

0

170057

TITL: Compendium of State Privacy and Security Legislation: 1997
Overview - MINNESOTA ; CH. 299-C Revised Statutes Annotated

AUTHOR: US Department of Justice, Bureau of Justice Statistics
Washington, DC 20531

SALE: US Department of Justice, Bureau of Justice Statistics
National Institute of Justice/NCJRS Paper Reproduction Sales
Box 6000, Dept. F
Rockville, MD 20849

DOCUMENT #: 176057

DATE: 1997

PAGE: 6p

ORIG: United States

LANG: English

SUBJECT: Legislation/policy descriptions

ANNOTATION: This is a 1997 overview of State law pertinent to the
privacy and security of criminal justice information.

MINNESOTA

Minnesota Statutes Annotated

Chapter 299C

Bureau of Criminal Apprehension

299C.01 Criminal bureau

Subdivision 1. All the powers and duties now vested in or imposed upon the bureau of criminal apprehension or the superintendent of the bureau of criminal apprehension as prescribed by chapter 626, or any other law, are hereby transferred to, vested in, and imposed upon the commissioner of public safety. The bureau of criminal apprehension and the office of the superintendent of the bureau of criminal apprehension as heretofore constituted are abolished.

Subd. 2. A division in the department of public safety to be known as the bureau of criminal apprehension is hereby created, under the supervision and control of the superintendent of criminal apprehension, who shall be appointed by the commissioner and serve at his pleasure in the unclassified service of the state civil service, to whom shall be assigned the duties and responsibilities described in this section.

Subd. 3. All powers, duties and responsibilities relating to the licensing and regulation of private detectives and protective agents heretofore assigned by law to the secretary of state or any other state department or agency shall be transferred to, vested in and imposed upon the commissioner of public safety.

Subd. 4. The division of the bureau of criminal apprehension shall perform such functions and duties as relate to state-wide and nationwide crime information systems as the commissioner may direct.

Laws 1969, c. 1129, art. I, § 3, eff. July 1, 1970.

299C.03 Superintendent; rules, regulations

The superintendent, with the approval of the commissioner of public safety, from time to time, shall make such rules and regulations and adopt such measures as he deems necessary, within the provisions and limitations of sections 299C.03 to 299C.08, 299C.10, 299C.11, 299C.17, 299C.18, and 299C.21, to secure the efficient operation of the bureau. The bureau shall cooperate with the respective sheriffs, constables, marshals, police, and other peace officers of the state in the detection of crime and the apprehension of criminals throughout the state, and shall have the power to conduct such investigations as the superintendent, with the approval of the commissioner of public safety, may

MINNESOTA

deem necessary to secure evidence which may be essential to the apprehension and conviction of alleged violators of the criminal laws of the state. The various members of the bureau shall have and may exercise throughout the state the same powers of arrest possessed by a sheriff, but they shall not be employed to render police service in connection with strikes and other industrial disputes.

Amended by Laws 1949, c. 739, § 21; Laws 1951, c. 713, § 34; Laws 1971, c. 25, § 97.

299C.04 Employees, civil service; expenses

The superintendent is hereby authorized to appoint, in the manner provided, and to remove as provided by the state civil service law, and to prescribe the duties of such skilled and unskilled employees, including an identification expert, as may be necessary to carry out the work of the bureau; provided, that the appointment and removal of such skilled and unskilled employees shall be in the manner provided by the state civil service law. The superintendent and all officers and employees of the bureau shall, in addition to their compensation, receive their actual and necessary expenses incurred in the discharge of their duties, provided that the total expense of the bureau during any year shall not exceed the appropriation therefor.

Amended by Laws 1953, c. 503, § 1.

