

Sec. 3. This act shall be effective July 1, 1975.

Approved June 4, 1975.

CHAPTER 401—H.F.No.1014

[Coded in Part]

An act relating to the collection, security and dissemination of data on individuals by the state and its political subdivisions; clarifying necessary definitions; changing reporting requirements; restructuring the duties of responsible authorities and the rights of subjects of data; providing for issuance of rules relating to the implementation of the act by the commissioner of administration; providing for the establishment of a privacy study commission; providing penalties; appropriating money; amending Minnesota Statutes 1974, Sections 15.162; 15.163; 15.165; 15.166; 15.167; and Chapter 15, by adding sections; repealing Minnesota Statutes 1974, Sections 15.164 and 15.168.

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

Section 1. Minnesota Statutes 1974, Section 15.162, is amended to read:

15.162 STATE GOVERNMENT; STATE AGENCIES; COLLECTION, SECURITY AND DISSEMINATION OF RECORDS; DEFINITIONS. Subdivision 1. As used in sections 15.162 to 15.168 the terms defined in this section have the meanings given them.

Subd. 2. "Commissioner" means the commissioner of the department of administration.

Subd. 2a. "Confidential data on individuals" means data which is not public but is (a) expressly made confidential by law as to the individual subject of that data; (b) collected by a civil or criminal investigative agency as part of an active investigation undertaken for the purpose of the commencement of a legal action, provided that the burden of proof as to whether such investigation is active or in anticipation of a legal action is upon the agency; (c) data which supplies the basis for the diagnosis of the medical or psychiatric condition of an individual as determined by a licensed physician.

Subd. 3. "Data on individuals" includes all records, files and processes which contain any data on any-in which an individual is or can be identified and which is kept or intended to be kept on a permanent or ~~semipermanent~~ temporary basis. It includes that collected, stored, and disseminated by manual, mechanical, electronic or any other means. Data on individuals includes data classified as public, private or confidential.

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

Subd. 4. "Individual" means a natural person. In the case of a minor individual under the age of 18, "individual" shall mean a parent or guardian acting in a representative capacity, except where such minor individual indicates otherwise.

Subd. 5. "Political subdivision" includes counties, municipalities, ~~towns and~~ school districts and any boards, commissions, districts or authorities created pursuant to local ordinance. It includes any non-profit corporation which is a community action agency ~~initially~~ organized to qualify for public funds, or any nonprofit social service agency which performs services under contract to any political subdivision, statewide system or state agency.

Subd. 5a. "Private data on individuals" means data which is not public but which by law is accessible to the individual subject of that data.

Subd. 5b. "Public data on individuals" means data which is accessible to the public in accordance with the provisions of section 15.17.

Subd. 6. "Responsible authority" at the state level means any office established by law as the body responsible for the collection and use of any set of data on individuals or summary data. "Responsible authority" in any political subdivision means the person designated by the governing board of that political subdivision, unless otherwise provided by state law. With respect to statewide systems, "responsible authority" means the state official involved, or if more than one state official, the official designated by the commissioner.

Subd. 7. "State agency" means the state, the university of Minnesota, and any office, officer, department, division, bureau, board, commission, authority, district or agency of the state.

Subd. 8. "Statewide system" includes any record-keeping system in which data on individuals is collected, stored, disseminated and used by means of a system common to ~~the state or common to the state and~~ one or more of agencies of the state or more than one of its political subdivisions.

Subd. 9. "Summary data" means statistical records and reports derived from data on individuals but, in which individuals are not identified and from which neither their identities nor any other characteristic that could uniquely identify an individual is ascertainable.

Sec. 2. Minnesota Statutes 1974, Section 15.163, is amended to read:

15.163 REPORTS TO THE LEGISLATURE. Subdivision 1. On or before ~~December-August~~ August 1 of each year the ~~commissioner~~ responsible authority shall ~~prepare a report to the legislature document and file a report with the commissioner of administration, which shall be a pub-~~

Changes or additions indicated by underline deletions by ~~strikeout~~

lic record . Summaries of the report shall be available to the public at a nominal cost. The report shall contain to the extent feasible at least the following information:

(a) A complete listing of all systems of data on individuals which is kept by the state and its political subdivisions; a description of the information contained therein; and the reason that the data is kept;—The title, name, and address, of the responsible authority.

