

Sections 1 to 8 are effective August 1, 1985, and apply to crimes committed on or after that date.

Approved June 4, 1985

CHAPTER 298 — H.F.No. 1589

An act relating to collection and dissemination of data; classifying government data as confidential, private, nonpublic, protected nonpublic, and public; clarifying issues relating to classifications of data, access to data, the effect of death of individuals on classifications, and classifications of inactive investigative data; refining provisions of the data practices act; authorizing a court to order the release of certain information; amending Minnesota Statutes 1984, sections 13.03, subdivision 3, and by adding subdivisions; 13.08, subdivision 1, and by adding a subdivision; 13.09; 13.32, subdivision 1, and by adding a subdivision; 13.39, by adding a subdivision; 13.43, subdivision 4; 13.46, subdivisions 1, 2, 3, 7, and 10; 13.65, subdivision 1; 13.71; 13.72, by adding subdivisions; 13.82, subdivisions 1 and 5, and by adding subdivisions; 13.83, by adding a subdivision; 13.84, subdivisions 1 and 6; 144.335, subdivision 2; and 254A.09; repealing Minnesota Statutes 1984, sections 13.73 and 13.81; proposing coding for new law in Minnesota Statutes, chapters 13 and 144.

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

Section 1. Minnesota Statutes 1984, section 13.03, subdivision 3, is amended to read:

Subd. 3. **REQUEST FOR ACCESS TO DATA.** Upon request to a responsible authority or designee, a person shall be permitted to inspect and copy public government data at reasonable times and places, and ~~if the person requests, he, upon request,~~ shall be informed of the data's meaning. The responsible authority may not require the requesting person to pay a fee to inspect data. The responsible authority or designee shall provide copies of public government data upon request. The responsible authority may require the requesting person to pay the actual costs of searching for and retrieving government data and for making, certifying and compiling the copies of the data but may not charge for separating public from not public data. If the responsible authority or designee is not able to provide copies at the time a request is made ~~he, copies shall supply copies be supplied~~ as soon as reasonably possible.

When a request under this subdivision involves any person's receipt of copies of public government data that has commercial value and is an entire formula, pattern, compilation, program, device, method, technique, process, data base, or system developed with a significant expenditure of public funds by the agency, the responsible authority may charge a reasonable fee for the information in addition to the costs of making, certifying, and compiling the copies. Any fee charged must be clearly demonstrated by the agency to relate to the actual

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

development costs of the information. The responsible authority, upon the request of any person, shall provide sufficient documentation to explain and justify the fee being charged.

If the responsible authority or designee determines that the requested data is classified so as to deny the requesting person access, the responsible authority or designee shall inform the requesting person of the determination either orally at the time of the request, or in writing as soon after that time as possible, and shall cite the specific statutory section, temporary classification, or specific provision of federal law on which the determination is based. Upon the request of any person denied access to data, the responsible authority or designee shall certify in writing that the request has been denied and cite the specific statutory section, temporary classification, or specific provision of federal law upon which the denial was based.

Sec. 2. Minnesota Statutes 1984, section 13.03, is amended by adding a subdivision to read:

Subd. 6. DISCOVERABILITY OF NOT PUBLIC DATA. If a state agency, political subdivision, or statewide system opposes discovery of government data or release of data pursuant to court order on the grounds that the data are classified as not public, the party that seeks access to the data may bring before the appropriate presiding judicial officer, arbitrator, or administrative law judge an action to compel discovery or an action in the nature of an action to compel discovery.

The presiding officer shall first decide whether the data are discoverable or releasable pursuant to the rules of evidence and of criminal, civil, or administrative procedure appropriate to the action.

If the data are discoverable the presiding officer shall decide whether the benefit to the party seeking access to the data outweighs any harm to the confidentiality interests of the agency maintaining the data, or of any person who has provided the data or who is the subject of the data, or to the privacy interest of an individual identified in the data. In making the decision, the presiding officer shall consider whether notice to the subject of the data is warranted and, if warranted, what type of notice must be given. The presiding officer may fashion and issue any protective orders necessary to assure proper handling of the data by the parties.

