

assigned to ~~attend the police school~~ the bureau of criminal apprehension continuing education courses pursuant to rules of the board shall receive his regular salary and shall be reimbursed by the governing body of the governmental unit or combination of governmental units from which elected or by which employed for his cost of meals, travel, and lodgings while in attendance at the ~~police school~~ bureau of criminal apprehension courses, not to exceed similar allowance for state employees.

Sec. 15. Minnesota Statutes 1980, Section 214.10, Subdivision 7, is amended to read:

Subd. 7. PEACE OFFICERS STANDARDS AND TRAINING BOARD; DEFINITIONS. For purposes of subdivisions 4 to 6 the term "appropriate law enforcement agency" means the agency ~~employing the peace officer who is a party to the complaint. In the event all of the peace officers employed by the agency are parties to the complaint, the board shall designate the appropriate law enforcement agency~~ designated by the subcommittee of the board.

Sec. 16. Minnesota Statutes 1980, Section 626.88, is amended by adding a subdivision to read:

Subd. 3. EXCEPTION. Security guards employed by the capitol complex security division of the department of public safety are not required to comply with subdivision 2 until April 1, 1983, at which time they shall be subject to the same uniform color restrictions as other security guards.

Approved May 29, 1981

CHAPTER 311 — S.F.No. 470

An act relating to the collection and dissemination of data; classifying data; proposing classifications of data as private, confidential nonpublic and protected nonpublic; making certain changes in laws relating to the collection and dissemination of data; amending Minnesota Statutes 1980, Sections 15.1611, Subdivision 2; 15.162, Subdivisions 2a, 5a, 5b, 5c, and 8; 15.163, Subdivision 4; 15.1642, Subdivision 2a; 15.165, Subdivision 3; 15.1672; 15.1673; 15.1692, Subdivision 3, and by adding a subdivision; 15.1693, by adding a subdivision; 15.1695, Subdivision 1; 15.1698, Subdivision 1; and 15.1699; providing for the recodification of Minnesota Statutes, Sections 15.1611 to 15.1699; repealing Minnesota Statutes 1980, Section 15.162, Subdivision 1a.

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

Section 1. Minnesota Statutes 1980, Section 15.1611, Subdivision 2, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **CITATION.** Sections 15.1611 to ~~15.1698~~ 15.1699 may be cited as the "Minnesota government data practices act."

Sec. 2. Minnesota Statutes 1980, Section 15.162, Subdivision 2a, is amended to read:

Subd. 2a. **CONFIDENTIAL DATA ON INDIVIDUALS.** "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, 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, 1981, whichever occurs first.~~

Sec. 3. Minnesota Statutes 1980, Section 15.162, Subdivision 5a, is amended to read:

Subd. 5a. **PRIVATE DATA ON INDIVIDUALS.** "Private data on individuals" means data which is made by statute or federal law applicable to the data: (a) not public; and (b) accessible to the individual subject of that data. ~~Private data on individuals does not include arrest information that is reasonably contemporaneous with an arrest or incarceration.~~

Sec. 4. Minnesota Statutes 1980, Section 15.162, Subdivision 5b, is amended to read:

Subd. 5b. **PUBLIC DATA ON INDIVIDUALS.** "Public data on individuals" means data which is accessible to the public in accordance with the provisions of section ~~45.17~~ 15.1621.

Sec. 5. Minnesota Statutes 1980, Section 15.162, Subdivision 5c, is amended to read:

Subd. 5c. **NONPUBLIC DATA.** "~~Non-public~~ Nonpublic 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, if any, of the data.

Sec. 6. Minnesota Statutes 1980, Section 15.162, Subdivision 8, is amended to read:

Subd. 8. **STATEWIDE SYSTEM.** "Statewide system" includes any record-keeping system in which ~~data on individuals~~ government data is collect-

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ed, stored, disseminated and used by means of a system common to one or more state agencies or more than one of its political subdivisions or any combination of state agencies and political subdivisions.

Sec. 7. Minnesota Statutes 1980, Section 15.163, Subdivision 4, is amended to read:

Subd. 4. COLLECTION AND USE OF DATA; GENERAL RULE.

Private or confidential data on an individual shall not be collected, stored, used or disseminated by political subdivisions, statewide systems or state agencies for any purposes other than those stated to the individual at the time of collection in accordance with section 15.165, except as provided in this subdivision.