299C.05 Division of criminal statistics

There is hereby established within the bureau a division of criminal statistics, and the superintendent, within the limits of membership herein prescribed, shall appoint a qualified statistician and one assistant to be in charge thereof. It shall be the duty of this division to collect, and preserve as a record of the bureau, information concerning the number and nature of offenses known to have been committed in the state, of the legal steps taken in connection therewith from the inception of the complaint to the final discharge of the defendant, and such other information as may be useful in the study of crime and the administration of justice. The information so collected and preserved shall include such data as may be requested by the United States department of justice, at Washington, under its national system of crime reporting.

299C.06 Division powers and duties; local officers to cooperate

It shall be the duty of all sheriffs, chiefs of police, city marshals, constables, prison wardens, superintendents of insane hospitals, reformatories and correctional schools, probation and parole officers, school attendance officers, coroners, county attorneys, court clerks, the liquor control commissioner, the commissioner of highways, and the state fire marshal to furnish to the division statistics and information regarding the number of crimes reported and discovered, arrests made, complaints, informations, and indictments, filed and the disposition made of

MINNESOTA

same, pleas, convictions, acquittals, probations granted or denied, receipts, transfers, and discharges to and from prisons, reformatories, correctional schools, and other institutions, paroles granted and revoked, commutation of sentences and pardons granted and rescinded, and all other data useful in determining the cause and amount of crime in this state and to form a basis for the study of crime, police methods, court procedure, and penal problems. Such statistics and information shall be furnished upon the request of the division and upon such forms as may be prescribed and furnished by it. The division shall have the power to inspect and prescribe the form and substance of the records kept by those officials from which the information is so furnished.

299C.09 System for identification of criminals; records and indexes

The bureau shall install systems for identification of criminals, including the finger-print system, the modus operandi system, and such others as the superintendent deems proper. The bureau shall keep a complete record and index of all information received in convenient form for consultation and comparison. The bureau shall obtain from wherever procurable and file for record finger and thumb prints, measurements, photographs, plates, outline pictures, descriptions, modus operandi statements, or such other information as the superintendent considers necessary, of persons who have been or shall hereafter be convicted of a felony, gross misdemeanor, or an attempt to commit a felony or gross misdemeanor, within the state, or who are known to be habitual criminals. To the extent that the superintendent may determine it to be necessary, the bureau shall obtain like information concerning persons convicted of a crime under the laws of another state or government, the central repository of this records system is the bureau of criminal apprehension in St. Paul.

Amended by Laws 1957, c. 790, § 1; Laws 1969, c. 9, § 92, eff. Feb. 12, 1969.

299C.10. Identification data required

Subdivision 1. Law enforcement duty. (a) It is hereby made the duty of the sheriffs of the respective counties, of the police officers in cities of the first, second, and third classes, under the direction of the chiefs of police in such cities, and of community corrections agencies operating secure juvenile detention facilities to take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, and such other identification data as may be requested or required by the superintendent of the bureau; of all persons arrested for a felony, gross misdemeanor, of all juveniles committing felonies as distinguished from those committed by adult offenders, of all persons reasonably believed by the arresting officer to be fugitives from justice, of all persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes, and within 24 hours thereafter to forward such fingerprint records and other identification data on such forms and in such manner as may be prescribed by the superintendent of the bureau of criminal apprehension.

MINNESOTA

(b) Effective August 1, 1997, the identification reporting requirements shall also apply to persons committing misdemeanor offenses, including violent and enhanceable crimes, and juveniles committing gross misdemeanors. In addition, the reporting requirements shall include any known aliases or street names of the offenders.

Subd. 2. Law enforcement education. The sheriffs and police officers who take finger and thumb prints must obtain training in the proper methods of taking and transmitting finger prints under this section consistent with bureau requirements.

Subd. 3. Bureau duty. The bureau must enter in the criminal records system finger and thumb prints within five working days after they are received under this section.

