

CHAPTER 569—H.F.No. 2181

An act relating to data practices; providing for the collection, classification, and dissemination of data; modifying provisions concerning patient consent to release of medical records; providing for charges for patient medical records; expanding the administrative subpoena power of the county attorney; making information on closed bank accounts available to authorities investigating worthless check cases; specifying when certain search warrants may be served; imposing a waiting period on persons who seek a pardon extraordinary from the board of pardons; requiring that a pardon extraordinary be made a part of the pardoned offender's court record and that a copy be sent to the bureau of criminal apprehension; improving the pardon application procedure; requiring certain reports; appropriating money; amending Minnesota Statutes 1990, sections 13.03, by adding a subdivision; 13.05, subdivision 4; 72A.20, by adding a subdivision; 144.335, by adding subdivisions; 152.18, subdivision 1; 242.31; 270B.14, by adding a subdivision; 299C.11; 299C.13; 388.23, subdivision 1; 609.168; 611A.20, subdivision 2; 626.14; 638.02, subdivisions 2 and 4; Minnesota Statutes 1991 Supplement, sections 13.03, subdivision 3; 144.0525; 144.335, subdivisions 1 and 3a; 609.535, subdivision 6; 638.02, subdivision 3; 638.05; and 638.06; Laws 1990, chapter 566, section 9; proposing coding for new law in Minnesota Statutes, chapter 13; 144; 299C; 357; 611A; and 638; proposing coding for new law as Minnesota Statutes, chapter 13C.

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

Section 1. Minnesota Statutes 1991 Supplement, 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, upon request, shall be informed of the data's meaning. If a person requests access for the purpose of inspection, the responsible authority may not assess a charge or require the requesting person to pay a fee to inspect data. The responsible authority or designee shall provide copies of public data upon request. If a person requests copies or electronic transmittal of the data to the person, the responsible authority may require the requesting person to pay the actual costs of searching for and retrieving government data, including the cost of employee time, and for making, certifying, compiling, and electronically transmitting the copies of the data or the data, but may not charge for separating public from not public data. ~~If the responsible authority is a state agency, the amount received is appropriated to the agency and added to the appropriations from which the costs were paid.~~ If the responsible authority or designee is not able to provide copies at the time a request is made, copies shall 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 a substantial and discrete portion of or 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, certify-

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ing, and compiling the copies. Any fee charged must be clearly demonstrated by the agency to relate to the actual 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 1990, section 13.03, is amended by adding a subdivision to read:

Subd. 10. COSTS FOR PROVIDING COPIES OF DATA. Money collected by a responsible authority in a state agency for the actual cost to the agency of providing copies or electronic transmittal of government data is appropriated to the agency and added to the appropriations from which the costs were paid.

Sec. 3. Minnesota Statutes 1990, section 13.05, subdivision 4, is amended to read:

Subd. 4. **LIMITATIONS ON COLLECTION AND USE OF DATA.** 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 13.04, 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 enacted or promulgated after 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.

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(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 the individual 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 the data subject;
- (4) specific as to the nature of the information the subject is authorizing to be disclosed;
- (5) specific as to the persons or agencies to whom the subject is authorizing information to be disclosed;
- (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 the date of the policy.

The responsible authority may require a person requesting copies of data under this paragraph to pay the actual costs of making, certifying, and compiling the copies.

Sec. 4. [13.99] OTHER GOVERNMENT DATA PROVISIONS.

Subdivision 1. PROVISIONS CODED IN OTHER CHAPTERS. The laws enumerated in this section are codified outside of chapter 13 and classify government data as other than public or place restrictions on access to government data. The remedies and penalties provided in sections 13.08 and 13.09 also apply to data and records listed in this section and to other provisions of statute that provide access to government data and records or rights regarding government data similar to those established by section 13.04.

Subd. 2. DATA PROVIDED TO THE TAX STUDY COMMISSION. The commissioner of revenue shall provide data to the tax study commission under section 3.861, subdivision 6.

Subd. 3. LEGISLATIVE AUDIT DATA. Data relating to an audit performed under section 3.97 are classified under section 3.97, subdivision 11.

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Subd. 4. ETHICAL PRACTICES BOARD INFORMATION. Disclosure by the ethical practices board of information about a complaint or investigation is governed by section 10A.02, subdivision 11.

Subd. 5. ETHICAL PRACTICES INVESTIGATION DATA. The record of certain investigations conducted under chapter 10A is classified, and disposition of certain information is governed, by section 10A.02, subdivision 11a.

Subd. 6. REGISTER OF OWNERSHIP OF BONDS OR CERTIFICATES. Information in a register of ownership of state bonds or certificates is classified under section 16A.672, subdivision 11.

Subd. 7. PESTICIDE DEALER RECORDS. Records of pesticide dealers inspected or copied by the commissioner of agriculture are classified under section 18B.37, subdivision 5.

Subd. 8. DAIRY REPORTS TO COMMISSIONER OF AGRICULTURE. Disclosure of information in reports about dairy production required to be filed with the commissioner of agriculture under section 32.19 is governed by that section.

Subd. 9. FAMILY FARM SECURITY. Data received or prepared by the commissioner of agriculture regarding family farm security loans are classified in section 41.63.

Subd. 10. RURAL FINANCE AUTHORITY. Certain data received or prepared by the rural finance authority are classified pursuant to section 41B.211.

Subd. 11. WORLD TRADE CENTER. Certain data received or developed by the governing board of the Minnesota world trade center corporation are classified in section 44A.08.

Subd. 12. COMMERCE DEPARTMENT DATA ON FINANCIAL INSTITUTIONS. The disclosure by the commissioner of commerce of facts and information obtained in the course of examining financial institutions is governed by section 46.07, subdivision 2.

Subd. 13. COMMUNITY REINVESTMENT RATING. The contents and disclosure of the confidential section of the community reinvestment rating prepared by the commissioner of commerce are governed by section 47.84.

Subd. 14. EXAMINATION OF INSURANCE COMPANIES. Information obtained by the commissioner of commerce in the course of supervising or examining insurance companies is classified under section 60A.03, subdivision 9. An examination report of a domestic or foreign insurance company prepared by the commissioner is classified pursuant to section 60A.031, subdivision 4.

Subd. 15. INSURANCE COMPANY INFORMATION. Data received by the department of commerce under section 60A.93 are classified as provided by that section.

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Subd. 16. PROCEEDING AND RECORDS IN SUMMARY PROCEEDINGS AGAINST INSURERS. Access to proceedings and records of summary proceedings by the commissioner of commerce against insurers and judicial review of such proceedings is governed by section 60B.14, subdivisions 1, 2, and 3.

Subd. 17. INSURANCE GUARANTY ASSOCIATION. The commissioner may share data with the board of the Minnesota Insurance Guaranty Association as provided by section 60C.14, subdivision 2.

Subd. 18. VARIOUS INSURANCE DATA. Disclosure of information obtained by the commissioner of commerce under section 60D.18, 60D.19, or 60D.20 is governed by section 60D.22.

Subd. 19. HMO EXAMINATIONS. Data obtained by the commissioner of health in the course of an examination of the affairs of a health maintenance organization are classified under section 62D.14, subdivisions 1 and 4.

Subd. 20. AUTO THEFT DATA. The sharing of data on auto thefts between law enforcement and prosecutors and insurers is governed by section 65B.81.

Subd. 21. SELF-INSURERS' SECURITY FUND. Disclosure of certain data received by the self-insurers' security is governed by section 79A.09, subdivision 4.