(a) Data collected prior to August 1, 1975, and which have not been treated as public data, may be used, stored, and disseminated for the purposes for which the data was originally collected or for purposes which are specifically approved by the commissioner as necessary to public health, safety, or welfare.

(b) Private or confidential data may be used and disseminated to individuals or agencies specifically authorized access to that data by state, local, or federal law subsequent to the collection of the data.

(c) Private or confidential data may be used and disseminated to individuals or agencies subsequent to the collection of the data when the responsible authority maintaining the data has requested approval for a new or different use or dissemination of the data and that request has been specifically approved by the commissioner as necessary to carry out a function assigned by law.

(d) Private data may be used by and disseminated to any person or agency if the individual subject or subjects of the data have given their informed consent. Whether a data subject has given informed consent shall be determined by rules of the commissioner. Informed consent shall not be deemed to have been given by an individual subject of the data by the signing of any statement authorizing any person or agency to disclose information about him or her to an insurer or its authorized representative, unless the statement is:

- (1) In plain language;
- (2) Dated;
- (3) Specific in designating the particular persons or agencies the data subject is authorizing to disclose information about him or her;
- (4) Specific as to the nature of the information he or she is authorizing to be disclosed;
- (5) Specific as to the persons or agencies to whom he or she is authorizing information to be disclosed;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(6) Specific as to the purpose or purposes for which the information may be used by any of the parties named in clause (5), both at the time of the disclosure and at any time in the future;

(7) Specific as to its expiration date which should be within a reasonable period of time, not to exceed one year except in the case of authorizations given in connection with applications for life insurance or noncancelable or guaranteed renewable health insurance and identified as such, two years after the date of the policy.

Sec. 8. Minnesota Statutes 1980, Section 15.1642, Subdivision 2a, is amended to read:

Subd. 2a. **CONTENTS OF APPLICATION FOR ~~NON-PUBLIC~~ NONPUBLIC DATA.** An application for temporary classification of government data not on individuals shall include and the applicant shall have the burden of clearly establishing that no statute currently exists which either allows or forbids classification as ~~non-public~~ nonpublic or protected nonpublic; and either

(a) That data similar to that for which the temporary classification is sought has been treated as ~~non-public~~ nonpublic or protected nonpublic by other state agencies or political subdivisions, and by the public; or

(b) Public access to the data would render unworkable a program authorized by law; or

(c) That a compelling need exists for immediate temporary classification, which if not granted could adversely affect the health, safety or welfare of the public.

Sec. 9. Minnesota Statutes 1980, Section 15.165, Subdivision 3, is amended to read:

Subd. 3. **INDIVIDUAL ACCESS.** 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 responsible authority may require the requesting person to pay the actual costs of making, certifying, and compiling the copies.

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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. 10. Minnesota Statutes 1980, Section 15.1672, is amended 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. Completed versions of personnel, licensing, or academic examinations shall be accessible to the individual who completed the examination, unless the responsible authority determines that access would compromise the objectivity, fairness, or integrity of the examination process. Notwithstanding section 15.165, the responsible authority shall not be required to provide copies of completed examinations or answer keys to any individual who has completed an examination.

Sec. 11. Minnesota Statutes 1980, Section 15.1673, is amended 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.

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Subd. 2. **CLASSIFICATION.** The following government data is classified as nonpublic data with regard to data not on individuals, pursuant to section 15.162, subdivision 5c, 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. Provided that specific labor relations information which relates to a specific labor organization is classified as protected nonpublic data pursuant to section 15.162, subdivision 5d.

Sec. 12. Minnesota Statutes 1980, Section 15.1692, Subdivision 3, is amended to read:

Subd. 3. **PUBLIC EMPLOYMENT.** Except for applicants described in subdivision 6, the following personnel data on current and former applicants for employment by a state agency, statewide system or political subdivision is public: veteran status; relevant test scores; rank on eligible list; job history; education and training; and work availability. Names of applicants shall be private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the appointing authority to be finalists for a position in public employment. For purposes of this subdivision, "finalist" means an individual who is selected to be interviewed by the appointing authority prior to selection.

Sec. 13. Minnesota Statutes 1980, Section 15.1692, is amended by adding a subdivision to read:

Subd. 7. **ACCESS BY LABOR ORGANIZATIONS.** Personnel data may be disseminated to labor organizations to the extent that the responsible authority determines that the dissemination is necessary to conduct elections, notify employees of fair share fee assessments, and implement the provisions of chapter 179. Personnel data shall be disseminated to labor organizations and to the bureau of mediation services to the extent the dissemination is ordered or authorized by the director of the bureau of mediation services.