(b) A statement of which types of records containing data on individuals ; in the commissioner's opinion; are public records as defined by section 15-17; which types of data are confidential and which types of data are neither; maintained by the responsible authority are classified as confidential and which are classified as private. The responsible authority shall submit sample copies of any forms which will, when executed, contain data on individuals classified as private or confidential.

(c) The title, name, and address of the responsible authority for the system and for each data bank and associated procedures:

(1) The categories and number of individuals in each category on whom data is or is expected to be maintained;

(2) The categories of data maintained, or to be maintained, indicating which categories are or will be stored in computer-accessible files;

(3) The categories of data sources;

(4) A description of all types of use made of data; indicating those involving computer-accessible files; and including all classes of users;

(5) The responsible authority's and the commissioner's policies and practices regarding data storage; duration of retention of data; and disposal thereof;

(6) A description of the provisions for maintaining the integrity of the data pursuant to section 15-164, clause (d); and

(7) The procedures pursuant to section 15-165 whereby an individual can (i) be informed if he is the subject of data in the system; (ii) gain access to the data; and (iii) contest its accuracy, completeness, pertinence; and The purposes for which private or confidential data on individuals is authorized to be used, collected, disseminated and stored.

(d) Any recommendations concerning appropriate legislation—The responsible authority's policies and practices regarding storage, duration of retention, and disposal of data on individuals, including a description of the provisions for maintaining the integrity of private and

Changes or additions indicated by underline deletions by strikeout

confidential data on individuals .

Subd. 2. On or before December 1 of each year, the commissioner shall prepare a report to the legislature summarizing the information filed by responsible authorities pursuant to subdivision 1 and notifying the legislature of any problems relating to the administration, implementation and enforcement of sections 15.162 to 15.168 which might, in his opinion, require legislative action.

Sec. 3. Minnesota Statutes 1974, Chapter 15, is amended by adding a section to read:

[15.1641] DUTIES OF RESPONSIBLE AUTHORITY. (a) Data on individuals is under the jurisdiction of the responsible authority who may appoint an individual to be in charge of each file or system containing data on individuals.

(b) Collection and storage of public, private or confidential data on individuals and use and dissemination of private and confidential data on individuals shall be limited to that necessary for the administration and management of programs specifically authorized by the legislature, local governing body or mandated by the federal government.

(c) Private or confidential data on individuals shall not be used, collected, stored or disseminated for any purposes other than those stated to an individual at the time of collection in accordance with section 15.165 or, in the case of data collected prior to August 1, 1975, for any purpose other than those originally authorized by law, unless (1) the responsible authority files a statement with the commissioner describing the purpose and necessity of the purpose with regard to the health, safety or welfare of the public and the purpose is approved by the commissioner, or (2) the purpose is subsequently authorized by the state or federal legislature, or (3) the purpose is one to which the individual subject or subjects of the data have given their informed consent.

(d) The use of summary data derived from private or confidential data on individuals under jurisdiction of one or more responsible authorities shall be permitted, provided that summary data is public pursuant to section 15.17. The responsible authority shall prepare summary data from private or confidential data on individuals upon the request of any person, provided that the request is in writing and the cost of preparing the data is borne by the requesting person. The responsible authority may delegate the power to prepare summary data to the administrative officer responsible for any central repository of summary data, or to a person outside of its agency if the person agrees in writing not to disclose private or confidential data on individuals.

(e) The responsible authority shall establish procedures and safeguards to ensure than all public, private or confidential data on individ-

Changes or additions indicated by underline deletions by ~~strikeout~~

uals is accurate, complete and current. Emphasis shall be placed on the data security requirements of computerized files containing private or confidential data on individuals which are accessible directly via telecommunications technology, including security during transmission.