Sec. 3. Minnesota Statutes 1984, section 13.03, is amended by adding a subdivision to read:

Subd. 7. DATA TRANSFERRED TO ARCHIVES. When government data that is classified as not public by this chapter or any other statute, including private data on decedents and confidential data on decedents, is physically transferred to the state archives, the data shall no longer be classified as not public and access to and use of the data shall be governed by section 138.17.

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

Sec. 4. Minnesota Statutes 1984, section 13.03, is amended by adding a subdivision to read:

Subd. 8. CHANGE TO CLASSIFICATION OF DATA NOT ON INDIVIDUALS. Except for security information, nonpublic and protected nonpublic data shall become public either ten years after the creation of the data by the government agency or ten years after the data was received or collected by any governmental agency unless the responsible authority for the originating or custodial agency for the data reasonably determines that, if the data were made available to the public or to the data subject, the harm to the public or to a data subject would outweigh the benefit to the public or to the data subject. If the responsible authority denies access to the data, the person denied access may challenge the denial by bringing an action in district court seeking release of the data. The action shall be brought in the district court located in the county where the data are being maintained, or, in the case of data maintained by a state agency, in any county. The data in dispute shall be examined by the court in camera. In deciding whether or not to release the data, the court shall consider the benefits and harms in the same manner as set forth above. The court shall make a written statement of findings in support of its decision.

Sec. 5. Minnesota Statutes 1984, section 13.08, subdivision 1, is amended to read:

Subdivision 1. ACTION FOR DAMAGES. Notwithstanding section 466.03, a political subdivision, responsible authority, statewide system, or state agency which violates any provision of this chapter is liable to a person or representative of a decedent who suffers any damage as a result of the violation, and the person damaged or his representative in the case of private data on decedents or confidential data on decedents may bring an action against the political subdivision, responsible authority, statewide system or state agency to cover any damages sustained, plus costs and reasonable attorney fees. In the case of a willful violation, the political subdivision, statewide system or state agency shall, in addition, be liable to exemplary damages of not less than \$100, nor more than \$10,000 for each violation. The state is deemed to have waived any immunity to a cause of action brought under this chapter.

Sec. 6. Minnesota Statutes 1984, section 13.08, is amended by adding a subdivision to read:

Subd. 5. IMMUNITY FROM LIABILITY. A state agency, statewide system, political subdivision, or person that releases not public data pursuant to an order under section 2 is immune from civil and criminal liability.

Sec. 7. Minnesota Statutes 1984, section 13.09, is amended to read:
13.09 PENALTIES.

Any person who willfully violates the provisions of sections 13.02 to 13.09 this chapter or any lawful rules and regulations promulgated thereunder adopted

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

under this chapter is guilty of a misdemeanor. Willful violation of sections 13.02 to 13.09 this chapter by any public employee constitutes just cause for suspension without pay or dismissal of the public employee.

Sec. 8. [13.10] DATA ON DECEDENTS.

Subdivision 1. DEFINITIONS. As used in this chapter:

(a) "Confidential data on decedents" means data which, prior to the death of the data subject, were classified by statute, federal law, or temporary classification as confidential data.

(b) "Private data on decedents" means data which, prior to the death of the data subject, were classified by statute, federal law, or temporary classification as private data.

(c) "Representative of the decedent" means the personal representative of the estate of the decedent during the period of administration, or if no personal representative has been appointed or after his discharge, the surviving spouse, any child of the decedent, or, if there is no surviving spouse or children, any other of the decedent's living next of kin within one degree on consanguinity as determined in the order of priority established by the rules of civil law.

Subd. 2. CLASSIFICATION OF DATA ON DECEDENTS. Upon the death of the data subject, private data and confidential data shall become, respectively, private data on decedents and confidential data on decedents. Private data on decedents and confidential data on decedents shall become public when ten years have elapsed from the actual or presumed death of the individual and 30 years have elapsed from the creation of the data. For purposes of this subdivision, an individual is presumed to be dead if either 90 years elapsed since the creation of the data or 90 years have elapsed since the individual's birth, whichever is earlier, except that an individual is not presumed to be dead if readily available data indicate that the individual is still living.