Subd. 22. ENVIRONMENTAL RESPONSE. Certain data obtained by the pollution control agency from a person who may be responsible for a release are classified in section 115B.17, subdivision 5.

Subd. 23. HAZARDOUS WASTE GENERATORS. Data exchanged between the pollution control agency and the department of revenue under sections 115B.24 and 116.075, subdivision 2, are classified under section 115B.24, subdivision 5.

Subd. 24. SOLID WASTE FACILITY RECORDS. Records of solid waste facilities received, inspected, or copied by a county pursuant to section 115A.882 are classified pursuant to section 115A.882, subdivision 3.

Subd. 25. HAZARDOUS WASTE GENERATORS. Information provided by hazardous waste generators under section 473.151 and for which confidentiality is claimed is governed by section 116.075, subdivision 2.

Subd. 26. POLLUTION CONTROL AGENCY TESTS. Trade secret information made available by applicants for certain projects of the pollution control agency are classified under section 116.54.

Subd. 27. LOW-LEVEL RADIOACTIVE WASTE. Certain data given to the pollution control agency by persons who generate, transport, or dispose of low-level radioactive waste are classified under section 116C.840.

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Subd. 28. STUDENT FINANCIAL AID. Data collected and used by the higher education coordinating board on applicants for financial assistance are classified under section 136A.162.

Subd. 29. RESTRICTIONS ON ACCESS TO ARCHIVES RECORDS. Limitations on access to records transferred to the state archives are provided in section 138.17, subdivision 1c.

Subd. 30. FOUNDLING REGISTRATION. The report of the finding of an infant of unknown parentage is classified under section 144.216, subdivision 2.

Subd. 31. NEW CERTIFICATE OF BIRTH. In circumstances in which a new certificate of birth may be issued under section 144.218, the original certificate of birth is classified as provided in that section.

Subd. 32. BIRTH CERTIFICATE OF CHILD OF UNMARRIED PARENTS. Access to the birth certificate of a child whose parents were not married to each other when the child was conceived or born is governed by sections 144.225, subdivision 2, and 257.73.

Subd. 33. HUMAN LEUKOCYTE ANTIGEN TYPE REGISTRY. Data identifying a person and the person's human leukocyte antigen type which is maintained by a government entity are classified under section 144.336, subdivision 1.

Subd. 34. HEALTH THREAT PROCEDURES. Data in a health directive issued by the commissioner of health or a board of health are classified in section 144.4186.

Subd. 35. CERTAIN HEALTH INSPECTIONS. Disclosure of certain data received by the commissioner of health under sections 144.50 to 144.56 is governed by section 144.58.

Subd. 36. CANCER SURVEILLANCE SYSTEM. Data on individuals collected by the cancer surveillance system are classified pursuant to section 144.69.

Subd. 37. MEDICAL MALPRACTICE CLAIMS REPORTS. Reports of medical malpractice claims submitted by an insurer to the commissioner of health under section 144.693 are classified as provided in section 144.693, subdivision 1.

Subd. 38. HEALTH TEST RESULTS. Health test results obtained under chapter 144 are classified under section 144.768.

Subd. 39. HOME CARE SERVICES. Certain data from providers of home care services given to the commissioner of health are classified under section 144A.47.

Subd. 40. TERMINATED PREGNANCIES. Disclosure of reports of ter-

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minated pregnancies made to the commissioner of health is governed by section 145.413, subdivision 1.

Subd. 41. REVIEW ORGANIZATION DATA. Disclosure of data and information acquired by a review organization as defined in section 145.61, subdivision 5, is governed by section 145.64.

Subd. 42. FAMILY PLANNING GRANTS. Information gathered under section 145.925 is classified under section 145.925, subdivision 6.

Subd. 43. PHYSICIAN INVESTIGATION RECORDS. Patient medical records provided to the board of medical examiners under section 147.131 are classified under that section.

Subd. 44. RECORD OF PHYSICIAN DISCIPLINARY ACTION. The administrative record of any disciplinary action taken by the board of medical examiners under sections 147.01 to 147.22 is sealed upon judicial review as provided in section 147.151.

Subd. 45. CHIROPRACTIC REVIEW RECORDS. Data of the board of chiropractic examiners and the peer review committee are classified under section 148.106, subdivision 10.

Subd. 46. DISCIPLINARY ACTION AGAINST NURSES. Data obtained under section 148.261, subdivision 5, by the board of nursing are classified under that subdivision.

Subd. 47. MEDICAL RECORDS OBTAINED BY BOARD OF NURSING. Medical records of a patient cared for by a nurse who is under review by the board of nursing are classified under sections 148.191, subdivision 2, and 148.265.

Subd. 48. RECORDS OF NURSE DISCIPLINARY ACTION. The administrative records of any disciplinary action taken by the board of nursing under sections 148.171 to 148.285 are sealed upon judicial review as provided in section 148.266.

Subd. 49. CLIENT RECORDS OBTAINED BY BOARDS ON MENTAL HEALTH AND SOCIAL WORK. Client records obtained by a board conducting an investigation under chapter 148B are classified by section 148B.09.

Subd. 50. RECORDS OF MENTAL HEALTH AND SOCIAL WORK DISCIPLINARY ACTION. The administrative records of disciplinary action taken by a board under chapter 148B are sealed upon judicial review as provided in section 148B.10.

Subd. 51. SOCIAL WORK AND MENTAL HEALTH BOARDS. Certain data obtained by licensing boards under chapter 148B are classified under section 148B.175, subdivisions 2 and 5.

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Subd. 52. RECORDS OF UNLICENSED MENTAL HEALTH PRACTITIONER DISCIPLINARY ACTIONS. The administrative records of disciplinary action taken by the commissioner of health pursuant to sections 148B.60 to 148B.71 are sealed upon judicial review as provided in section 148B.65.

Subd. 53. BOARD OF DENTISTRY. Data obtained by the board of dentistry under section 150A.08, subdivision 6, are classified as provided in that subdivision.

Subd. 54. MOTOR VEHICLE REGISTRATION. The residence address of certain individuals provided to the commissioner of public safety for motor vehicle registrations is classified under section 168.346.

Subd. 55. DRIVERS' LICENSE PHOTOGRAPHS. Photographs taken by the commissioner of public safety for drivers' licenses are classified under section 171.07, subdivision 1a.

Subd. 56. DRIVERS' LICENSE ADDRESS. The residence address of certain individuals provided to the commissioner of public safety in drivers' license applications is classified under section 171.12, subdivision 7.

Subd. 57. ACCIDENT REPORTS. Release of accident reports provided to the department of public safety under section 169.09 is governed by section 169.09, subdivision 13.

Subd. 58. REPORTERS TO LABOR AND INDUSTRY. Disclosure of the names of certain persons supplying information to the department of labor and industry is prohibited by sections 175.24 and 175.27.

Subd. 59. REPORT OF DEATH OR INJURY TO LABOR AND INDUSTRY. Access to a report of worker injury or death during the course of employment filed by an employer under section 176.231 is governed by sections 176.231, subdivisions 8 and 9, and 176.234.

Subd. 60. OCCUPATIONAL SAFETY AND HEALTH. Certain data gathered or prepared by the commissioner of labor and industry as part of occupational safety and health inspections are classified under section 182.659, subdivision 8.

Subd. 61. EMPLOYEE DRUG AND ALCOHOL TEST RESULTS. Test results and other information acquired in the drug and alcohol testing process, with respect to public sector employees and applicants, are classified by section 181.954, subdivision 2, and access to them is governed by section 181.954, subdivision 3.

