action, provided that the burden of proof as to whether such investigation is active or in anticipation of a legal action is upon the agency. Confidential data on individuals does not include arrest information that is reasonably contemporaneous with an arrest or incarceration. The provision of clause (b) shall terminate and cease to have force and effect with regard to the state agencies, political subdivisions, statewide systems, covered by the ruling,

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upon the granting or refusal to grant a temporary classification pursuant to section 15.1642 of both criminal and civil investigative data, or on July 31, 1980 1981, whichever occurs first.

Sec. 2. Minnesota Statutes 1978, Section 15.162, Subdivision 3, is amended to read:

Subd. 3. "Data on individuals" includes all records, files and processes which contain any data means all government data in which an any individual, living or dead, is or can be identified and which are retained or intended to be retained on a permanent or temporary basis. It includes data collected, stored, or disseminated by manual, mechanical, electronic or any other means. Data on individuals are classified as public, private or confidential as the subject of that data, unless the appearance of the name or other identifying data can be clearly demonstrated to be only incidental to the data and the data are not accessed by the name or other identifying data of any individual. *

Sec. 3. Minnesota Statutes 1978, Section 15.162, is amended by adding a subdivision to read:

Subd. 3a. "Data not on individuals" means all government data which is not data on individuals.

Sec. 4. Minnesota Statutes 1978, Section 15.162, is amended by adding a subdivision to read:

Subd. 5c. "Non-public data" means data not on individuals which is made by statute or federal law applicable to the data: (a) not public; and (b) accessible to the subject of the data.

Sec. 5. Minnesota Statutes 1978, Section 15.162, is amended by adding a subdivision to read:

Subd. 5d. "Protected non-public data" means data not on individuals which is made by statute or federal law applicable to the data (a) not public and (b) not accessible to the subject of the data.

Sec. 6. Minnesota Statutes 1978, Section 15.162, is amended by adding a subdivision to read:

Subd. 5e. "Public data not on individuals" means data which is accessible to the public pursuant to section 15.1621.

Sec. 7. Minnesota Statutes, 1979 Supplement, Section 15.1621, is amended by adding a subdivision to read:

Subd. 4. CHANGE IN CLASSIFICATION OF DATA. The classification of data in the possession of an agency shall change if it is required to do so to comply with either judicial or administrative rules pertaining to the conduct of legal actions or with a specific statute applicable to the data in the possession of the disseminating or receiving agency.

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Sec. 8. Minnesota Statutes, 1979 Supplement, Section 15.1642, Subdivision 1, is amended to read:

15.1642 TEMPORARY CLASSIFICATION. Subdivision 1. **APPLICATION.** Notwithstanding the provisions of section 15.1621, the responsible authority of a state agency, political subdivision or statewide system may apply to the commissioner for permission to classify data or types of data on individuals as private or confidential, or data not on individuals as non-public or protected non-public, for its own use and for the use of other similar agencies, political subdivisions or statewide systems on a temporary basis until a proposed statute can be acted upon by the legislature. The application for temporary classification is public.

Upon the filing of an application for temporary classification, the data which is the subject of the application shall be deemed to be classified as set forth in the application for a period of 45 days, or until the application is disapproved or granted by the commissioner, whichever is earlier.

Sec. 9. Minnesota Statutes, 1979 Supplement, Section 15.1642, is amended by adding a subdivision to read:

Subd. 2b. COMMISSIONER'S APPROVAL OR DISAPPROVAL. If the commissioner determines that an application for temporary classification involves data which would reasonably be classified in the same manner by all agencies, political subdivisions, or statewide systems similar to the one which made the application, the commissioner may approve or disapprove the classification for data of the kind which is the subject of the application for the use of all agencies, political subdivisions, or statewide systems similar to the applicant. If the commissioner deems this approach advisable, he shall provide notice of his intention by publication in the state register and by notification to the intergovernmental information systems advisory council, within ten days of receiving the application. Within 30 days after publication in the state register and notification to the council, an affected agency, political subdivision, the public, or statewide system may submit comments on the commissioner's proposal. The commissioner shall consider any comments received when granting or denying a classification for data of the kind which is the subject of the application, for the use of all agencies, political subdivisions, or statewide systems similar to the applicant. Within 45 days after the close of the period for submitting comment, the commissioner shall grant or disapprove the application. Applications processed under this subdivision shall be either approved or disapproved by the commissioner within 90 days of the receipt of the application. For purposes of subdivision 1, the data which is the subject of the classification shall be deemed to be classified as set forth in the application for a period of 90 days, or until the application is disapproved or granted by the commissioner, whichever is earlier. If requested in the application, or determined to be necessary by the commissioner, the data in the application shall be so classified for all agencies, political subdivisions, or statewide systems similar to the applicant until the application is disapproved or granted by the commissioner, whichever is earlier. Proceedings after the grant or disapproval shall be governed by the provisions of subdivision 3.

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Sec. 10. Minnesota Statutes, 1979 Supplement, Section 15.1642, Subdivision 5, is amended to read:

Subd. 5. **EXPIRATION OF TEMPORARY CLASSIFICATION.** Emergency classifications granted before July 1, 1979 are redesignated as temporary classifications. All temporary classifications granted under this section prior to July 1, 1979 the effective date of this act and still in effect, and all temporary classifications thereafter applied for and granted pursuant to this section shall expire on July 31, 1980 1981 or 18 months after the classification is granted, whichever occurs later. ~~For purposes of this section, all temporary classifications granted prior to December 1, 1979, shall be treated as if they were granted in 1979.~~

Sec. 11. Minnesota Statutes, 1979 Supplement, Section 15.1642, Subdivision 5a, is amended to read:

Subd. 5a. **LEGISLATIVE CONSIDERATION AND EXPIRATION OF TEMPORARY CLASSIFICATIONS.** On or before January 15 of each year, the commissioner shall submit all temporary classifications ~~granted in the prior year in effect on January 1 in bill form for legislative consideration. Unless enacted by law, each temporary classification so submitted shall expire 18 months after being granted and may not be renewed more than once to the legislature.~~

Sec. 12. Minnesota Statutes 1978, Section 15.165, Subdivision 3, is amended to read:

Subd. 3. Upon request to a responsible authority, an individual shall be informed whether he is the subject of stored data on individuals, and whether it is classified as public, private or confidential. Upon his further request, an individual who is the subject of stored private or public data on individuals shall *be shown the data without any charge to him and, if he desires, shall be informed of the content and meaning of that data.* After an individual has been shown the private or public data and informed of its meaning, the data need not be disclosed to him for six months thereafter unless a dispute or action pursuant to this section is pending or additional data on the individual has been collected or created. The responsible authority shall provide copies of the private or public data upon request by the individual subject of the data. ~~The cost of providing copies shall be borne by the individual. The responsible authority may require the requesting person to pay the actual costs of making, certifying, and compiling the copies.~~

The responsible authority shall comply immediately, if possible, with any request made pursuant to this subdivision, or within five days of the date of the request, excluding Saturdays, Sundays and legal holidays, if immediate compliance is not possible. If he cannot comply with the request within that time, he shall so inform the individual, and may have an additional five days within which to comply with the request, excluding Saturdays, Sundays and legal holidays.

Sec. 13. Minnesota Statutes, 1979 Supplement, Section 15.166, Subdivision 4, is amended to read:

Subd. 4. In addition to the remedies provided in subdivisions 1 to 3 or any other law, any aggrieved person may bring an action in district court to compel

compliance with sections 15.1611 to 15.1698 and may recover costs and disbursements, including reasonable attorney's fees, as determined by the court. If the court determines that a request for government data an action brought under this subdivision is frivolous and without merit and a basis in fact, it may award reasonable costs and attorney fees to the responsible authority. The matter shall be heard as soon as possible. In an action involving a request for government data under section 15.1621 or 15.165, the court may inspect in camera the government data in dispute, but shall conduct its hearing in public and in a manner that protects the security of data classified as not public.