Subd. 3. RIGHTS. Rights conferred by this chapter on individuals who are the subjects of private or confidential data shall, in the case of private data on decedents or confidential data on decedents, be exercised by the representative of the decedent. Nothing in this section may be construed to prevent access to appropriate data by a trustee appointed in a wrongful death action.

Subd. 4. COURT REVIEW. Any person may bring an action in the district court located in the county where the data is being maintained or, in the case of data maintained by a state agency, in any county, to authorize release of private data on decedents or confidential data on decedents. Individuals clearly identified in the data or the representative of the decedent may be given notice if doing so does not cause an undue delay in hearing the matter and, in any event, shall have standing in the court action. The responsible authority for the data being sought or any interested person may provide information regarding the

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

possible harm or benefit from granting the request. The data in dispute shall be examined by the court in camera. The court may order all or part of the data to be released to the public or to the person bringing the action. In deciding whether or not to release the data, the court shall consider whether the harm to the surviving spouse, children, or next of kin of the decedent, the harm to any other individual identified in the data, or the harm to the public outweighs the benefit to the person bringing the action or the benefit of the public. The court shall make a written statement of findings in support of its decision.

Subd. 5. ADOPTION RECORDS. Notwithstanding any provision of this chapter, adoption records shall be treated as provided in sections 259.21 to 259.49.

Subd. 6. RETENTION OF DATA. Nothing in this section may be construed to require retention of government data, including private data on decedents or confidential data on decedents, for periods of time other than those established by the procedures provided in section 138.17, or any other statute.

Sec. 9. Minnesota Statutes 1984, section 13.32, subdivision 1, is amended to read:

Subdivision 1. As used in this section:

(a) "Educational data" means data on individuals maintained by a public educational agency or institution or by a person acting for the agency or institution which relates to a student.

Records of instructional personnel which are in the sole possession of the maker thereof and are not accessible or revealed to any other individual except a substitute teacher, and are destroyed at the end of the school year, shall not be deemed to be government data.

Records of a law enforcement unit of a public educational agency or institution which are maintained apart from education data and are maintained solely for law enforcement purposes, and are not disclosed to individuals other than law enforcement officials of the jurisdiction are confidential; provided, that education records maintained by the educational agency or institution are not disclosed to the personnel of the law enforcement unit.

Records relating to a student who is employed by a public educational agency or institution which are made and maintained in the normal course of business, relate exclusively to the individual in that individual's capacity as an employee, and are not available for use for any other purpose are classified pursuant to section 13.43.

(b) "Student" ~~includes a person~~ means an individual currently or formerly enrolled or registered, ~~and applicants for enrollment or registration at a public educational agency or institution,~~ or individuals who receive shared time educational services from a public agency or institution.

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

(c) "Substitute teacher" means an individual who performs on a temporary basis the duties of the individual who made the record, but does not include an individual who permanently succeeds the maker of the record in his position.

Sec. 10. Minnesota Statutes 1984, section 13.32, is amended by adding a subdivision to read:

Subd. 6. Minnesota post-secondary education institutions, for purposes of reporting and research, may collect on the 1986-1987 admissions form, and disseminate to any public educational agency or institution the following data on individuals: student sex, ethnic background, age, and disabilities. The data shall not be required of any individual and shall not be used for purposes of determining the person's admission to an institution. This section supersedes any inconsistent provision of law.

Sec. 11. Minnesota Statutes 1984, section 13.39, is amended by adding a subdivision to read:

Subd. 3. INACTIVE INVESTIGATIVE DATA. Inactive civil investigative data are public, unless the release of the data would jeopardize another pending civil legal action, and except for those portions of a civil investigative file that are classified as not public data by other law. Any civil investigative data presented as evidence in court or made part of a court record shall be public. Civil investigative data become inactive upon the occurrence of any of the following events:

(1) a decision by the state agency, political subdivision, or statewide system or by the chief attorney acting for the state agency, political subdivision, or statewide system not to pursue the civil action;

(2) expiration of the time to file a complaint under the statute of limitations or agreement applicable to the civil action; or

(3) exhaustion of or expiration of rights of appeal by either party to the civil action.