Sec. 14. Minnesota Statutes 1980, Section 15.1693, is amended by adding a subdivision to read:

Subd. 1a. **STUDENT HEALTH DATA.** Health data concerning students, including but not limited to, data concerning immunizations, notations of special physical or mental problems and records of school nurses; and pupil census data, including but not limited to, emergency information, family information and data concerning parents shall be considered educational data. Access by parents to student health data shall be pursuant to section 15.162, subdivision 4.

Sec. 15. Minnesota Statutes 1980, Section 15.1695, Subdivision 1, is amended to read:

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Subdivision 1. **CRIME REPORTS.** When collected, created, or maintained by law enforcement agencies including municipal police departments, county sheriff departments, fire departments, the bureau of criminal apprehension, the Minnesota state patrol, or the peace officers standards and training board, or public prosecutors or defenders:

(a) ~~Data on participants in crime prevention programs including lists of property with identification numbers or evaluations or recommendations related to structural security against unauthorized entry is private; and~~

(b) (a) Data contained on incident complaint reports, variously called logs or dockets, comprising a chronological record of events, shall be public; provided that data on individuals which could reasonably be used to determine the identity of an undercover agent, informant, or victim of criminal sexual conduct shall be private data on individuals; provided further that any other data classified by law as private or confidential contained in incident complaint reports shall remain private or confidential data.

(b) Data in arrest warrant indices are classified as confidential pursuant to section 15.162, subdivision 2a, until the defendant has been taken into custody, served with a warrant, or appears before the court except when the law enforcement agency determines that the public purpose is served by making the information public.

(c) Data which uniquely describes stolen, lost, confiscated or recovered property or property described in pawn shop transaction records are classified as either private or nonpublic depending on the content of the specific data.

(d) To the extent that the release of program data would reveal the identity of an informant or adversely affect the integrity of the fund, financial records of a program which pays rewards to informants shall be protected nonpublic data in the case of data not on individuals or confidential data in the case of data on individuals.

Sec. 16. Minnesota Statutes 1980, Section 15.1698, Subdivision 1, is amended to read:

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

(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, data provided by private health care facilities, and data provided by or about relatives of the individual.

Sec. 17. Minnesota Statutes 1980, Section 15.1699, is amended to read:
15.1699 **EMPLOYEE ASSISTANCE DATA.**

All data created, collected or maintained by ~~the department of administration~~ any state agency or political subdivision to administer ~~the~~ employee

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assistance program programs similar to the one authorized by section 16.02, subdivision 28, are classified as private, pursuant to section 15.162, subdivision 5a.

Sec. 18. [15.771] PUBLIC SAFETY DATA.

The following data collected and maintained by the state department of public safety are classified as private, pursuant to section 15.162, subdivision 5a: medical data on driving instructors, licensed drivers, and applicants for parking certificates and special license plates issued to physically handicapped persons. The following data collected and maintained by the state department of public safety are classified as confidential, pursuant to section 15.162, subdivision 2a: data concerning an individual's driving ability when that data is received from a member of the individual's family.

Sec. 19. [15.772] SALARY BENEFIT SURVEY DATA.

Salary and personnel benefit survey data purchased from consulting firms, nonprofit corporations or associations or obtained from employers with the written understanding that the data shall not be made public which is maintained by state agencies, political subdivisions or statewide systems are classified as nonpublic pursuant to section 15.162, subdivision 5c.

Sec. 20. [15.773] FIREARMS DATA.

All data pertaining to the purchase or transfer of firearms and applications for permits to carry firearms which are collected by state agencies, political subdivisions or statewide systems pursuant to sections 624.712 to 624.718 are classified as private, pursuant to section 15.162, subdivision 5a.

Sec. 21. [15.774] SOCIAL RECREATIONAL DATA.

The following data collected and maintained by political subdivisions for the purpose of enrolling individuals in recreational and other social programs are classified as private, pursuant to section 15.162, subdivision 5a: data which describes the health or medical condition of the individual, family relationships and living arrangements of an individual or which are opinions as to the emotional makeup or behavior of an individual.

Sec. 22. [15.775] INVESTIGATIVE DATA.