Subd. 62. CERTAIN VETERANS BENEFITS. Access to files pertaining to claims for certain veterans benefits is governed by section 196.08.

Subd. 63. VETERANS SERVICE OFFICERS. Data maintained by veterans service officers are classified under section 197.603.

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Subd. 64. HEALTH LICENSING BOARDS. Data received by health licensing boards from the commissioner of human services are classified under section 214.10, subdivision 8.

Subd. 65. COMMISSIONER OF PUBLIC SERVICE. Certain energy data maintained by the commissioner of public service are classified under section 216C.17, subdivision 4.

Subd. 66. MENTAL HEALTH RECORDS. Disclosure of the names and addresses of persons receiving mental health services is governed by section 245.467, subdivision 6.

Subd. 67. CHILDREN RECEIVING MENTAL HEALTH SERVICES. Disclosure of identities of children receiving mental health services under sections 245.487 to 245.4887, and the identities of their families, is governed by section 245.4876, subdivision 7.

Subd. 68. MENTAL HEALTH CLINICS AND CENTERS. Data collected by mental health clinics and centers approved by the commissioner of human services are classified under section 245.69, subdivision 2.

Subd. 69. STATE HOSPITAL PATIENTS. Contents of, and access to, records of state hospital patients required to be kept by the commissioner of human services are governed by section 246.13.

Subd. 70. CHEMICAL DEPENDENCY SERVICE AGREEMENTS. Certain data received by the commissioner of human services from chemical dependency programs are classified under section 246.64, subdivision 4.

Subd. 71. RAMSEY HEALTH CARE. Data maintained by Ramsey Health Care, Inc., are classified under section 246A.17.

Subd. 72. PREPETITION SCREENING. Prepetition screening investigations for judicial commitments are classified as private under section 253B.07, subdivision 1, paragraph (b).

Subd. 73. SUBJECT OF RESEARCH; RECIPIENTS OF ALCOHOL OR DRUG ABUSE TREATMENT. Access to records of individuals who are the subject of research or who receive information, assessment, or treatment concerning alcohol or drug abuse is governed by section 254A.09.

Subd. 74. CHILD MORTALITY REVIEW PANEL. Data practices of the commissioner of human services as part of the child mortality review panel are governed by section 256.01, subdivision 12.

Subd. 75. RECORDS OF ARTIFICIAL INSEMINATION. Access to records held by a court or other agency concerning artificial insemination performed on a married woman with her husband's consent is governed by section 257.56, subdivision 1.

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Subd. 76. PARENTAGE ACTION RECORDS. Inspection of records in parentage actions held by the court, the commissioner of human services, or elsewhere is governed by section 257.70.

Subd. 77. COMMISSIONER'S RECORDS OF ADOPTION. Records of adoption held by the commissioner of human services are classified, and access to them is governed by section 259.46, subdivisions 1 and 3.

Subd. 78. ADOPTEE'S ORIGINAL BIRTH CERTIFICATE. Access to the original birth certificate of a person who has been adopted is governed by section 259.49.

Subd. 79. PEACE OFFICERS AND CORRECTIONS RECORDS OF JUVENILES. Inspection and maintenance of juvenile records held by police and the commissioner of corrections are governed by section 260.161, subdivision 3.

Subd. 80. COMMISSIONER OF JOBS AND TRAINING. Data maintained by the commissioner of jobs and training are classified under section 268.12, subdivision 12.

Subd. 81. TRANSITIONAL HOUSING DATA. Certain data collected, used, or maintained by the recipient of a grant to provide transitional housing are classified under section 268.38, subdivision 9.

Subd. 82. EMERGENCY JOBS PROGRAM. Data maintained by the commissioner of public safety for the emergency jobs program are classified under section 268.673, subdivision 5.

Subd. 83. VOCATIONAL REHABILITATION DATA. Disclosure of data obtained by the commissioner of jobs and training regarding the vocational rehabilitation of an injured or disabled employee is governed by section 268A.05.

Subd. 84. REVENUE RECAPTURE ACT. Data maintained by the commissioner of revenue under the revenue recapture act are classified under section 270A.11.

Subd. 85. TAX DATA; CLASSIFICATION AND DISCLOSURE. Classification and disclosure of tax data created, collected, or maintained by the department of revenue under chapter 290, 290A, 291, or 297A are governed by chapter 270B.

Subd. 86. HOMESTEAD APPLICATIONS. The classification and disclosure of certain information collected to determine homestead classification is governed by section 273.124, subdivision 13.

Subd. 87. MOTOR VEHICLE REGISTRARS. Disclosure of certain information obtained by motor vehicle registrars is governed by section 297B.12.

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Subd. 88. MARIJUANA AND CONTROLLED SUBSTANCE TAX INFORMATION. Disclosure of information obtained under chapter 297D is governed by section 297D.13, subdivisions 1 to 3.

Subd. 89. MINERAL RIGHTS FILINGS. Data filed pursuant to section 298.48 with the commissioner of revenue by owners or lessees of mineral rights are classified under section 298.48, subdivision 4.

Subd. 90. UNDERCOVER BUY FUND. Records relating to applications for grants under section 299C.065 are classified under section 299C.065, subdivision 4.

Subd. 91. ARSON INVESTIGATIONS. Data maintained as part of arson investigations are governed by sections 299F.055 and 299F.056.

Subd. 92. OFFICE OF PIPELINE SAFETY. Data obtained by the director of the office of pipeline safety are classified under section 299J.13.

Subd. 93. HUMAN RIGHTS CONCILIATION EFFORTS. Disclosure of information concerning efforts in a particular case to resolve a charge through education conference, conciliation, and persuasion is governed by section 363.06, subdivision 6.

Subd. 94. HUMAN RIGHTS DEPARTMENT INVESTIGATIVE DATA. Access to human rights department investigative data by persons other than department employees is governed by section 363.061.

Subd. 95. RECORDS OF CLOSED COUNTY BOARD MEETINGS. Records of Hennepin county board meetings permitted to be closed under section 383B.217, subdivision 7, are classified under that subdivision.

Subd. 96. INQUEST DATA. Certain data collected or created in the course of a coroner's or medical examiner's inquest are classified under sections 390.11, subdivision 7, and 390.32, subdivision 6.

Subd. 97. RURAL DEVELOPMENT FINANCING AUTHORITY. Treatment of preliminary information provided by the commissioner of trade and economic development to an authority contemplating the exercise of powers under sections 469.142 to 469.151 is governed by section 469.150.

Subd. 98. MUNICIPAL SELF-INSURER CLAIMS. Disclosure of information about individual claims filed by the employees of a municipality which is a self-insurer is governed by section 471.617, subdivision 5.

Subd. 99. METROPOLITAN SOLID WASTE LANDFILL FEE. Information obtained from the operator of a mixed municipal solid waste disposal facility under section 473.843 is classified under section 473.843, subdivision 4.

Subd. 100. MUNICIPAL OBLIGATION REGISTER DATA. Information contained in a register with respect to the ownership of certain municipal obligations is classified under section 475.55, subdivision 6.

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Subd. 101. CHILD CUSTODY PROCEEDINGS. Court records of child custody proceedings may be sealed as provided in section 518.168.

Subd. 102. FARMER-LENDER MEDIATION. Data on debtors and creditors under the farmer-lender mediation act are classified under section 583.29.

Subd. 103. SOURCES OF PRESENTENCE INVESTIGATION REPORTS. Disclosure of confidential sources in presentence investigation reports is governed by section 609.115, subdivision 4.