Data determined to be inactive under clause (1) may become active if the state agency, political subdivision, statewide system, or its attorney decides to renew the civil action.

Sec. 12. Minnesota Statutes 1984, section 13.43, subdivision 4, is amended to read:

Subd. 4. All other personnel data is private data on individuals, ~~except but may be released~~ pursuant to a valid court order.

Sec. 13. Minnesota Statutes 1984, section 13.46, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** As used in this section:

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

(a) "Individual" means an individual pursuant to section 13.02, subdivision 8, but does not include a vendor of services.

(b) "Program" includes all programs for which authority is vested in a component of the welfare system pursuant to statute or federal law.

(c) "Welfare system" includes the department of human services, county welfare boards, county welfare agencies, human services boards, community mental health center boards, state hospitals, state nursing homes, and persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract.

(d) "Mental health data" means data on individual clients and patients of community mental health centers, established under section 245.62, or mental health divisions of counties and other providers under contract to deliver mental health services.

Sec. 14. Minnesota Statutes 1984, section 13.46, subdivision 2, is amended to read:

Subd. 2. **GENERAL.** (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(a) (1) pursuant to section 13.05;

(b) (2) pursuant to court order;

(c) (3) pursuant to a statute specifically authorizing access to the private data;

(d) (4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation, prosecution, criminal or civil proceeding relating to the administration of a program;

(e) (5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;

(f) (6) to administer federal funds or programs;

(g) (7) between personnel of the welfare system working in the same program;

(h) (8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names and social security numbers, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, and the income tax;

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

(9) to the Minnesota department of economic security for the purpose of monitoring the eligibility of the data subject for unemployment compensation or for any employment or training program administered by that agency, whether alone or in conjunction with the welfare system; or

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

(11) data maintained by residential facilities as defined in section 245.782, subdivision 6, may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person.

(b) Data on individual clients or patients of public or private community mental health centers, established by section 245.62, or mental health divisions of counties and other providers under contract to deliver mental health services. Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

Sec. 15. Minnesota Statutes 1984, section 13.46, subdivision 3, is amended to read:

Subd. 3. **INVESTIGATIVE DATA.** Data on persons, including data on vendors of services, that 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 data on individuals pursuant to section 13.02, subdivision 3, or protected nonpublic data not on individuals pursuant to section 13.02, subdivision 13, and shall not be disclosed except:

(a) pursuant to section 13.05;

(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.

The data referred to in this subdivision shall be classified as public data upon its submission to an administrative law judge or court in an administrative or judicial proceeding. Inactive welfare investigative data shall be treated as provided in section 11.

Sec. 16. Minnesota Statutes 1984, section 13.46, subdivision 7, is amended to read:

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

Subd. 7. **MENTAL HEALTH CENTER DATA.** (a) Data on individual clients and patients of public or private community mental health centers or mental health divisions of counties and other providers under contract to deliver mental health services Mental health data shall not be disclosed, except:

(a) (1) pursuant to section 13.05, as determined by the responsible authority for the community mental health center, mental health division, or provider;

(b) (2) pursuant to court order; or

(c) (3) pursuant to a statute specifically authorizing access to or disclosure of private mental health data; or

(4) with the consent of the client or patient.

(b) An agency of the welfare system may not require an individual to consent to the release of mental health data as a condition for receiving services or for reimbursing a community mental health center, mental health division of a county, or provider under contract to deliver mental health services.