Subdivision 1. DEFINITIONS. A "pending civil legal action" includes but is not limited to judicial, administrative or arbitration proceedings. Whether a civil legal action is pending shall be determined by the chief attorney acting for the state agency, political subdivision or statewide system.

Subd. 2. CIVIL ACTIONS. Data collected by state agencies, political subdivisions or statewide systems as part of an active investigation undertaken for the purpose of the commencement or defense of a pending civil legal action, or which are retained in anticipation of a pending civil legal action, are

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classified as protected nonpublic data pursuant to section 15.162, subdivision 5d in the case of data not on individuals and confidential pursuant to section 15.162, subdivision 2a in the case of data on individuals.

Sec. 23. [15.776] DOMESTIC ABUSE DATA.

All government data on individuals which is collected, created, received or maintained by police departments, sheriffs' offices or clerks of court pursuant to the domestic abuse act, section 518B.01, are classified as confidential data, pursuant to section 15.162, subdivision 2a, until a temporary court order made pursuant to subdivisions 5 or 7 of section 518B.01 is executed or served upon the data subject who is the respondent to the action.

Sec. 24. [15.777] MEDICAL EXAMINER DATA.

Subdivision 1. DEFINITION. As used in this section, "medical examiner data" means data relating to deceased individuals and the manner and circumstances of their death which is created, collected, used or maintained by a county coroner or medical examiner in the fulfillment of his official duties pursuant to chapter 390, or any other general or local law on county coroners or medical examiners.

Subd. 2. PUBLIC DATA. Unless specifically classified otherwise by state statute or federal law, the following data created or collected by a medical examiner or coroner on a deceased individual is public: name of the deceased; date of birth; date of death; address; sex; race; citizenship; height; weight; hair color; eye color; build; complexion; age, if known, or approximate age; identifying marks, scars and amputations; a description of the decedent's clothing; marital status; location of death including name of hospital where applicable; name of spouse; whether or not the decedent ever served in the armed forces of the United States; social security number; occupation; business; father's name; mother's maiden name; birthplace; birthplace of parents; cause of death; causes of cause of death; whether an autopsy was performed and if so, whether it was conclusive; date and place of injury, if applicable, including work place; how injury occurred; whether death was caused by accident, suicide, homicide, or was of undetermined cause; certification of attendance by physician; physician's name and address; certification by coroner or medical examiner; name and signature of coroner or medical examiner; type of disposition of body; burial place name and location, if applicable; date of burial, cremation or removal; funeral home name and address; and name of local register or funeral director.

Subd. 3. UNIDENTIFIED INDIVIDUAL; PUBLIC DATA. Whenever a county coroner or medical examiner is unable to identify a deceased individual subject to his investigation, he may release to the public any relevant data which would assist in ascertaining identity.

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Subd. 4. CONFIDENTIAL DATA. Data created or collected by a county coroner or medical examiner which is part of an active investigation mandated by Minnesota Statutes, Chapter 390, or any other general or local law relating to coroners or medical examiners is confidential data on individuals pursuant to Minnesota Statutes, Section 15.162, Subdivision 2a, until the completion of the coroner's or medical examiner's final summary of his findings at which point the data collected in the investigation and the final summary thereof shall become private data on individuals, except that nothing in this subdivision shall be construed to make private or confidential the data elements identified in subdivision 2 at any point in the investigation or thereafter.

Subd. 5. PRIVATE DATA. All other medical examiner data on deceased individuals is private pursuant to Minnesota Statutes, Section 15.162, Subdivision 5a, and shall not be disclosed except pursuant to the provisions of Minnesota Statutes, Chapter 390, or any other general or local law on county coroners or medical examiners, or pursuant to a valid court order.

Subd. 6. OTHER DATA. Unless a statute specifically provides a different classification, all other data created or collected by a county coroner or medical examiner that is not data on deceased individuals or the manner and circumstances of their death is public pursuant to Minnesota Statutes, Section 15.1621.

Subd. 7. COURT REVIEW. Any person may petition the district court located in the county where medical examiner data is being maintained to authorize disclosure of private or confidential medical examiner data. The petitioner shall notify the medical examiner or coroner. The court may notify other interested persons and require their presence at a hearing. A hearing may be held immediately if the parties agree, and in any event shall be held as soon as practicable. After examining the data in camera, the court may order disclosure of the data if it determines that disclosure would be in the public interest.