Subd. 104. USE OF MOTOR VEHICLE TO PATRONIZE PROSTITUTES. Use of a motor vehicle in the commission of an offense under section 609.324 is noted on the offender's driving records and the notation is classified pursuant to section 609.324, subdivision 5.

Subd. 105. SEXUAL ASSAULT CRIME VICTIMS. Data on sexual assault victims are governed by section 609.3471.

Subd. 106. FINANCIAL DISCLOSURE FOR PUBLIC DEFENDER SERVICES. Disclosure of financial information provided by a defendant seeking public defender services is governed by section 611.17.

Subd. 107. CRIME VICTIM NOTICE OF RELEASE. Data on crime victims who request notice of an offender's release are classified under section 611A.06.

Subd. 108. BATTERED WOMEN. Data on battered women maintained by grantees for emergency shelter and support services for battered women are governed by section 611A.32, subdivision 5.

Subd. 109. CRIME VICTIM CLAIMS FOR REPARATIONS. Claims and supporting documents filed by crime victims seeking reparations are classified under section 611A.57, subdivision 6.

Subd. 110. CRIME VICTIM OMBUDSMAN. Data maintained by the crime victim ombudsman are classified under section 611A.74, subdivision 2.

Subd. 111. REPORTS OF GUNSHOT WOUNDS. Disclosure of the name of a person making a report under section 626.52, subdivision 2, is governed by section 626.53.

Subd. 112. CHILD ABUSE REPORT RECORDS. Data contained in child abuse report records are classified under section 626.556, subdivisions 11 and 11b.

Subd. 113. VULNERABLE ADULT REPORT RECORDS. Data contained in vulnerable adult report records are classified under section 626.557, subdivision 12.

Subd. 114. PEACE OFFICER DISCIPLINE PROCEDURES. Access by an officer under investigation to the investigating agency's investigative report on the officer is governed by section 626.89, subdivision 6.

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Sec. 5. [13C.01] ACCESS TO CONSUMER REPORTS PREPARED BY CONSUMER REPORTING AGENCIES.

Subdivision 1. FEE FOR REPORT. (a) A consumer who is the subject of a credit report maintained by a credit reporting agency is entitled to request and receive by mail, for a charge not to exceed \$8, a copy of the credit report once in any 12-month period. The mailing must contain a statement of the consumer's right to dispute and correct any errors and of the procedures set forth in the federal Fair Credit Reporting Act, United States Code, title 15, sections 1681 et. seq., for that purpose. The credit reporting agency shall respond to a request under this subdivision within 30 days.

(b) A consumer who exercises the right to dispute and correct errors is entitled, after doing so, to request and receive by mail, without charge, a copy of the credit report in order to confirm that the credit report was corrected.

(c) For purposes of this section, the terms "consumer," "credit report," and "credit reporting agency" have the meanings given them in the federal Fair Credit Reporting Act, United States Code, title 15, sections 1681 et. seq.

Subd. 2. ENFORCEMENT. This section may be enforced by the attorney general pursuant to section 8.31.

Sec. 6. Minnesota Statutes 1990, section 72A.20, is amended by adding a subdivision to read:

Subd. 29. HIV TESTS; CRIME VICTIMS. No insurer regulated under chapter 61A or 62B, or providing health, medical, hospitalization, or accident and sickness insurance regulated under chapter 62A, or nonprofit health services corporation regulated under chapter 62C, health maintenance organization regulated under chapter 62D, or fraternal beneficiary association regulated under chapter 64B, may:

(1) obtain or use the performance of or the results of a test to determine the presence of the human immune deficiency virus (HIV) antibody performed on an offender under section 19 or performed on a crime victim who was exposed to or had contact with an offender's bodily fluids during commission of a crime that was reported to law enforcement officials, in order to make an underwriting decision, cancel, fail to renew, or take any other action with respect to a policy, plan, certificate, or contract; or

(2) ask an applicant for coverage or a person already covered whether the person has had a test performed for the reason set forth in clause (1).

A question that purports to require an answer that would provide information regarding a test performed for the reason set forth in clause (1) may be interpreted as excluding this test. An answer that does not mention the test is considered to be a truthful answer for all purposes. An authorization for the release of medical records for insurance purposes must specifically exclude any

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test performed for the purpose set forth in clause (1) and must be read as providing this exclusion regardless of whether the exclusion is expressly stated. This subdivision does not affect tests conducted for purposes other than those described in clause (1).

Sec. 7. Minnesota Statutes 1991 Supplement, section 144.0525, is amended to read:

144.0525 DATA FROM LABOR AND INDUSTRY AND JOBS AND TRAINING; EPIDEMIOLOGIC STUDIES.

All data collected by the commissioner of health under sections 176.234 and, 268.12, and 270B.14, subdivision 11, shall be used only for the purposes of epidemiologic investigations, notification of persons exposed to health hazards as a result of employment, and surveillance of occupational health and safety.

Sec. 8. Minnesota Statutes 1991 Supplement, section 144.335, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purposes of this section, the following terms have the meanings given them:

(a) "Patient" means a natural person who has received health care services from a provider for treatment or examination of a medical, psychiatric, or mental condition, the surviving spouse and parents of a deceased patient, or a person the patient designates in writing as a representative. Except for minors who have received health care services pursuant to sections 144.341 to 144.347, in the case of a minor, patient includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian.

(b) "Provider" means (1) any person who furnishes health care services and is licensed to furnish the services pursuant to chapter 147, 148, 148B, 150A, 151, or 153; (2) a home care provider licensed under section 144A.46; (3) a health care facility licensed pursuant to this chapter or chapter 144A; and (4) an unlicensed mental health practitioner regulated pursuant to sections 148B.60 to 148B.71.

(c) "Individually identifiable form" means a form in which the patient is or can be identified as the subject of the health records.

Sec. 9. Minnesota Statutes 1991 Supplement, section 144.335, subdivision 3a, is amended to read:

Subd. 3a. **PATIENT CONSENT TO RELEASE OF RECORDS; LIABILITY.** (a) A provider, or a person who receives health records from a provider, may not release a patient's health records to a person without a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release, unless the release is specifically authorized by law. Except as provided in paragraph (c), a consent is valid for one year or for a lesser period specified in the consent or for a different period provided by law.

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(b) This subdivision does not prohibit the release of health records for a medical emergency when the provider is unable to obtain the patient's consent due to the patient's condition or the nature of the medical emergency.

(c) Notwithstanding paragraph (a), if a patient explicitly gives informed consent to the release of health records for the purposes and pursuant to the restrictions in clauses (1) and (2), the consent does not expire after one year for:

(1) the release of health records to a provider who is being advised or consulted with in connection with the current treatment of the patient;

(2) the release of health records to an accident and health insurer, health service plan corporation, health maintenance organization, or third-party administrator for purposes of payment of claims, fraud investigation, or quality of care review and studies, provided that:

(i) the use or release of the records complies with sections 72A.49 to 72A.505;

(ii) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited; and

(iii) the recipient establishes adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient.

(d) Until June 1, 1994, paragraph (a) does not prohibit the release of health records to qualified personnel solely for purposes of medical or scientific research, if the patient has not objected to a release for research purposes and the provider who releases the records makes a reasonable effort to determine that:

(i) the use or disclosure does not violate any limitations under which the record was collected;

(ii) the use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which the use or disclosure is to be made;

(iii) the recipient has established and maintains adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient; and

(iv) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited.

(e) A person who negligently or intentionally releases a health record in violation of this subdivision, or who forges a signature on a consent form, or who obtains under false pretenses the consent form or health records of another person, or who, without the person's consent, alters a consent form, is liable to the

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patient for compensatory damages caused by an unauthorized release, plus costs and reasonable attorney's fees.