Sec. 14. Minnesota Statutes 1978, Chapter 15, is amended by adding a section to read:

[15.1672] EXAMINATION DATA. Data consisting solely of testing or examination materials, or scoring keys used solely to determine individual qualifications for appointment or promotion in public service, or used to administer a licensing examination, or academic examination, the disclosure of which would compromise the objectivity or fairness of the testing or examination process are classified as nonpublic, except pursuant to court order.

Sec. 15. Minnesota Statutes 1978, Chapter 15, is amended by adding a section to read:

[15.1673] GENERAL NONPUBLIC DATA. Subdivision 1. As used in this section, the following terms have the meanings given them.

(a) "Security information" means government data the disclosure of which would be likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury.

(b) "Trade secret information" means government data, including a formula, pattern, compilation, program, device, method, technique or process (1) that was supplied by the affected individual or organization, (2) that is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy, and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

(c) "Labor relations information" means management positions on economic and non-economic items that have not been presented during the collective bargaining process or interest arbitration, including information specifically collected or created to prepare the management position.

Subd. 2. The following government data is classified as nonpublic data with regard to data not on individuals, pursuant to section 4, and as private data with regard to data on individuals, pursuant to section 15.162, subdivision 5a: Security information, trade secret information, sealed absentee ballots prior to opening by an election judge, sealed bids prior to the opening of the bid, and labor relations information.

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Sec. 16. Minnesota Statutes 1978, Chapter 15, is amended by adding a section to read:

[15.1674] DEFERRED ASSESSMENT DATA. Any data, collected by political subdivisions pursuant to section 435.193, which indicate the amount or location of cash or other valuables kept in the homes of applicants for deferred assessment, are private data pursuant to section 15.162, subdivision 5a.

Sec. 17. Minnesota Statutes 1978, Chapter 15, is amended by adding a section to read:

[15.1675] REVENUE DATA. The following data created, collected and maintained by the state department of revenue are classified as protected non-public, pursuant to section 5: criteria used in the computer processing of income tax returns to determine which returns are selected for audit; department criteria used to determine which income tax returns are selected for an in-depth audit; and department criteria and procedures for determining which accounts receivable balances below a specified amount are cancelled or written-off.

Sec. 18. Minnesota Statutes 1978, Chapter 15, is amended by adding a section to read:

[15.1676] SURPLUS LINE INSURANCE DATA. All data appearing on copies of surplus line insurance policies collected by the insurance division of the department of commerce pursuant to section 60A.20 are classified as private, pursuant to section 15.162, subdivision 5a.

Sec. 19. Minnesota Statutes 1978, Chapter 15, is amended by adding a section to read:

[15.1677] FEDERAL CONTRACTS DATA. To the extent that a federal agency requires it as a condition for contracting with a state agency or political subdivision, all government data collected and maintained by the state agency or political subdivision because that agency contracts with the federal agency are classified as either private or nonpublic depending on whether the data are data on individuals or data not on individuals.

Sec. 20. Minnesota Statutes 1978, Chapter 15, is amended by adding a section to read:

[15.1678] PROPERTY COMPLAINT DATA. The names of individuals who register complaints with state agencies or political subdivisions concerning violations of state laws or local ordinances concerning the use of property are classified as confidential, pursuant to section 15.162, subdivision 2a.

Sec. 21. Minnesota Statutes 1978, Chapter 15, is amended by adding a section to read:

[15.1679] LIBRARY DATA. Subdivision 1. All records collected, maintained, used or disseminated by a public library shall be administered in accordance with the provisions of sections 15.1611 to 15.17.

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Subd. 2. That portion of records maintained by a public library which links a library patron's name with materials requested or borrowed by the patron or which links a patron's name with a specific subject about which the patron has requested information or materials is classified as private, pursuant to section 15.162, subdivision 5a, and shall not be disclosed except pursuant to a valid court order.