Subd. 8. ACCESS TO PRIVATE DATA. The data made private by this section shall be accessible to the legal representative of the decedent's estate or to the decedent's surviving spouse or next of kin or their legal representative.

Sec. 25. [15.778] WORKERS' COMPENSATION SELF-INSURANCE DATA.

Financial data relating to nonpublic companies which are submitted to the commissioner of insurance for the purpose of obtaining approval to self-insure workers' compensation liability as a group are classified as nonpublic data, pursuant to section 15.162, subdivision 5c.

Sec. 26. [15.779] REVENUE DEPARTMENT INFORMANT DATA.

Names of informers, informer letters and other unsolicited data, in whatever form, furnished to the state department of revenue by a person, other

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than the data subject or revenue department employee, which inform that a specific taxpayer is not or may not be in compliance with the tax laws of this state are classified as confidential data pursuant to section 15.162, subdivision 2a.

Sec. 27. [15.781] LICENSING DATA.

Subdivision 1. DEFINITION. As used in this section "licensing agency" means any board, department or agency of this state which is given the statutory authority to issue professional or other types of licenses.

Subd. 2. PRIVATE DATA. The following data collected, created or maintained by any licensing agency are classified as private, pursuant to section 15.162, subdivision 5a: data, other than their names and addresses, submitted by licensees and applicants for licenses; the identity of complainants who have made reports concerning licensees or applicants which appear in inactive complaint data unless the complainant consents to having his or her name disclosed; the nature or content of unsubstantiated complaints when the information is not maintained in anticipation of legal action; the identity of patients whose medical records are received by any health licensing agency for purposes of review or in anticipation of a contested matter; inactive investigative data relating to violations of statutes or rules; and the record of any disciplinary proceeding except as limited by subdivision 4.

Subd. 3. CONFIDENTIAL DATA. The following data collected, created or maintained by any licensing agency are classified as confidential, pursuant to section 15.162, subdivision 2a: active investigative data relating to the investigation of complaints against any licensee.

Subd. 4. PUBLIC DATA. Licensing agency minutes, orders for hearing, findings of fact, conclusions of law and specification of the final disciplinary action contained in the record of the disciplinary action are classified as public, pursuant to section 15.162, subdivision 5b. The entire record concerning the disciplinary proceeding is public data pursuant to section 15.162, subdivision 5b, in those instances where there is a public hearing concerning the disciplinary action.

Sec. 28. [15.782] FOSTER CARE DATA.

The following data collected, created and maintained by a community action agency in a study of the impact of foster care policies on families are classified as confidential data, pursuant to section 15.162, subdivision 2a: names of persons interviewed; foster care placement plans obtained from other public and private agencies; and all information gathered during interviews with study participants.

Sec. 29. [15.783] BENEFIT DATA.

Subdivision 1. DEFINITION. As used in this section, "benefit data" means data on individuals collected or created because an individual seeks

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information about becoming, is, or was an applicant for or a recipient of benefits or services provided under various housing, home ownership, and rehabilitation and community action agency programs administered by state agencies, political subdivisions, or statewide systems. Benefit data does not include welfare data which shall be administered in accordance with section 15.1691.

Subd. 2. PUBLIC DATA. The names and addresses of applicants for and recipients of benefits characterized as the urban homesteading, home ownership, and new housing programs operated by a housing and redevelopment authority in a city of the first class are classified as public data on individuals.

Subd. 3. PRIVATE DATA. Unless otherwise provided by law, all other benefit data is private data on individuals, except pursuant to a valid court order.

Sec. 30. [15.784] ASSESSOR'S DATA.

Subdivision 1. GENERALLY. The following data collected, created and maintained by political subdivisions are classified as private, pursuant to section 15.162, subdivision 5a, or nonpublic depending on the content of the specific data:

Data contained on sales sheets received from private multiple listing service organizations where the contract with the organizations requires the political subdivision to refrain from making the data available to the public.

Subd. 2. INCOME PROPERTY ASSESSMENT DATA. The following data collected by political subdivisions from business entities concerning income properties are classified as nonpublic data pursuant to section 15.162, subdivision 5c:

(a) Detailed income and expense figures for the current year plus the previous three years;

(b) Average vacancy factors for the previous three years;

(c) Verified net rentable areas or net usable areas, whichever is appropriate;

(d) Anticipated income and expenses for the current year; and

(e) Projected vacancy factor for the current year.

Sec. 31. [15.785] HEALTH DATA.