(d) ~~A patient's consent to the release of data on the date and type of immunizations administered to the patient is effective until the patient directs otherwise, if the consent was executed before August 1, 1991.~~

Sec. 10. Minnesota Statutes 1990, section 144.335, is amended by adding a subdivision to read:

Subd. 5. COSTS. When a patient requests a copy of the patient's record for purposes of reviewing current medical care, the provider must not charge a fee. When a provider or its representative makes copies of patient records upon a patient's request under this section, the provider or its representative may charge the patient or the patient's representative no more than 75 cents per page, plus \$10 for time spent retrieving and copying the records, unless other law or a rule or contract provide for a lower maximum charge. This limitation does not apply to X-rays. The provider may charge a patient no more than the actual cost of reproducing X-rays, plus no more than \$10 for the time spent retrieving and copying the X-rays.

The respective maximum charges of 75 cents per page and \$10 for time provided in this subdivision are in effect for calendar year 1992 and may be adjusted annually each calendar year as provided in this subdivision. The permissible maximum charges shall change each year by an amount that reflects the change, as compared to the previous year, in the consumer price index for all urban consumers, Minneapolis-St. Paul (CPI-U), published by the department of labor.

Sec. 11. Minnesota Statutes 1990, section 144.335, is amended by adding a subdivision to read:

Subd. 6. VIOLATION. A violation of this section may be grounds for disciplinary action against a provider by the appropriate licensing board or agency.

Sec. 12. [144.3351] IMMUNIZATION DATA.

Providers as defined in section 144.335, subdivision 1, elementary or secondary schools or child care facilities as defined in section 123.70, subdivision 9, public or private post-secondary educational institutions as defined in section 135A.14, subdivision 1, paragraph (b), a board of health as defined in section 145A.02, subdivision 2, community action agencies as defined in section 268.53, subdivision 1, and the commissioner of health may exchange data with one another, without the patient's consent, on the date and type of immunizations administered to a patient, regardless of the date of immunization, if the person requesting access provides services on behalf of the patient.

Sec. 13. Minnesota Statutes 1990, section 152.18, subdivision 1, is amended to read:

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Subdivision 1. If any person is found guilty of a violation of section 152.024, 152.025, or 152.027 for possession of a controlled substance, after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of ~~such the~~ person, defer further proceedings and place the person on probation upon such reasonable conditions as it may require and for a period, not to exceed the maximum term of imprisonment provided for ~~such the~~ violation. The court may give the person the opportunity to attend and participate in an appropriate program of education regarding the nature and effects of alcohol and drug abuse as a stipulation of probation. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against ~~such the~~ person and discharge the person from probation before the expiration of the maximum period prescribed for ~~such the~~ person's probation. If during the period of probation ~~such the~~ person does not violate any of the conditions of the probation, then upon expiration of ~~such the~~ period the court shall discharge ~~such the~~ person and dismiss the proceedings against that person. Discharge and dismissal ~~hereunder~~ under this subdivision shall be without court adjudication of guilt, but a ~~nonpublic~~ not public record ~~thereof of it~~ shall be retained by the department of public safety ~~solely~~ for the purpose of use by the courts in determining the merits of subsequent proceedings against ~~such the~~ person. The not public record may also be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the department shall notify the requesting party of the existence of the not public record and the right to seek a court order to open it pursuant to this section. The court shall forward a record of any discharge and dismissal ~~hereunder~~ under this subdivision to the department of public safety who shall make and maintain the ~~nonpublic~~ not public record ~~thereof of it~~ as ~~hereinbefore~~ provided under this subdivision. ~~Such~~ The discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

For purposes of this subdivision, "not public" has the meaning given in section 13.02, subdivision 8a.

Sec. 14. Minnesota Statutes 1990, section 242.31, is amended to read:

242.31 RESTORATION OF CIVIL RIGHTS.

Subdivision 1. Whenever a person who has been committed to the custody of the commissioner of corrections upon conviction of a crime following reference for prosecution under the provisions of section 260.125 is finally discharged by order of the commissioner, that discharge shall restore the person to all civil rights and, if so ordered by the commissioner of corrections, also shall have the effect of setting aside the conviction, nullifying ~~the same it~~ and ~~of~~ purging ~~that the~~ person ~~thereof of it~~. The commissioner shall file a copy of the order with the district court of the county in which the conviction occurred; upon receipt, the court shall order the conviction set aside.

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Subd. 2. Whenever a person described in subdivision 1 has been placed on probation by the court pursuant to section 609.135 and, after satisfactory fulfillment ~~thereof~~ of it, is discharged from probation, the court shall issue an order of discharge pursuant to section 609.165. On application of the defendant or on its own motion and after notice to the county attorney, the court in its discretion may also order that the defendant's conviction be set aside with the same effect as ~~such an~~ a court order under subdivision 1.

These orders restore the defendant to civil rights and purge and free the defendant from all penalties and disabilities arising from the defendant's conviction and ~~the conviction~~ shall not thereafter be used against the defendant, except in a criminal prosecution for a subsequent offense if otherwise admissible therein. In addition, the record of the defendant's conviction shall be sealed and may be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the court or the department of public safety shall notify the requesting party of the existence of the sealed record and the right to seek a court order to open it pursuant to this section.

Subd. 3. The commissioner of corrections shall file a copy of the order with the district court of the county in which the conviction occurred; upon receipt, the court shall order the conviction set aside and all records pertinent to the conviction sealed. These records shall only be reopened in the case of a judicial criminal proceeding instituted at a later date or upon court order, for purposes of a criminal investigation, prosecution, or sentencing, in the manner provided in subdivision 2.

The term "records" includes, but is not limited to, all matters, files, documents and papers incident to the arrest, indictment, information, complaint, trial, appeal, dismissal and discharge, which relate to the conviction for which the order was issued.

Sec. 15. Minnesota Statutes 1990, section 270B.14, is amended by adding a subdivision to read:

Subd. 11. DISCLOSURE TO COMMISSIONER OF HEALTH. (a) On the request of the commissioner of health, the commissioner may disclose return information to the extent provided in paragraph (b) and for the purposes provided in paragraph (c).

(b) Data that may be disclosed are limited to the taxpayer's identity, as defined in section 270B.01, subdivision 5.

(c) The commissioner of health may request data only for the purposes of carrying out epidemiologic investigations, which includes conducting occupational health and safety surveillance, and locating and notifying individuals exposed to health hazards as a result of employment. Requests for data by the commissioner of health must be in writing and state the purpose of the request. Data received may be used only for the purposes of section 144.0525.

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Sec. 16. Minnesota Statutes 1990, section 299C.11, is amended to read:

299C.11 PRINTS, FURNISHED TO BUREAU BY SHERIFFS AND CHIEFS OF POLICE.

The sheriff of each county and the chief of police of each city of the first, second, and third classes shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, photographs, and other identification data as may be requested or required by the superintendent of the bureau, which may be taken under the provisions of section 299C.10, of persons who shall be convicted of a felony, gross misdemeanor, or who shall be found to have been convicted of a felony or gross misdemeanor, within ten years next preceding their arrest. Upon the determination of all pending criminal actions or proceedings in favor of the arrested person, the arrested person shall, upon demand, have all such finger and thumb prints, photographs, and other identification data, and all copies and duplicates thereof, returned, provided it is not established that the arrested person has been convicted of any felony, either within or without the state, within the period of ten years immediately preceding such determination.