Sec. 22. Minnesota Statutes 1978, Chapter 15, is amended by adding a section to read:

[15.1681] INVESTIGATIVE DETENTION DATA. Subdivision 1. DEFINITION. As used in this section, "investigative detention data" means government data created, collected, used or maintained by the state reformatories, prisons and correctional facilities, municipal or county jails, lockups, work houses, work farms and other correctional and detention facilities which: (a) if revealed, would disclose the identity of an informant who provided information about suspected illegal activities, and (b) if revealed, is likely to subject the informant to physical reprisals by others.

Subd. 2. GENERAL. Investigative detention data is confidential and shall not be disclosed except:

(a) Pursuant to section 15.163 or any other statute;

(b) Pursuant to a valid court order; or

(c) To a party named in a civil or criminal proceeding, whether administrative or judicial, to the extent required by the relevant rules of civil or criminal procedure.

Sec. 23. Minnesota Statutes, 1979 Supplement, Section 15.1691, Subdivision 3, is amended to read:

Subd. 3. INVESTIGATIVE DATA. Data on persons including data on vendors of services, which is collected, maintained, used or disseminated by the welfare system in an investigation, authorized by statute and relating to the enforcement of rules or law, is confidential pursuant to section 15.162, subdivision 2a, and shall not be disclosed except:

(a) Pursuant to section 15.163;

(b) Pursuant to statute or valid court order;

(c) To a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense.

After presentation in court, the data shall be public data on individuals to the extent reflected in court records. The data referred to in this subdivision shall be classified as public data upon its submission to a hearing examiner or court in an administrative or judicial proceeding.

Sec. 24. Minnesota Statutes, 1979 Supplement, Section 15.1692, Subdivision 1, is amended to read:

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15.1692 **PERSONNEL DATA.** Subdivision 1. As used in this section, "personnel data" means data on individuals collected because the individual is or was an employee of or an applicant for employment by, performs services on a voluntary basis for, or acts as an independent contractor with a state agency, statewide system or political subdivision or is a member of an advisory board or commission.

Sec. 25. Minnesota Statutes, 1979 Supplement, Section 15.1692, Subdivision 2, is amended to read:

Subd. 2. Except for employees described in subdivision 6, the following personnel data on current and former employees, volunteers and independent contractors of a state agency, statewide system or political subdivision and members of advisory boards or commissions is public: name; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; job title; job description; education and training background; previous work experience; date of first and last employment; the status of any complaints or charges against the employee, whether or not the complaint or charge resulted in a disciplinary action; and the final disposition of any disciplinary action and supporting documentation; work location; a work telephone number; badge number; and, city and county of residence.

Sec. 26. Minnesota Statutes, 1979 Supplement, Section 15.1693, Subdivision 2, is amended to read:

Subd. 2. Except as provided in subdivision 4, educational data is private data on individuals and shall not be disclosed except as follows:

- (a) Pursuant to section 15.163;
- (b) Pursuant to a valid court order;
- (c) Pursuant to a statute specifically authorizing access to the private data;
- (d) To disclose information in health and safety emergencies pursuant to the provisions of 20 U.S.C., Section 1232g(b)(1)(I) and 45 C.F.R., Section 99.36 which are in effect on July 1, 1979; ~~or~~
- (e) Pursuant to the provisions of 20 U.S.C., Sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3) and 45 C.F.R., Sections 99.31, 99.32, 99.33, 99.34 and 99.35 which are in effect on July 1, 1979; or
- (f) To appropriate health authorities but only to the extent necessary to administer immunization programs.

Sec. 27. Minnesota Statutes, 1979 Supplement, Section 15.1698, Subdivision 1, is amended to read:

15.1698 **MEDICAL DATA.** Subdivision 1. **DEFINITION.** As used in this section -; (a) "Directory information" means name of the patient, date admitted, general condition, and date released.

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(b) "Medical data" means data collected because an individual was or is a patient or client of a hospital, nursing home, medical center, clinic, health or nursing agency operated by a state agency or political subdivision including business and financial records, and data provided by or about relatives of the individual.