Sec. 4. Minnesota Statutes 1974, Section 15.165, is amended to read:

15.165 RIGHTS OF SUBJECTS OF DATA. The rights of individuals on whom the data is stored or to be stored and the responsibilities of the responsible authority shall be as follows:

(a) The purposes for which data on individuals is collected and used or to be collected and used shall be filed in writing by the responsible authority with the commissioner and shall be a matter of public record pursuant to section ~~15.163~~. An individual asked to supply private or confidential data concerning himself shall be informed of: (1) both the purpose and intended use of the requested data, (2) whether he may refuse or is legally required to supply the requested data, and (3) any known consequence arising from his supplying or refusing to supply private or confidential data .

(b) ~~An individual asked to supply personal data shall be informed of the purpose of intended uses of the requested data.~~

(c) ~~An individual asked to supply personal data shall be informed whether he may refuse or is legally required to supply the requested data. He shall be informed of any known consequence arising from his supplying or refusing to supply the personal data.~~

(d) ~~Data shall not be used for any purpose other than as stated in clause (a) unless (1) the responsible authority first makes an additional filing in accordance with clause (a); (2) the legislature gives its approval by law; or (3) the individuals to whom the data pertain give their informed consent.~~

(e) ~~Upon request to a responsible authority, an individual shall be informed whether he is the subject of stored data and if so, and upon his additional request, shall be informed of the content and meaning of the data recorded about him or shown the data without any charge to him. After an individual has been so informed, data need not be disclosed to him for six months thereafter unless a dispute or action pursuant to this section is pending. This clause does not apply to data on individuals which is defined by statute as confidential or to records relating to the medical or psychiatric treatment of the individual.~~

(f) ~~An individual shall have the right to contest the accuracy or completeness of data about him. If contested, the individual shall notify in writing the responsible authority describing the nature of the disagreement. The responsible authority shall within 30 days correct the data if the data is found to be inaccurate or incomplete and at-~~

~~Changes or additions indicated by underline deletions by ~~strikeout~~~~

tempt to notify past recipients of the inaccurate or incomplete data, or notify the individual of disagreement. The determination of the responsible authority is appealable in accordance with chapter 15. Data in dispute shall not be disclosed except under conditions of demonstrated need and then only if the individual's statement of disagreement is included with the disclosed data.

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

(c) An individual may contest the accuracy or completeness of public or private data concerning himself. To exercise this right, an individual shall notify in writing the responsible authority describing the nature of the disagreement. The responsible authority shall within 30 days correct the data if the data is found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, or notify the individual of disagreement. Data in dispute shall not be disclosed except under conditions of demonstrated need and then only if the individual's statement of disagreement is included with the disclosed data. The determination of the responsible authority is appealable in accordance with the provisions of the administrative procedure act relating to contested cases.

Sec. 5. Minnesota Statutes 1974, Section 15.166, is amended to read:

15.166 **CIVIL PENALTIES.** Subdivision 1. Notwithstanding section 466.03, a political subdivision ; responsible authority or state agency which violates any provision of sections 15.162 to ~~15.166~~ 15.168 is liable to a person who suffers any damage as a result of the violation, and the person damaged may bring an action against the political subdivision, responsible authority or state agency to cover any damages sustained, plus costs and reasonable attorney fees. In the case of a willful violation, the ~~violator-political subdivision or state agency~~ shall, in addition, be liable to exemplary damages of not less than \$100, nor more than \$1,000 for each violation. The state is deemed to have waived any immunity to a cause of action brought under sections 15.162 to ~~15.166~~ 15.168 .

Subd. 2. A political subdivision, responsible authority or state
Changes or additions indicated by underline deletions by ~~strikeout~~

agency which violates or proposes to violate sections 15.162 to ~~15.166-15.168~~ may be enjoined by the district court. The court may make an any order or judgment as may be necessary to prevent the use or employment by any person of any practices which violate sections 15.162 to ~~15.166-15.168~~ .

Subd. 3. An action filed pursuant to sections ~~15.162 to 15.166~~ this section may be commenced in the county in which the individual alleging damage or seeking relief resides, or in the county wherein the political subdivision exists, or, in the case of the state, any county.