For purposes of this section, "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include the sealing of a criminal record pursuant to sections 152.18, subdivision 1, 242.31, or 609.168.

Sec. 17. Minnesota Statutes 1990, section 299C.13, is amended to read:

299C.13 INFORMATION AS TO CRIMINALS TO BE FURNISHED BY BUREAU TO PEACE OFFICERS.

Upon receipt of information data as to any arrested person, the bureau shall immediately ascertain whether the person arrested has a criminal record or is a fugitive from justice, and shall at once inform the arresting officer of the facts ascertained. Upon application by any sheriff, chief of police, or other peace officer in the state, or by an officer of the United States or by an officer of another state, territory, or government duly authorized to receive the same and effecting reciprocal interchange of similar information with the division, it shall be the duty of the bureau to furnish all information in its possession pertaining to the identification of any person. If the bureau has a sealed record on the arrested person, it shall notify the requesting peace officer of that fact and of the right to seek a court order to open the record for purposes of law enforcement.

Sec. 18. [299C.60] CITATION.

Sections 18 to 22 may be cited as the "Minnesota child protection background check act."

Sec. 19. [299C.61] DEFINITIONS.

Subdivision 1. TERMS. The definitions in this section apply to sections 18 to 22.

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Subd. 2. BACKGROUND CHECK CRIME. “Background check crime” includes child abuse crimes, murder, manslaughter, felony level assault or any assault crime committed against a minor, kidnapping, arson, criminal sexual conduct, and prostitution-related crimes.

Subd. 3. CHILD. “Child” means an individual under the age of 18.

Subd. 4. CHILD ABUSE CRIME. “Child abuse crime” means:

(1) an act committed against a minor victim that constitutes a violation of section 609.185, clause (5); 609.221; 609.222; 609.223; 609.224; 609.322; 609.323; 609.324; 609.342; 609.343; 609.344; 609.345; 609.352; 609.377; or 609.378; or

(2) a violation of section 152.021, subdivision 1, clause (4); 152.022, subdivision 1, clause (5) or (6); 152.023, subdivision 1, clause (3) or (4); 152.023, subdivision 2, clause (5) or (7); or 152.024, subdivision 1, clause (2), (3), or (4).

Subd. 5. CHILDREN’S SERVICE PROVIDER. “Children’s service provider” means a business or organization, whether public, private, for profit, non-profit, or voluntary, that provides children’s services, including a business or organization that licenses or certifies others to provide children’s services.

Subd. 6. CHILDREN’S SERVICE WORKER. “Children’s service worker” means a person who has, may have, or seeks to have access to a child to whom the children’s service provider provides children’s services, and who:

(1) is employed by, volunteers with, or seeks to be employed by or volunteer with a children’s service provider; or

(2) owns, operates, or seeks to own or operate a children’s service provider.

Subd. 7. CHILDREN’S SERVICES. “Children’s services” means the provision of care, treatment, education, training, instruction, or recreation to children.

Subd. 8. CJIS. “CJIS” means the Minnesota criminal justice information system.

Subd. 9. SUPERINTENDENT. “Superintendent” means the superintendent of the bureau of criminal apprehension.

Sec. 20. [299C.62] BACKGROUND CHECKS.

Subdivision 1. GENERALLY. The superintendent shall develop procedures to enable a children’s service provider to request a background check to determine whether a children’s service worker is the subject of any reported conviction for a background check crime. The superintendent shall perform the background check by retrieving and reviewing data on background check crimes maintained in the CJIS computers. The superintendent is authorized to

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exchange fingerprints with the Federal Bureau of Investigation for purposes of a criminal history check. The superintendent shall recover the cost of a background check through a fee charged the children's service provider.

Subd. 2. BACKGROUND CHECKS; REQUIREMENTS. The superintendent may not perform a background check under this section unless the children's service provider submits a written document, signed by the children's service worker on whom the background check is to be performed, containing the following:

(1) a question asking whether the children's service worker has ever been convicted of a background check crime and if so, requiring a description of the crime and the particulars of the conviction;

(2) a notification to the children's service worker that the children's service provider will request the superintendent to perform a background check under this section; and

(3) a notification to the children's service worker of the children's service worker's rights under subdivision 3.

Background checks performed under this section may only be requested by and provided to authorized representatives of a children's service provider who have a need to know the information and may be used only for the purposes of sections 18 to 22. Background checks may be performed pursuant to this section not later than one year after the document is submitted under this section.

Subd. 3. CHILDREN'S SERVICE WORKER RIGHTS. (a) The children's service provider shall notify the children's service worker of the children's service worker's rights under paragraph (b).

(b) A children's service worker who is the subject of a background check request has the following rights:

(1) the right to be informed that a children's service provider will request a background check on the children's service worker:

(i) for purposes of the children's service worker's application to be employed by, volunteer with, or be an owner of a children's service provider or for purposes of continuing as an employee, volunteer, or owner; and

(ii) to determine whether the children's service worker has been convicted of any crime specified in section 19, subdivision 2 or 4;

(2) the right to be informed by the children's service provider of the superintendent's response to the background check and to obtain from the children's service provider a copy of the background check report;

(3) the right to obtain from the superintendent any record that forms the basis for the report;

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(4) the right to challenge the accuracy and completeness of any information contained in the report or record pursuant to section 13.04, subdivision 4;

(5) the right to be informed by the children's service provider if the children's service worker's application to be employed with, volunteer with, or be an owner of a children's service provider, or to continue as an employee, volunteer, or owner, has been denied because of the superintendent's response; and

(6) the right not to be required directly or indirectly to pay the cost of the background check.

Subd. 4. RESPONSE OF BUREAU. The superintendent shall respond to a background check request within a reasonable time after receiving the signed, written document described in subdivision 2. The superintendent's response shall be limited to a statement that the background check crime information contained in the document is or is not complete and accurate.

Subd. 5. NO DUTY. Sections 18 to 22 do not create a duty to perform a background check.

Subd. 6. ADMISSIBILITY OF EVIDENCE. Evidence or proof that a background check of a volunteer was not requested under sections 18 to 22 by a children's service provider is not admissible in evidence in any litigation against a nonprofit or charitable organization.

Sec. 21. [299C.63] EXCEPTION; OTHER LAWS.

The superintendent is not required to respond to a background check request concerning a children's service worker who, as a condition of occupational licensure or employment, is subject to the background study requirements imposed by any statute or rule other than sections 18 to 22. A background check performed on a licensee, license applicant, or employment applicant under this section does not satisfy the requirements of any statute or rule other than sections 18 to 22, that provides for background study of members of an individual's particular occupation.

Sec. 22. [299C.64] BCA IMMUNITY.

The bureau of criminal apprehension is immune from any civil or criminal liability that might otherwise arise under sections 18 to 21, based on the accuracy or completeness of any records it receives from the Federal Bureau of Investigation, if the bureau acts in good faith.

Sec. 23. [357.315] COST OF EXHIBITS AND MEDICAL RECORDS.

The cost of obtaining medical records used to prepare a claim, whether or not offered at trial, and the reasonable cost of exhibits shall be allowed in the taxation of costs.

Sec. 24. Minnesota Statutes 1990, section 388.23, subdivision 1, is amended to read:

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Subdivision 1. **AUTHORITY.** The county attorney, or any deputy or assistant county attorney whom the county attorney authorizes in writing, has the authority ~~in that county~~ to subpoena and require the production of any records of telephone companies, cellular phone companies, paging companies, electric companies, gas companies, water utilities, chemical suppliers, hotels and motels, airlines, buses, taxis, and other entities engaged in the business of transporting people, and freight companies, warehousing companies, package delivery companies, and other entities engaged in the businesses of transport, storage, or delivery, and records of the existence of safe deposit box account numbers and customer savings and checking account numbers maintained by financial institutions and safe deposit companies. Subpoenas may only be issued for records that are relevant to an ongoing legitimate law enforcement investigation.