Sec. 17. Minnesota Statutes 1984, section 13.46, subdivision 10, is amended to read:

Subd. 10. **RESPONSIBLE AUTHORITY.** (a) Notwithstanding any other provision of chapter 13 to the contrary, the responsible authority for each component of the welfare system listed in subdivision 1, clause (c), shall be as follows:

(a) (1) The responsible authority for the department of human services, state hospitals, and nursing homes is the commissioner of the department of human services;

(b) (2) The responsible authority of a county welfare agency is the director of the county welfare agency;

(c) (3) The responsible authority for a county welfare board, human services board, or community mental health center board is the chairman of the board; and

(d) (4) The responsible authority of any person, agency, institution, organization, or other entity under contract to any of the components of the welfare system listed in subdivision 1, clause (c), of this section is the person specified in the contract.

(b) A responsible authority shall allow another responsible authority in the welfare system access to data classified as ~~restricted~~ not public data when access is necessary for the administration and management of programs, or is as authorized or required by statute or federal law.

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

Sec. 18. [13.61] INSURANCE TRUST DATA; PRIVATE AND NON-PUBLIC DATA.

The following data collected or created by the league of Minnesota cities insurance trust, association of Minnesota counties insurance trust, or by the Minnesota school board association insurance trust in order to process claims for workers' compensation are classified as either private data in regard to claims when the insured worker is living, or nonpublic data in regard to claims when the insured worker is deceased: name, address, phone number, and social security account number of the claimant if the claimant is not a public employee; claim number, date of claimed injury, employee's social security number, home phone number, home address, date of birth, sex, and marital status; whether claimed injury caused loss of time from work; whether the employee lost time from work on the day of the claimed injury and the number of hours lost; whether the employee has returned to work; whether full or partial wages were paid for the first day of lost time and the amount paid, time of day, and location where injury occurred; whether the injury occurred on employer's premises; the name, address, and phone number of the treating physician or practitioner; identification of the hospital where treated; nature of the claimed injury or occupational illness; part of body affected; name or type of object involved in causing the injury; nature of injury; type of accident; description of actions taken to prevent recurrence; names of co-worker witnesses; and all data collected or created as a result of the investigation of the claim including, but not limited to, physicians' reports; other data on the medical condition of the claimant; data collected from the claimant's physicians; and data collected in interviews of the claimant's employer, co-workers, family members, and neighbors.

Sec. 19. [13.62] ECONOMIC ASSISTANCE DATA.

The following data collected by cities in their administration of the city economic development assistance program are classified as nonpublic data:

(1) application data, except company names, addresses, and other data that identify the applicant, until the application is approved by the city;

(2) application data, except company names, addresses, and other data that identify the applicant, that pertain to companies whose applications have been disapproved;

(3) attachments to applications including but, not limited to, business and personal financial records, until the application is approved;

(4) income tax returns, either personal or corporate, that are filed by applicants; and

(5) correspondence between the program administrators and the applicant until the application has been approved or disapproved.

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

Sec. 20. Minnesota Statutes 1984, section 13.65, subdivision 1, is amended to read:

13.65 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 13.02, subdivision 12 data on individuals:

(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;

(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; and

(e) Data collected by the consumer division of the attorney general's office in its administration of the home protection hot line including: the name, address, and phone number of the consumer; the name and address of the mortgage company; the total amount of the mortgage; the amount of money needed to bring the delinquent mortgage current; the consumer's place of employment; the consumer's total family income; and the history of attempts made by the consumer to renegotiate a delinquent mortgage.

Sec. 21. Minnesota Statutes 1984, section 13.71, is amended to read:

13.71 SURPLUS LINE INSURANCE DEPARTMENT OF COMMERCE DATA.

Subdivision 1. SURPLUS LINE INSURANCE DATA. All data appearing on copies of surplus line insurance policies collected by the department of commerce pursuant to section 60A.20 are classified as private data, pursuant to section 13.02, subdivision 12.

Subd. 2. GROUP WORKERS' COMPENSATION SELF-INSURANCE DATA. Financial data relating to nonpublic companies that are submitted to the commissioner of commerce for the purpose of obtaining approval to self insure workers' compensation liability as a group are classified as nonpublic data.

Subd. 3. WORKERS' COMPENSATION SELF-INSURANCE DATA. Financial documents, including income statements, balance sheets, statements of changes in financial positions, and supporting financial information,

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

submitted by nonpublic companies seeking to self insure their workers' compensation liability or to be licensed as self-insurance plan administrators are classified as nonpublic data.