Subd. 4. Fee for background check; account; appropriation. The superintendent shall collect a fee in an amount to cover the expense for each background check provided for a purpose not directly related to the criminal justice system or required by section 624.7131, 624.7132, or 624.714. The proceeds of the fee must be deposited in a special account. Until July 1, 1997, money in the account is appropriated to the commissioner to maintain and improve the quality of the criminal record system in Minnesota.

Amended by Laws 1993, c. 266, § 32; Laws 1994, c. 636, art. 4, § 19; Laws 1995, c. 226, art. 4, §§ 10, 11, eff. July 1, 1995; Laws 1996, c. 408, art. 6, § 11; Laws 1996, c. 440, art. 1, § 50.

299C.11. Identification data furnished to bureau

(a) 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, distinctive physical mark identification data, 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.

(b) No petition under chapter 609A is required if the person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding the determination of all pending criminal actions or proceedings in favor of the arrested person, and either of the following occurred:

- (1) all charges were dismissed prior to a determination of probable cause; or
- (2) the prosecuting authority declined to file any charges and a grand jury did not return an indictment.

Where these conditions are met, the bureau or agency shall, upon demand, return to the arrested person finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data, and all copies and duplicates of them.

(c) Except as otherwise provided in paragraph (b), upon the determination of all pending criminal actions or proceedings in favor of the arrested person, and the granting of the petition of the arrested person under chapter 609A, the bureau shall seal finger and thumb prints, photographs, distinctive physical mark identification data, and other identification data, and all copies and duplicates of them if the arrested person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding such determination.

(d) DNA samples and DNA records of the arrested person shall not be returned, sealed, or destroyed as to a charge supported by probable cause.

(e) For purposes of this section, "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

- (1) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, 609.168, or chapter 609A;
- (2) the arrested person's successful completion of a diversion program;
- (3) an order of discharge under section 609.165; or
- (4) a pardon granted under section 638.02.

**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, he shall, upon demand, have all such finger and thumb prints, photographs, and other identification data, and all copies and duplicates thereof, returned to him, provided it is not established that he has been convicted of any felony, either within or without the state, within the period of ten years immediately preceding such determination.

Amended by Laws 1957, c. 790, § 3.

299C.12 Records kept by peace officers; reports

Every peace officer shall keep or cause to be kept a permanent written record, in such form as the superintendent may prescribe, of all felonies reported to or discovered by him within his jurisdiction and of all warrants of arrest for felonies and search warrants issued to him in relation to the commission of felonies, and shall make or cause to be made to the sheriff of the county and the bureau reports of all such crimes, upon such forms as the superintendent may prescribe, including a statement of the facts and a description of the offender, so far as known, the offender's method of operation, the action taken by the officer, and such other information as the superintendent may require.

MINNESOTA

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.

299C.14 Officers of penal institutions to furnish bureau with data relating to released prisoners

It shall be the duty of the officials having charge of the penal institutions of the state or the release of prisoners therefrom to furnish to the bureau, as the superintendent may require, finger and thumb prints, photographs, identification data, modus operandi reports, and criminal records of prisoners heretofore, now, or hereafter confined in such penal institutions, together with the period of their service and the time, terms, and conditions of their discharge.

299C.15 Bureau to cooperate with other criminal identification organizations

The bureau shall cooperate and exchange information with other organizations for criminal identification, either within or without the state, for the purpose of developing, improving, and carrying on an efficient system for the identification and apprehension of criminals.

299C.155. Standardized evidence collection; DNA analysis data and records

Subdivision 1. Definition. As used in this section, "DNA analysis" means the process through which deoxyribonucleic acid (DNA) in a human biological specimen is analyzed and compared with DNA from another human biological specimen for identification purposes.

Subd. 2. Uniform evidence collection. The bureau shall develop uniform procedures and protocols for collecting evidence in cases of alleged or suspected criminal sexual conduct, including procedures and protocols for the collection and preservation of human biological specimens for DNA analysis. Law enforcement agencies and medical personnel who conduct evidentiary exams shall use the uniform procedures and protocols in their investigation of criminal sexual conduct offenses. The uniform procedures and protocols developed under this subdivision are not subject to the rulemaking provisions of chapter 14.