Sec. 6. Minnesota Statutes 1974, Section 15.167, is amended to read:

15.167 **PENALTIES.** Any person who willfully violates the provisions of sections 15.162 to ~~15.166-15.168~~ or any lawful rules and regulations promulgated thereunder is guilty of a misdemeanor. Any public employee who willfully violates sections 15.162 to 15.166 may be suspended without pay or discharged after a hearing as prescribed by law Willful violation of sections 15.162 to 15.168 by any public employee constitutes just cause for suspension without pay or dismissal of the public employee .

Sec. 7. Minnesota Statutes 1974, Chapter 15, is amended by adding a section to read:

[15.1671] DUTIES OF THE COMMISSIONER. The commissioner shall with the advice of the intergovernmental information services advisory council promulgate rules, in accordance with the rulemaking procedures in the administrative procedures act which shall apply to state agencies, statewide systems and political subdivisions to implement the enforcement and administration of sections 15.162 to 15.169. The rules shall not affect section 15.165, relating to rights of subjects of data, and section 15.169, relating to the powers and duties of the privacy study commission. Prior to the adoption of rules authorized by this section the commissioner shall give notice to all state agencies and political subdivisions in the same manner and in addition to other parties as required by section 15.0412, subdivision 3, of the date and place of hearing, enclosing a copy of the rules and regulations to be adopted.

Sec. 8. Minnesota Statutes 1974, Chapter 15, is amended by adding a section to read:

[15.169] PRIVACY STUDY COMMISSION. Subdivision 1. There is hereby created a privacy study commission consisting of six members, three of whom shall be appointed by the committee on committees, and three of whom shall be appointed by the speaker of the house. The commission shall act from the time its members are appointed until the commencement of the 1977 regular session of the legislature. Any vacancy shall be filled by the appointing power.

Changes or additions indicated by underline deletions by ~~strikeout~~

Subd. 2. ORGANIZATION AND PROCEDURE. At its first meeting the commission shall elect a chairman, a vice-chairman and such other officers from its membership as it may deem necessary. The commission shall adopt rules governing its operation and the conduct of its meetings and hearings, which rules are not subject to the provisions of the administrative procedures act.

Subd. 3. DUTIES AND POWERS. The commission shall make a continuing study and investigation of data on individuals collected, stored, used and disseminated by political subdivisions, state agencies, statewide systems and any other public or private entity in the state of Minnesota the commission may deem appropriate for such study and investigation. The powers and duties of the commission shall include, but are not limited to the following:

(1) the holding of meetings at times and places it designates to accomplish the purposes set forth in this act. The commission may hold hearings at times and places convenient for the purpose of taking evidence and testimony to effectuate the purposes of this act, and for those purposes the commission may, through its chairman by a three-fourths vote of its members, issue subpoenas, including subpoenas duces tecum, requiring the appearance of persons, production of relevant records and the giving of relevant testimony. In the case of contumacy or refusal to obey a subpoena issued under authority herein provided, the district court in the county where the refusal or contumacy occurred may, upon complaint of the commission, punish as for contempt the person guilty thereof.

(2) the study of all data on individuals collected, stored, used or disseminated in the state of Minnesota including, but not limited to that collected, stored, used or disseminated by any political subdivision, state agency or statewide system in order to determine the standards and procedures in force for the protection of private and confidential data on individuals. In conducting such study, the commission shall:

(a) determine what executive orders, attorney general opinions, regulations, laws or judicial decisions govern the activities under study and the extent to which they are consistent with the rights of public access to data on individuals, privacy, due process of law and other guarantees in the Constitution.

(b) determine to what extent the collection, storage, use or dissemination of data on individuals is affected by the requirements of federal law.

(c) examine the standards and criteria governing programs, policies and practices relating to the collection, storage, use or dissemination of data on individuals in the state of Minnesota.