Sec. 25. Minnesota Statutes 1990, section 609.168, is amended to read:

609.168 EFFECT OF ORDER.

Except as otherwise provided in this section, where an order is entered by the court setting aside the conviction the person shall be deemed not to have been previously convicted. An order setting aside a conviction for a crime of violence, as defined in section 624.712, subdivision 5, must provide that the person is not entitled to ship, transport, possess, or receive a firearm until ten years have elapsed since the order was entered and during that time the person was not convicted of any other crime of violence. Any person who has received an order setting aside a conviction and who thereafter has received a relief of disability under United States Code, title 18, section 925, shall not be subject to the restrictions of this subdivision.

The record of a conviction set aside under this section shall not be destroyed, but shall be sealed and may be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing.

Sec. 26. Minnesota Statutes 1991 Supplement, section 609.535, subdivision 6, is amended to read:

Subd. 6. RELEASE OF ACCOUNT INFORMATION TO LAW ENFORCEMENT AUTHORITIES. A drawee shall release the information specified below to any state, county, or local law enforcement or prosecuting authority which certifies in writing that it is investigating or prosecuting a complaint against the drawer under this section or section 609.52, subdivision 2, clause (3)(a), and that 15 days have elapsed since the mailing of the notice of dishonor required by subdivisions 3 and 8. This subdivision applies to the following information relating to the drawer's account:

(1) Documents relating to the opening of the account by the drawer and to the closing of the account;

(2) Notices regarding nonsufficient funds, overdrafts, and the dishonor of any check drawn on the account within a period of six months of the date of request;

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(3) Periodic statements mailed to the drawer by the drawee for the periods immediately prior to, during, and subsequent to the issuance of any check which is the subject of the investigation or prosecution; or

(4) The last known home and business addresses and telephone numbers of the drawer.

The drawee shall release all of the information described in clauses (1) to (4) that it possesses within ten days after receipt of a request conforming to all of the provisions of this subdivision. The drawee may not impose a fee for furnishing this information to law enforcement or prosecuting authorities.

A drawee is not liable in a criminal or civil proceeding for releasing information in accordance with this subdivision.

Sec. 27. [611A.19] TESTING OF SEX OFFENDER FOR HUMAN IMMUNODEFICIENCY VIRUS.

Subdivision 1. TESTING ON REQUEST OF VICTIM. (a) The sentencing court may issue an order requiring a person convicted of violating section 609.342, 609.343, 609.344, or 609.345, to submit to testing to determine the presence of human immunodeficiency virus (HIV) antibody if:

(1) the prosecutor moves for the test order in camera;

(2) the victim requests the test; and

(3) evidence exists that the broken skin or mucous membrane of the victim was exposed to or had contact with the offender's semen or blood during commission of the crime.

(b) If the court grants the prosecutor's motion, the court shall order that the test be performed by an appropriate health professional and that no reference to the test, the motion requesting the test, the test order, or the test results may appear in the criminal record or be maintained in any record of the court or court services.

Subd. 2. DISCLOSURE OF TEST RESULTS. The date and results of any test performed under subdivision 1 are private data as defined in section 13.02, subdivision 12, when maintained by a person subject to chapter 13, or may be released only with the subject's consent, if maintained by a person not subject to chapter 13. The results are available, on request, to the victim or, if the victim is a minor, to the victim's parent or guardian and positive test results shall be reported to the commissioner of health. Any test results given to a victim or victim's parent or guardian shall be provided by a health professional who is trained to provide the counseling described in section 144.763. Data regarding administration and results of the test are not accessible to any other person for any purpose and shall not be maintained in any record of the court or court services or any other record. After the test results are given to the victim or the victim's parent or guardian, data on the test must be removed from any medical data or health records maintained under section 13.42 or 144.335 and destroyed.

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Sec. 28. Minnesota Statutes 1990, section 611A.20, subdivision 2, is amended to read:

Subd. 2. **CONTENTS OF NOTICE.** The commissioners of public safety and corrections, in consultation with sexual assault victim advocates and health care professionals, shall develop the notice required by subdivision 1. The notice must inform the victim of:

- (1) the risk of contracting sexually transmitted diseases as a result of a sexual assault;
- (2) the symptoms of sexually transmitted diseases;
- (3) recommendations for periodic testing for the diseases, where appropriate;
- (4) locations where confidential testing is done and the extent of the confidentiality provided; ~~and~~
- (5) information necessary to make an informed decision whether to request a test of the offender under section 27; and
- (6) other medically relevant information.

Sec. 29. Minnesota Statutes 1990, section 626.14, is amended to read:

626.14 TIME OF SERVICE.

A search warrant may be served only ~~in the daytime~~ between the hours of 7:00 a.m. and 8:00 p.m. unless the court determines on the basis of facts stated in the affidavits that a nighttime search outside those hours is necessary to prevent the loss, destruction, or removal of the objects of the search or to protect the searchers or the public. The search warrant shall state that it may be served only ~~in the daytime~~ between the hours of 7:00 a.m. and 8:00 p.m. unless a nighttime search outside those hours is authorized.

Sec. 30. Minnesota Statutes 1990, section 638.02, subdivision 2, is amended to read:

Subd. 2. Any person, convicted of a crime in any court of this state, who has served the sentence imposed by the court and has been discharged of the sentence either by order of court or by operation of law, may petition the board of pardons for the granting of a pardon extraordinary. Unless the board of pardons expressly provides otherwise in writing by unanimous vote, the application for a pardon extraordinary may not be filed until the applicable time period in clause (1) or (2) has elapsed:

- (1) if the person was convicted of a crime of violence as defined in section 624.712, subdivision 5, ten years must have elapsed since the sentence was discharged and during that time the person must not have been convicted of any other crime; and

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(2) if the person was convicted of any crime not included within the definition of crime of violence under section 624.712, subdivision 5, five years must have elapsed since the sentence was discharged and during that time the person must not have been convicted of any other crime.

If the board of pardons ~~shall determine~~ determines that ~~such the~~ the person has been convicted of no criminal acts other than the act upon which such conviction was founded and is of good character and reputation, the board may, in its discretion, grant to ~~such the~~ the person a pardon extraordinary. ~~Such The~~ The pardon extraordinary, when granted, ~~shall have~~ has the effect of restoring such person to all civil rights, and shall have the effect of setting aside and nullifying the conviction and nullifying the same and of purging ~~such the~~ the person thereof of it, and ~~such the~~ the person shall never thereafter ~~after that~~ be required to disclose the conviction at any time or place other than in a judicial proceeding thereafter instituted.

The application for ~~such a~~ a pardon extraordinary ~~and, the proceedings thereunder to review an application, and the notice thereof shall be~~ requirements are governed by the statutes and the rules of the board in respect to other proceedings before the board ~~and, The application shall~~ contain such any further information as ~~that~~ the board may require.

Unless the board of pardons expressly provides otherwise in writing by unanimous vote, if the person was convicted of a crime of violence, as defined in section 624.712, subdivision 5, the pardon extraordinary must expressly provide that the pardon does not entitle the person to ship, transport, possess, or receive a firearm until ten years have elapsed since the sentence was discharged and during that time the person was not convicted of any other crime of violence.