Subd. 3. DNA analysis and data bank. The bureau shall adopt uniform procedures and protocols to maintain, preserve, and analyze human biological specimens for DNA. The bureau shall establish a centralized system to cross-reference data obtained from DNA analysis. The uniform procedures and protocols developed under this subdivision are not subject to the rulemaking provisions of chapter 14.

Subd. 4. Records. The bureau shall perform DNA analysis and make data obtained available to law enforcement officials in connection with criminal investigations in which human biological specimens have been recovered. Upon request, the bureau shall also make the data available to the prosecutor and the subject of the data in any subsequent criminal prosecution of the subject.

299C.16 Bureau to broadcast information to peace officers

The bureau shall broadcast, by mail, wire, and wireless, to peace officers such information as to wrongdoers wanted, property stolen or recovered, and other intelligence as may help in controlling crime.

299C.17 Reports to bureau by clerks of court

The superintendent shall have power to require the clerk of court of any county to file with the department, at such time as the superintendent may designate, a report, upon such form as the superintendent may prescribe, furnishing such information as he may require with regard to the prosecution and disposition of criminal cases. A copy of the report shall be kept on file in the office of the clerk of court.

MINNESOTA

299C.18 Reports

Biennially, on or before November 15, in each even-numbered year the superintendent shall submit to the governor and the legislature a detailed report of the operations of the bureau, of information about crime and the handling of crimes and criminals by state and local officials collected by the bureau, and his interpretations of the information, with his comments and recommendations. In such reports he shall, from time to time, include his recommendations to the legislature for dealing with crime and criminals and information as to conditions and methods in other states in reference thereto, and shall furnish a copy of such report to each member of the legislature.

299C.21 Penalty on local officers refusing information

If any public official charged with the duty of furnishing to the bureau finger-print records, reports, or other information required by sections 299C.06, 299C.10, 299C.11, 299C.17, shall neglect or refuse to comply with such requirement, the bureau, in writing, shall notify the state, county, or city officer charged with the issuance of a warrant for the payment of the salary of such official. Upon the receipt of the notice the state, county, or city official shall withhold the issuance of a warrant for the payment of the salary or other compensation accruing to such officer for the period of 30 days thereafter until notified by the bureau that such suspension has been released by the performance of the required duty.

299C.48 CONNECTIONS BY AUTHORIZED AGENCY; STANDING APPROPRIATION.

(a) An agency authorized under section 299C.46, subdivision 3, may connect with and participate in the criminal justice data communications network upon approval of

the commissioner of public safety; provided, that the agency shall first agree to pay installation charges as may be necessary for connection and monthly operational charges as may be established by the commissioner of public safety. Before participation by a criminal justice agency may be approved, the agency must have executed an agreement with the commissioner providing for security of network facilities and restrictions on access to data supplied to and received through the network.

(b) The installation and monthly operational charges collected by the commissioner of public safety under paragraph (a) are annually appropriated to the commissioner to administer sections 299C.46 to 299C.50.

STATE DEPARTMENTS AND AGENCIES

Administration

CHAPTER 13

GOVERNMENT DATA PRACTICES

GENERAL REQUIREMENTS	
13.01	Government data.
13.02	Collection, security and dissemination of records; definitions.
13.03	Access to government data.
13.04	Rights of subjects of data.
13.05	Duties of responsible authority.
13.06	Temporary classifications.
13.07	Duties of the commissioner.
13.08	Civil remedies.
13.09	Penalties.