Subdivision 1. PRIVATE DATA. The following data created, collected and maintained by the department of health, political subdivisions, or statewide systems are classified as private, pursuant to section 15.162, subdivision 5a: data on individual patients pertaining to the investigation and study of non-sexually transmitted diseases, except that the data may be made public to diminish a threat to the public health.

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Subd. 2. CONFIDENTIAL DATA. The following data created, collected and maintained by a department of health operated by the state or a political subdivision are classified as confidential, pursuant to section 15.162, subdivision 2a: investigative files on individuals maintained by the department in connection with the epidemiologic investigation of sexually transmitted diseases, provided that information may be released to the individual's personal physician and to a health officer, as defined in Minnesota Statutes, Section 145.01, for the purposes of treatment, continued medical evaluation and control of the disease.

Sec. 32. [15.786] HOUSING AGENCY DATA.

Subdivision 1. DEFINITION. For purposes of this section "housing agency" means the public housing agency or housing and redevelopment authority of a political subdivision.

Subd. 2. CONFIDENTIAL DATA. The following data on individuals maintained by the housing agency are classified as confidential data, pursuant to section 15.162, subdivision 2a: correspondence between the agency and the agency's attorney containing data collected as part of an active investigation undertaken for the purpose of the commencement or defense of potential or actual litigation, including but not limited to: referrals to the office of the inspector general or other prosecuting agencies for possible prosecution for fraud; initiation of lease terminations and unlawful detainer actions; admission denial hearings concerning prospective tenants; commencement of actions against independent contractors of the agency; and tenant grievance hearings.

Subd. 3. PROTECTED NONPUBLIC DATA. The following data not on individuals maintained by the housing agency are classified as protected nonpublic data, pursuant to section 15.162, subdivision 5d: correspondence between the agency and the agency's attorney containing data collected as part of an active investigation undertaken for the purpose of the commencement or defense of potential or actual litigation, including but not limited to, referrals to the office of the inspector general or other prosecuting bodies or agencies for possible prosecution for fraud and commencement of actions against independent contractors of the agency.

Subd. 4. NONPUBLIC DATA. The following data not on individuals maintained by the housing agency are classified as nonpublic data, pursuant to section 15.162, subdivision 5c: all data pertaining to negotiations with property owners regarding the purchase of property. With the exception of the housing agency's evaluation of properties not purchased, all other negotiation data shall be public at the time of the closing of the property sale.

Sec. 33. [15.787] CORRECTIONS OMBUDSMAN DATA.

Subdivision 1. PRIVATE DATA. The following data maintained by the ombudsman for corrections are classified as private, pursuant to section 15.162, subdivision 5a:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(a) All data on individuals pertaining to contacts made by clients seeking the assistance of the ombudsman, except as specified in subdivisions 2 and 3;

(b) Data recorded from personal and phone conversations and in correspondence between the ombudsman's staff and persons interviewed during the course of an investigation;

(c) Client index cards;

(d) Case assignment data; and

(e) Monthly closeout data.

Subd. 2. CONFIDENTIAL DATA. The following data maintained by the ombudsman are classified as confidential, pursuant to section 15.162, subdivision 2a: the written summary of the investigation to the extent it identifies individuals.

Subd. 3. PUBLIC DATA. The following data maintained by the ombudsman are classified as public, pursuant to section 15.162, subdivision 5b: client name, client location; and the inmate identification number assigned by the department of corrections.

Sec. 34. [15.788] EMPLOYEE RELATIONS DATA.

The following data collected, created or maintained by the department of employee relations are classified as nonpublic pursuant to section 15.162, subdivision 5c:

(a) The commissioner's plan prepared by the department, pursuant to section 3.855, which governs the compensation and terms and conditions of employment for employees not covered by collective bargaining agreements until the plan is submitted to the legislative commission on employee relations;

(b) Data pertaining to grievance or interest arbitration that has not been presented to the arbitrator or other party during the arbitration process; and

(c) Notes and preliminary drafts of reports prepared during personnel investigations and personnel management reviews of state departments and agencies.

Sec. 35. [15.789] ATTORNEY GENERAL DATA.