(d) collect and utilize to the maximum extent practicable, all find-

Changes or additions indicated by underline deletions by ~~strikeout~~

ings, reports, studies, hearing transcripts, and recommendations of governmental legislature, and private bodies, institutions, organizations and individuals which pertain to the problems under study by the commission.

(3) the recommendation to the legislature of the extent, if any, to which the requirements and principles of this act should be applied to information practices in existence in the state of Minnesota by legislation, administrative action or voluntary adoption of such requirements and principles, and report on such other legislative recommendations as it may determine to be necessary to protect the privacy of individuals while meeting the legitimate needs of government and society for information.

Subd. 4. OFFICE. The commission shall maintain an office in the capitol group of buildings in space provided by the commissioner of administration.

Subd. 5. SUPPLIES; STAFF. The commission may purchase equipment and supplies and employ such professional, clerical, and technical assistants from the senate and house staff as it deems necessary in order to perform the duties herein prescribed. The commission may invite consultants and other knowledgeable persons to appear before it and offer testimony and compensate them appropriately.

Subd. 6. ASSISTANCE OF OTHER AGENCIES. The commission may request any information including any data on individuals from any political subdivision, statewide system, or state agency or any employee thereof in order to assist in carrying out the purposes of the act, and notwithstanding any law to the contrary, such employee or agency is authorized and directed to promptly furnish any such data or information requested.

Subd. 7. EXPENSES, REIMBURSEMENT. Members of the commission shall be compensated as provided in Minnesota Statutes, Section 3.102.

Subd. 8. PENALTIES FOR DISCLOSURE. (1) Any member, assistant or staff of the commission who, by virtue of his employment or official position, has possession of, or access to, agency records which contain private or confidential data on individuals the disclosure of which is prohibited by law, and also knowing or having reason to know that disclosure of such data is prohibited, willfully discloses such data in any manner to any person or agency not entitled to receive it shall be guilty of a misdemeanor.

(2) Any member, assistant or staff of the commission who knowingly and willfully requests or obtains any private or confidential data on individuals under false pretenses the disclosure of which such person is not entitled by law shall be guilty of a misdemeanor.

Changes or additions indicated by underline deletions by ~~strikeout~~

Subd. 9. REPORT TO THE LEGISLATURE. The commission shall report its findings and recommendations to the legislature as soon as they are available, in any case not later than November 15, 1976, and may supplement them thereafter until January 15, 1977. One copy of the report shall be filed with the secretary of the senate, one copy with the chief clerk of the house of representatives and ten copies with the legislative reference library.

Subd. 10. APPROPRIATION. There is appropriated from the general fund the sum of \$25,000 for the biennium ending June 30, 1977, or as much thereof as necessary, to pay the expenses incurred by the commission. Expenses of the commission shall be approved by the chairman or another member as the rules of the commission provide and paid in the same manner that other state expenses are paid.

Sec. 9. Minnesota Statutes 1974, Sections 15.164 and 15.168, are repealed.

Sec. 10. This act is effective the day following final enactment.

Approved June 5, 1975.

CHAPTER 402—H.F.No.1020

[Not Coded]

An act relating to Hennepin county; city of Minneapolis; granting authority to lease, operate and maintain a correctional facility, work farm, or detention facilities.

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

Section 1. MINNEAPOLIS, CITY OF; HENNEPIN COUNTY; CORRECTIONAL FACILITIES. Subdivision 1. The Hennepin county board of commissioners may lease for \$1 per year and operate the facilities known as the Minneapolis workhouse. The lease shall run until July 1, 1977 and an agreement between the county and the city of Minneapolis shall be entered into which states the number of employees of such institution on July 1, 1975, that will transfer to employment with Hennepin county; the remainder thereof shall be retained as employees of the city of Minneapolis.

Subd. 2. Employees transferred to Hennepin county in accordance with subdivision 1 shall be placed in positions of an appropriate or similar classification as utilized by the county and all such employees shall retain accrued seniority credit payable to them on the date of transfer. Subject to the administrative requirements of the county board, employees who cannot be placed in similar classifications as used by the county shall be provided training to enable them to per-

Changes or additions indicated by underline deletions by ~~strikeout~~