Subd. 4. POLLUTION LIABILITY INSURANCE SURVEY DATA.
Data that could identify a company that responded to a pollution liability insurance survey taken by the department of commerce are classified as nonpublic data.

Sec. 22. Minnesota Statutes 1984, section 13.72, is amended by adding a subdivision to read:

Subd. 3. MOTOR VEHICLE CARRIER INVESTIGATIVE DATA.
Data collected by the department of transportation as part of an active investigation undertaken for the purpose of pursuing law enforcement action against a person, other than an individual, for a violation of chapter 221, or a rule or order issued pursuant to that chapter, are classified as protected nonpublic data.

Sec. 23. Minnesota Statutes 1984, section 13.72, is amended by adding a subdivision to read:

Subd. 4. MOTOR CARRIER ACCIDENT DATA. All data submitted to the department of transportation in the form of motor vehicle carrier accident reports, except the portions of the report forms in which the carrier and the driver provide their version of the accident, are classified as nonpublic data with regard to data not on individuals, and private data with regard to data on individuals.

Sec. 24. Minnesota Statutes 1984, section 13.72, is amended by adding a subdivision to read:

Subd. 5. MOTOR CARRIER ACCIDENT VERSION DATA. Those portions of the motor vehicle carrier accident report forms, that motor vehicle carriers are required to submit to the department of transportation, that contain the carrier's and driver's version of the accident are classified as protected nonpublic data with regard to data not on individuals, and confidential data with regard to data on individuals.

Sec. 25. **[13.76] DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT DATA.**

All financial information on individuals and business entities including, but not limited to, credit reports, financial statements, and net worth calculations, that are contained in applications received by the department of energy and economic development in its administration of the certified state development loan program are classified as private data with regard to data on individuals, and as nonpublic data with regard to data not on individuals.

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

Sec. 26. [13.761] INDIAN AFFAIRS COUNCIL DATA.

All financial information on individuals and business entities including, but not limited to, credit reports, financial statements, and net worth calculations, that are contained in applications received by the Indian affairs council in its administration of the Indian business development loan program are classified as private data with regard to data on individuals and as nonpublic data with regard to data not on individuals.

Sec. 27. [13.77] AGRICULTURAL RESOURCE LOAN BOARD DATA.

Subdivision 1. NONPUBLIC DATA. Financial information concerning business persons received or prepared by the agriculture resource loan guaranty board in connection with applications for loan guarantees pursuant to Laws 1984, chapter 502, article 10, sections 1 to 12, including, but not limited to, credit reports, financial statements, and net worth calculations, is classified as nonpublic data.

Subd. 2. PRIVATE DATA. Financial information concerning individuals received or prepared by the agriculture resource loan guaranty board in connection with applications for loan guarantees pursuant to Laws 1984, chapter 502, article 10, sections 1 to 12, including, but not limited to, credit reports, financial statements, and net worth calculations is classified as private data.

Sec. 28. [13.78] MINNESOTA EXPORT AUTHORITY DATA.

Financial information concerning business persons received or prepared by the export authority in connection with applications for financial assistance pursuant to section 17.105, including, but not limited to, credit reports, financial statements, net worth calculations, income and expense projections, and proposed terms of trade and foreign risk coverage, is classified as nonpublic data if it is data not on an individual and as private data if it is data on an individual.

Sec. 29. [13.79] DEPARTMENT OF LABOR AND INDUSTRY DATA.

Data that identify complaining employees and that appear on complaint forms received by the department of labor and industry concerning alleged violations of the fair labor standards act or section 181.75 are classified as private data.

Sec. 30. Minnesota Statutes 1984, section 13.82, subdivision 1, is amended to read:

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, the board of peace officer standards and training, and the department of commerce.

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

Sec. 31. Minnesota Statutes 1984, section 13.82, subdivision 5, is amended to read:

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 or protected nonpublic 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 10. Photographs which are part of inactive investigative files and which are clearly offensive to common sensibilities are classified as private or nonpublic 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 30 years after the commission of the offense, whichever comes earliest; or

(c) Exhaustion of or expiration of all rights of appeal by an individual a person 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) 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.