Subdivision 1. PRIVATE DATA. The following data created, collected and maintained by the office of the attorney general are classified as private, pursuant to section 15.162, subdivision 5a:

(a) The record, including but not limited to, the transcript and exhibits of all disciplinary proceedings held by a state agency, board or commission, except in those instances where there is a public hearing;

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(b) Communications and non-investigative files regarding administrative or policy matters which do not evidence final public actions;

(c) Consumer complaint data, other than that data classified as confidential, including consumers' complaints against businesses and follow-up investigative materials; and

(d) Investigative data, obtained in anticipation of, or in connection with litigation or an administrative proceeding where the investigation is not currently active.

Subd. 2. CONFIDENTIAL DATA. The following data created, collected and maintained by the office of the attorney general are classified as confidential, pursuant to section 15.162, subdivision 2a: data acquired through communications made in official confidence to members of the attorney general's staff where the public interest would suffer by disclosure of the data.

Subd. 3. PUBLIC DATA. Data describing the final disposition of disciplinary proceedings held by any state agency, board or commission are classified as public, pursuant to section 15.162, subdivision 5b.

Sec. 36. [15.791] LAW ENFORCEMENT DATA.

Subdivision 1. APPLICATION. This section shall apply to agencies which carry on a law enforcement function, including but not limited to municipal police departments, county sheriff departments, fire departments, the bureau of criminal apprehension, the Minnesota state patrol and the securities and real estate division of the department of commerce.

Subd. 2. ARREST DATA. The following data created or collected by law enforcement agencies which documents any actions taken by them to cite, arrest, incarcerate or otherwise substantially deprive an adult individual of his liberty shall be public at all times in the originating agency:

- (a) Time, date and place of the action;
- (b) Any resistance encountered by the agency;
- (c) Any pursuit engaged in by the agency;
- (d) Whether any weapons were used by the agency or other individual;
- (e) The charge, arrest or search warrants, or other legal basis for the action;
- (f) The identities of the agencies, units within the agencies and individual persons taking the action;
- (g) Whether and where the individual is being held in custody or is being incarcerated by the agency;

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(h) The date, time and legal basis for any transfer of custody and the identity of the agency or person who received custody;

(i) The date, time and legal basis for any release from custody or incarceration;

(j) The name, age, sex and last known address of an adult person or the age and sex of any juvenile person cited, arrested, incarcerated or otherwise substantially deprived of his liberty;

(k) Whether the agency employed wiretaps or other eavesdropping techniques, unless the release of this specific data would jeopardize an ongoing investigation;

(l) The manner in which the agencies received the information that led to the arrest and the names of individuals who supplied the information unless the identities of those individuals qualify for protection under subdivision 9; and

(m) Response or incident report number.

Subd. 3. REQUEST FOR SERVICE DATA. The following data created or collected by law enforcement agencies which documents requests by the public for law enforcement services shall be public government data:

(a) The nature of the request or the activity complained of;

(b) The name and address of the individual making the request unless the identity of the individual qualifies for protection under subdivision 9;

(c) The time and date of the request or complaint; and

(d) The response initiated and the response or incident report number.

Subd. 4. RESPONSE OR INCIDENT DATA. The following data created or collected by law enforcement agencies which documents the agency's response to a request for service or which describes actions taken by the agency on its own initiative shall be public government data:

(a) Date, time and place of the action;

(b) Agencies, units of agencies and individual agency personnel participating in the action unless the identities of agency personnel qualify for protection under subdivision 9;

(c) Any resistance encountered by the agency;

(d) Any pursuit engaged in by the agency;

(e) Whether any weapons were used by the agency or other individuals;

(f) A brief factual reconstruction of events associated with the action;

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(g) Names and addresses of witnesses to the agency action or the incident unless the identity of any witness qualifies for protection under subdivision 9;

(h) Names and addresses of any victims or casualties unless the identities of those individuals qualify for protection under subdivision 9;

(i) The name and location of the health care facility to which victims or casualties were taken; and

(j) Response or incident report number.

Subd. 5. DATA COLLECTION. Except for the data defined in subdivisions 2, 3 and 4, investigative data collected or created by a law enforcement agency in order to prepare a case against a person, whether known or unknown, for the commission of a crime or civil wrong is confidential while the investigation is active. Inactive investigative data is public unless the release of the data would jeopardize another ongoing investigation or would reveal the identity of individuals protected under subdivision 9. Photographs which are part of inactive investigative files and which are clearly offensive to common sensibilities are classified as private data, provided that the existence of the photographs shall be disclosed to any person requesting access to the inactive investigative file. An investigation becomes inactive upon the occurrence of any of the following events:

(a) A decision by the agency or appropriate prosecutorial authority not to pursue the case;

(b) Expiration of the time to bring a charge or file a complaint under the applicable statute of limitations; or

(c) Exhaustion of or expiration of all rights of appeal by an individual convicted on the basis of the investigative data.