Sec. 31. Minnesota Statutes 1991 Supplement, section 638.02, subdivision 3, is amended to read:

Subd. 3. Upon granting a pardon extraordinary the board of pardons shall file a copy ~~thereof of it~~ with the district court of the county in which the conviction occurred, and the court shall order the conviction set aside and include a copy of the pardon in the court file. The court shall send a copy of its order and the pardon to the bureau of criminal apprehension.

Sec. 32. Minnesota Statutes 1990, section 638.02, subdivision 4, is amended to read:

Subd. 4. Any person granted a pardon extraordinary by the board of pardons prior to April 12, 1974 may apply to the district court of the county in which the conviction occurred for an order setting aside the conviction ~~and sealing all such records~~ as set forth in subdivision 3.

Sec. 33. Minnesota Statutes 1991 Supplement, section 638.05, is amended to read:

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638.05 APPLICATION FOR PARDON.

Every application for a relief by the pardon or commutation of sentence board shall be in writing, addressed to the board of pardons, signed under oath by the convict or someone in the convict's behalf, shall state concisely the grounds upon which the ~~pardon or commutation~~ relief is sought, and in addition shall contain the following facts:

(1) The name under which the convict was indicted, and every alias by which the convict is or was known;

(2) The date and terms of sentence, and the names of the offense for which it was imposed;

(3) The name of the trial judge and the county attorney who participated in the trial of the convict, together with that of the county of trial;

(4) A succinct statement of the evidence adduced at the trial, with the endorsement of the judge or county attorney who tried the case that the ~~same~~ statement is substantially correct; If ~~such~~ this statement and endorsement are not furnished, the reason ~~thereof~~ for failing to furnish them shall be stated;

(5) The age, birthplace, and occupation and residence of the convict during five years immediately preceding conviction;

(6) A statement of other arrests, indictments, and convictions, if any, of the convict.

Every application for a relief by the pardon or commutation of sentence board shall contain a statement by the applicant consenting to the disclosure to the board of any private data concerning the applicant contained in the application or in any other record relating to the grounds on which the ~~pardon or commutation~~ relief is sought. In addition, if the applicant resided in another state after the sentence was discharged, the application for relief by the pardon board shall contain a statement by the applicant consenting to the disclosure to the board of any data concerning the applicant that was collected or maintained by the foreign state relating to the grounds on which the relief is sought, including disclosure of criminal arrest and conviction records.

Sec. 34. Minnesota Statutes 1991 Supplement, section 638.06, is amended to read:

638.06 ACTION ON APPLICATION.

Every ~~such~~ application for relief by the pardon board shall be filed with the ~~clerk~~ secretary of the board of pardons not less than 60 days before the meeting of the board at which consideration of the application is desired. If an application for a pardon or commutation has been once heard and denied on the merits, no subsequent application shall be filed without the consent of two members of the board endorsed ~~thereon~~ on the application. ~~The clerk shall;~~ Immediately

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on receipt of any application, the secretary to the board shall mail notice thereof of the application, and of the time and place of hearing ~~thereon on it~~, to the judge of the court ~~wherein~~ where the applicant was tried and sentenced, and to the prosecuting attorney who prosecuted the applicant, or a successor in office. Additionally, the secretary shall publish notice of an application for a pardon extraordinary in the local newspaper of the county where the crime occurred. The ~~clerk~~ secretary shall also make all reasonable efforts to locate any victim of the applicant's crime. The ~~clerk~~ secretary shall mail notice of the application and the time and place of the hearing to any victim who is located. This notice shall specifically inform the victim of the victim's right to be present at the hearing and to submit an oral or written statement to the board as provided in section 638.04.

Sec. 35. [638.075] ANNUAL REPORTS TO LEGISLATURE.

By February 15 of each year, the board of pardons shall file a written report with the legislature containing the following information:

(1) the number of applications received by the board during the preceding calendar year for pardons, pardons extraordinary, and commutations of sentence;

(2) the number of applications granted by the board for each category; and

(3) the crimes for which the applications were granted by the board, the year of each conviction, and the age of the offender at the time of the offense.

Sec. 36. Laws 1990, chapter 566, section 9, is amended to read:

Sec. 9. REPEALER.

Section 2 is repealed effective July 31, ~~1992~~ 1994.

Sec. 37. CRIMINAL BACKGROUND CHECK STUDY.

The department of administration, with the technical assistance of the bureau of criminal apprehension, shall conduct a study to determine the feasibility, cost, and impact of conducting background checks of (1) criminal arrest data and (2) criminal history data from the federal bureau of investigation on children's service workers pursuant to sections 18 to 22. The department shall report its recommendations to the legislature by January 15, 1993.

Sec. 38. SUPREME COURT; UNIFORM ORDER TO SET ASIDE CONVICTION.

The supreme court shall, by rule, develop a standardized form to be used by district courts in entering orders to set aside a conviction under Minnesota Statutes, section 638.02, subdivision 3.

Sec. 39. PARDON BOARD; REVIEW OF STAFFING AND WORKLOAD.

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No later than one year after the effective date of sections 30 to 34, the board of pardons may assess whether it has adequate staff, resources, and procedures to perform the duties imposed on the board by Minnesota Statutes, chapter 638.

Sec. 40. TELEPHONE ASSISTANCE PLAN.

Notwithstanding Minnesota Statutes, section 13.46, subdivision 2, until August 1, 1993, welfare data collected by the telephone assistance plan may be disclosed to the department of revenue to conduct an electronic data match to the extent necessary to determine eligibility under Minnesota Statutes, section 237.70, subdivision 4a.

Sec. 41. APPROPRIATION.

\$10,000 is appropriated from the general fund to the commissioner of corrections, for the fiscal year ending June 30, 1993, to be used to computerize the records maintained by the board of pardons and to permit the board to provide statistical analysis of the board's records, as necessary.

Sec. 42. EFFECTIVE DATE.

Section 12 is effective the day following final enactment and applies to immunizations administered before, on, or after the effective date. Sections 13, 14, 16, 17, and 25 are effective October 1, 1992. Sections 27 and 28 are effective January 1, 1993, and apply to crimes committed on or after that date. Sections 30, 31, 32, 33, and 34 are effective June 1, 1992.

Presented to the governor April 17, 1992

Signed by the governor April 29, 1992, 8:17 a.m.

CHAPTER 570—S.F.No. 897

An act relating to driving while intoxicated; making it a crime to refuse to submit to testing under the implied consent law; expanding the scope of the administrative plate impoundment law; authorizing the forfeiture of vehicles used to commit certain repeat DWI offenses; increasing certain license revocation periods; revising the implied consent advisory; imposing waiting periods on the issuance of limited licenses; increasing certain fees; updating laws relating to operating a snowmobile, all-terrain vehicle, motorboat, or aircraft, and to hunting, while intoxicated; imposing penalties for hunting while intoxicated; changing sentencing provisions; appropriating money; amending Minnesota Statutes 1990, sections 84.91; 84.911; 86B.331; 86B.335, subdivisions 1, 2, 4, 5, and 6; 97B.065; 168.042, subdivisions 1, 2, 4, 10, and 11; 169.121, subdivisions 1a, 3, 3a, 3b, 3c, 4, and 5; 169.123, subdivision 4; 169.126, subdivision 1; 169.129; 360.0752, subdivision 6, and by adding a subdivision; and 360.0753, subdivisions 2, 7, and 9; Minnesota Statutes 1991 Supplement, sections 169.121, subdivision 5a; 169.123, subdivision 2; 169.126, subdivision 2; 169.1265, subdivisions 1 and

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