Sec. 32. Minnesota Statutes 1984, section 13.82, is amended by adding a subdivision to read:

Subd. 12. DATA IN ARREST WARRANT INDICES. Data in arrest warrant indices are classified as confidential data 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.

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

Sec. 33. Minnesota Statutes 1984, section 13.82, is amended by adding a subdivision to read:

Subd. 13. PROPERTY DATA. Data that uniquely describe stolen, lost, confiscated, or recovered property or property described in pawn shop transaction records are classified as either private data on individuals or nonpublic data depending on the content of the not public data.

Sec. 34. Minnesota Statutes 1984, section 13.82, is amended by adding a subdivision to read:

Subd. 14. REWARD PROGRAM DATA. 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 that pays rewards to informants are protected nonpublic data in the case of data not on individuals or confidential data in the case of data on individuals.

Sec. 35. Minnesota Statutes 1984, section 13.82, is amended by adding a subdivision to read:

Subd. 15. EXCHANGES OF INFORMATION. Nothing in this chapter prohibits the exchange of information by law enforcement agencies provided the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation, except not public personnel data.

Sec. 36. Minnesota Statutes 1984, section 13.82, is amended by adding a subdivision to read:

Subd. 16. DELIBERATIVE PROCESSES. Data that reflect deliberative processes or investigative techniques of law enforcement agencies are confidential data on individuals or protected nonpublic data; provided that information, reports, or memoranda that have been adopted as the final opinion or justification for a decision of a law enforcement agency are public data.

Sec. 37. Minnesota Statutes 1984, section 13.83, is amended by adding a subdivision to read:

Subd. 9. CHANGE IN CLASSIFICATION. Notwithstanding section 8, data classified as private or confidential by this section shall be classified as public 30 years after the date of death of the decedent.

Sec. 38. Minnesota Statutes 1984, section 13.84, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** As used in this section "court services data" means data which is that are created, collected, used or maintained by a court services department, parole or probation authority, or correctional agency, or by an agent designated by the court to perform studies or other duties and which is that are on individuals who are or were defendants, parolees or

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

probationers of a municipal, district or county court, participants in diversion programs, petitioners or respondents to a family court, or juveniles adjudicated delinquent and committed, detained prior to a court hearing or hearings, or found to be dependent or neglected and placed under the supervision of the court.

Sec. 39. Minnesota Statutes 1984, section 13.84, subdivision 6, is amended to read:

Subd. 6. **PUBLIC DATA.** The following court services data on adult individuals is public:

(a) Name, age, sex, occupation and the fact that an individual is a parolee, probationer or participant in a diversion program, and if so, at what location;

(b) The offense for which the individual was placed under supervision;

(c) The dates supervision began and ended and the duration of supervision;

(d) Court services data which was public in a court or other agency which originated the data;

(e) Arrest and detention orders, orders for parole or probation revocation and the reasons for revocation;

(f) The conditions of parole, probation or participation and the extent to which those conditions have been or are being met;

(g) Identities of agencies, units within agencies and individuals providing supervision; and

(h) The legal basis for any change in supervision and the date, time and locations associated with the change.

Sec. 40. Minnesota Statutes 1984, section 144.335, subdivision 2, is amended to read:

Subd. 2. **PATIENT ACCESS.** (a) Upon request a provider shall supply to a patient complete and current information possessed by that provider concerning any diagnosis, treatment and prognosis of the patient in terms and language the patient can reasonably be expected to understand.

(b) Upon a patient's written request, a provider at a reasonable cost to the patient shall furnish to the patient: (a) (1) copies of the patient's health record, including but not limited to laboratory reports, x-rays, prescriptions, and other technical information used in assessing the patient's health condition; (b) (2) the pertinent portion of the record relating to a specific condition; or (c) (3) a summary of the record.