Any investigative data presented as evidence in court shall be public. Data determined to be inactive under clause (a) of this subdivision may become active if the agency or appropriate prosecutorial authority decides to renew the investigation.

During the time when an investigation is active, any person may bring an action in the district court located in the county where the data is being maintained to authorize disclosure of investigative data. The court may order that all or part of the data relating to a particular investigation be released to the public or to the person bringing the action. In making the determination as to whether investigative data shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the agency or to any person identified in the data. The data in dispute shall be examined by the court in camera.

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Subd. 6. WITHHOLDING PUBLIC DATA. A law enforcement agency may temporarily withhold response or incident data from public access if the agency reasonably believes that public access would be likely to endanger the physical safety of an individual or cause a perpetrator to flee, evade detection or destroy evidence. In such instances, the agency shall, upon the request of any person, provide a statement which explains the necessity for its action. Any person may apply to a district court for an order requiring the agency to release the data being withheld. If the court determines that the agency's action is not reasonable, it shall order the release of the data and may award costs and attorney's fees to the person who sought the order. The data in dispute shall be examined by the court in camera.

Subd. 7. PUBLIC BENEFIT DATA. Any law enforcement agency may make any data classified as confidential pursuant to subdivision 5 accessible to any person, agency or the public if the agency determines that the access will aid the law enforcement process, promote public safety or dispel widespread rumor or unrest.

Subd. 8. PUBLIC ACCESS. When data is classified as public under this section, a law enforcement agency shall not be required to make the actual physical data available to the public if it is not administratively feasible to segregate the public data from the confidential. However, the agency must make the information described as public data available to the public in a reasonable manner. When investigative data becomes inactive, as described in subdivision 5, the actual physical data associated with that investigation, including the public data, shall be available for public access.

Subd. 9. PROTECTION OF IDENTITIES. A law enforcement agency may withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

(a) When access to the data would reveal the identity of an undercover law enforcement officer;

(b) When access to the data would reveal the identity of a victim of criminal sexual conduct;

(c) When access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant; or

(d) When access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests that his identity not be revealed, and the agency reasonably determines that revealing the identity of the victim or witness would threaten the personal safety or property of the individual.

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Subd. 10. DATA RETENTION. Nothing in this section shall require law enforcement agencies to create, collect or maintain data which is not required to be created, collected or maintained by any other applicable rule or statute.

Sec. 37. [15.792] PHOTOGRAPHIC NEGATIVES.

Photographic negatives obtained by the department of public safety in the process of issuing drivers licenses or Minnesota identification cards shall be private data on individuals pursuant to section 15.162, subdivision 5a.

Sec. 38. [15.793] EXTENSION OF CERTAIN TEMPORARY CLASSIFICATIONS.

Court services data, criminal history data, and corrections and detention data classified by temporary classifications granted prior to January 1, 1981, pursuant to Minnesota Statutes, Section 15.1642, shall retain their temporary classification until July 1, 1982.

Sec. 39. REVISOR'S INSTRUCTIONS.

The revisor of statutes shall codify the provisions of sections 1 to 44 and recodify the provisions of Minnesota Statutes 1980, Sections 15.1611 to 15.1699 in an appropriate place in the next edition of Minnesota Statutes. He shall also correct all statutory cross references to provisions of sections 15.1611 to 15.1699.

Sec. 40. REPEALER.

Minnesota Statutes 1980, Section 15.162, Subdivision 1a is repealed.

Sec. 41. EFFECTIVE DATE.

Sections 1 to 40 are effective the day following final enactment.

Approved May 29, 1981

CHAPTER 312 — S.F.No. 476

An act relating to crimes; providing the court with discretion to require a presentence investigation in the case of felony convictions; requiring a presentence sentencing worksheet for a defendant convicted of a felony; specifying the crime of fleeing from a peace officer by use of a motor vehicle; providing that whoever flees a peace officer in a motor vehicle shall be liable for any loss caused by such flight; prescribing penalties; amending Minnesota Statutes 1980, Section 609.115, Subdivision 1, and by adding a subdivision; proposing new law coded in Minnesota Statutes, Chapters 65B and 609.

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