Sec. 28. Minnesota Statutes, 1979 Supplement, Section 15.1698, is amended by adding a subdivision to read:

Subd. 4. CLASSIFICATION OF MEDICAL DATA. Unless the data is summary data or a statute specifically provides a different classification, medical data are private but are available only to the subject of the data as provided in section 144.335, and shall not be disclosed to others except;

(a) Pursuant to section 15.163;

(b) Pursuant to a valid court order;

(c) To administer federal funds or programs;

(d) To the surviving spouse or next of kin of a deceased patient or client;

(e) To communicate a patient's or client's condition to a family member or other appropriate person in accordance with acceptable medical practice, unless the patient or client directs otherwise; or

(f) As otherwise required by law.

Sec. 29. Minnesota Statutes 1978, Chapter 15, is amended by adding a section to read:

[15.1699] EMPLOYEE ASSISTANCE DATA. All data created, collected or maintained by the department of administration to administer the employee assistance program are classified as private, pursuant to section 15.162, subdivision 5a.

Sec. 30. Minnesota Statutes 1978, Section 600.23, Subdivision 3, is amended to read:

Subd. 3. WITHDRAWAL. Papers and instruments so deposited shall not be made public or withdrawn from such the office except upon the written order of the person depositing the same, or his executors or administrators, or on the order of some court for the purpose of being read in such the court, and then to be returned to such the office. When so deposited, they shall be open to the examination of any person desiring the same upon payment of the fees, if any, allowed by law.

Sec. 31. Laws 1978, Chapter 790, Section 5, Subdivision 2, is amended to read:

Subd. 2. Section 3 is effective April 1, 1980 1981.

Sec. 32. **REPEALER.** Minnesota Statutes, 1979 Supplement, Sections 15.1692, Subdivision 4, and 15.1698, Subdivision 2, are repealed.

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Sec. 33. **EFFECTIVE DATE.** This act is effective the day following enactment.

Approved April 23, 1980

* See the amendment to section 2 in Laws 1980, Chapter 618, Section 25.

CHAPTER 604—H.F.No. 2268

An act relating to financial institutions; authorizing examinations of certain bank holding companies; providing for the institution of cease and desist proceedings and the issuance of temporary orders; requiring commissioner to report on federal usury preemption; amending Minnesota Statutes 1978, Section 46.24; Chapter 47, by adding sections; and Minnesota Statutes, 1979 Supplement, Section 46.04.

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

Section 1. Minnesota Statutes, 1979 Supplement, Section 46.04, is amended to read:

46.04 COMMISSIONER; POWERS. Subdivision 1. The commissioner of banks, referred to in Minnesota Statutes, Chapters 46 to 59, as the commissioner, is vested with all the powers, authority, and privileges which, prior to the enactment of Laws 1909, Chapter 201, were conferred by law upon the public examiner, and he shall take over all duties in relation to state banks, savings banks, trust companies, savings associations, and other financial institutions within the state which, prior to the enactment of chapter 201, were imposed upon the public examiner. The commissioner of banks shall exercise a constant supervision, either personally or through the examiners herein provided for, over the books and affairs of all state banks, savings banks, trust companies, savings associations, and other financial institutions doing business within this state; and shall, through examiners, examine at least once in every 18 month period the state banks and savings banks as are also subject to annual examinations by the federal deposit insurance corporation or the federal reserve bank. If any state bank or savings bank is not examined by one of these federal agencies annually, the commissioner shall examine the bank or savings bank, so that the bank or savings bank is examined at least once annually by either one of these federal agencies or the commissioner. Trust companies, savings associations, credit unions, industrial loan and thrift companies and other financial institutions shall be examined once a year. With the exception of industrial loan and thrift companies which do not have deposit liabilities and small loan companies, it shall be the principal purpose of these examinations to inspect and verify the assets and liabilities of each and so far investigate the character and value of the assets of each such institution as to determine with reasonable certainty that the values are correctly carried on its books. Assets and liabilities shall be verified in accordance with methods of procedure which the commissioner may determine to be adequate to carry out the intentions of this section. None of the above provisions shall ~~limit~~ limits the

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