(c) If a provider, as defined in subdivision 1, clause (b) (1), reasonably determines that the information is detrimental to the physical or mental health of

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

the patient, or is likely to cause the patient to harm himself or another, he may withhold the information from the patient; and may supply the information may be supplied to an appropriate third party or to another provider, as defined in subdivision 1, clause (b) (1). The other provider or third party may release the information to the patient.

(d) A provider as defined in subdivision 1, clause (b) (2), shall release information upon written request unless, prior to the request, a provider as defined in subdivision 1, clause (b) (1), has designated and described a specific basis for withholding the information as authorized by paragraph (c).

Sec. 41. [144.658] EPIDEMIOLOGIC DATA DISCOVERY.

Notwithstanding any law to the contrary, health data on an individual collected by public health officials conducting an epidemiologic investigation to reduce morbidity or mortality is not subject to discovery in a legal action.

Sec. 42. [13.89] DISSEMINATION OF DATA TO PROTECTION AND ADVOCACY SYSTEMS.

Data on clients and residents of facilities licensed pursuant to 144.50 to 144.58, 245.781 to 245.812, and 252.28, subdivision 2, may be disseminated to the protection and advocacy system established in this state pursuant to Part C of Public Law 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person.

Sec. 43. Minnesota Statutes 1984, section 254A.09, is amended to read:

254A.09 CONFIDENTIALITY OF RECORDS.

The department of human services shall assure confidentiality to individuals who are the subject of research by the state authority or are recipients of alcohol or drug abuse information, assessment, or treatment by an from a licensed or approved treatment program. The commissioner shall withhold from all persons not connected with the conduct of the research ~~or treatment~~ the names or other identifying characteristics of the individual a subject of research unless the individual gives written permission that information relative to his treatment and recovery may be ~~discussed with a prospective employer by either an approved treatment program staff member or a qualified employment counselor or released.~~ Persons authorized to protect the privacy of these individuals subjects of research may not be compelled in any federal, state or local, civil, criminal, administrative or other proceeding to identify or disclose other confidential information about the individuals. ~~However,~~ a person may be compelled to identify or disclose confidential information in civil investigations or proceedings related to neglect or termination of parental rights if Identifying information and

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

other confidential information related to alcohol or drug abuse information, assessment, treatment, or aftercare services may be ordered to be released by the court for the purpose of civil or criminal investigations or proceedings if, after review of the records considered for disclosure, the court determines good cause exists to believe that the person can disclose information that is relevant to the findings which the court is being asked to make purpose for which disclosure is requested. The court shall order disclosure of only that information which is determined relevant. In determining whether to compel disclosure, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the treatment relationship and to the treatment services in the program affected and in other programs similarly situated, and the actual or potential harm to the ability of programs to attract and retain patients if disclosure occurs. This section does not exempt any person from the reporting obligations under section 626.556, nor limit the use of information reported in any proceeding arising out of the abuse or neglect of a child. Identifying information and other confidential information related to alcohol or drug abuse information, assessment, treatment, or aftercare services may be ordered to be released by the court for the purpose of civil or criminal investigations or proceedings. No information may be released pursuant to this section that would not be released pursuant to section 595.02, subdivision 2.

Sec. 44. [13.90] GOVERNMENT DATA PRACTICES.

Subdivision 1. DEFINITION. For purposes of this section, "judiciary" means any office, officer, department, division, board, commission, committee, or agency of the courts of this state, whether or not of record, including but not limited to the board of law examiners, the lawyer's professional responsibility board, the board of judicial standards, the lawyer's trust account board, the state law library, the state court administrator's office, the district court administrator's office, and the office of the clerk of court.

Subd. 2. APPLICATION. The judiciary shall be governed by Minnesota Statutes, chapter 13, until August 1, 1987, or until the implementation of rules adopted by the supreme court regarding access to data, whichever comes first. Any data made a part of a criminal or civil case shall not be governed by this chapter at any time.

Sec. 45. REPEALER.

Minnesota Statutes 1984, sections 13.73 and 13.81, are repealed.

Sec. 46. EFFECTIVE DATE.

This act is effective the day following final enactment.

Approved June 4, 1985

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