DATA MAINTAINED BY STATE AGENCIES AND POLITICAL SUBDIVISIONS	
13.10	Attorneys.
13.11	Benefit data.
13.12	Educational data.
13.13	Elected officials; correspondents; private data.
13.14	Examination data.
13.15	Federal contracts data.
13.16	Firearms data.
13.17	General nonpublic data.
13.18	Health data.
13.19	Investigative data.
13.20	Library data.
13.21	Licensing data.
13.22	Medical data.
13.23	Personnel data.
13.24	Property complaint data.
13.25	Salary benefit survey data.
13.26	Welfare data.

DATA MAINTAINED ONLY BY POLITICAL SUBDIVISIONS	
13.30	Appraisal data.
13.31	Assessor's data.
13.32	Deferred assessment data.
13.33	Foster care data.
13.34	Housing agency data.
13.35	St. Paul civic center authority data.
13.36	Sexual assault data.
13.37	Social recreational data.

DATA MAINTAINED ONLY BY STATE AGENCIES	
13.45	Attorney general data.
13.46	Corrections ombudsman data.
13.47	Employer relations data.
13.48	Energy and financial data and statistics.
13.49	Public safety data.
13.50	Revenue department data.
13.51	Surplus line insurance data.
13.52	Transportation department data.
13.53	Workers' compensation self-insurance data.

DATA MAINTAINED BY CRIMINAL JUSTICE AGENCIES	
13.60	Domestic abuse data.
13.61	Law enforcement data.
13.62	Comprehensive law enforcement data.
13.63	Medical examiner data.
13.64	Court services data.
13.65	Corrections and detention data.
13.66	Investigative detention data.
13.67	Criminal history data.

GENERAL REQUIREMENTS

13.01 GOVERNMENT DATA.

Subdivision 1. **Applicability.** All state agencies, political subdivisions and statewide systems shall be governed by this chapter.

Subd. 2. **Citation.** This chapter may be cited as the "Minnesota government data practices act."

History: 1979 c 328 s 1; 1981 c 311 s 1.39; 1Sp1981 c 4 art 1 s 4.5; 1982 c 545 s 24

13.02 COLLECTION, SECURITY AND DISSEMINATION OF RECORDS; DEFINITIONS.

Subdivision 1. **Applicability.** As used in this chapter, the terms defined in this section have the meanings given them.

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

Subd. 3. **Confidential data on individuals.** "Confidential data on individuals" means data which is made not public by statute or federal law applicable to the data and is inaccessible to the individual subject of that data.

Subd. 4. **Data not on individuals.** "Data not on individuals" means all government data which is not data on individuals.

MINNESOTA

13.02 GOVERNMENT DATA PRACTICES

Subd. 5. Data on individuals. "Data on individuals" means all government data in which any individual is or can be identified as the subject of that data, unless the appearance of the name or other identifying data can be clearly demonstrated to be only incidental to the data and the data are not accessed by the name or other identifying data of any individual.

Subd. 6. Designee. "Designee" means any person designated by a responsible authority to be in charge of individual files or systems containing government data and to receive and comply with requests for government data.

Subd. 7. Government data. "Government data" means all data collected, created, received, maintained or disseminated by any state agency, political subdivision, or statewide system regardless of its physical form, storage media or conditions of use.

Subd. 8. Individual. "Individual" means a natural person. In the case of a minor or an individual adjudged mentally incompetent, "individual" includes a parent or guardian or an individual acting as a parent or guardian in the absence of a parent or guardian, except that the responsible authority shall withhold data from parents or guardians, or individuals acting as parents or guardians in the absence of parents or guardians, upon request by the minor if the responsible authority determines that withholding the data would be in the best interest of the minor.

Subd. 9. Nonpublic data. "Nonpublic data" means data not on individuals which is made by statute or federal law applicable to the data: (a) not public; and (b) accessible to the subject, if any, of the data.

Subd. 10. Person. "Person" means any individual, partnership, corporation, association, business trust, or a legal representative of an organization.

Subd. 11. Political subdivision. "Political subdivision" means any county, statutory or home rule charter city, school district, special district and any board, commission, district or authority created pursuant to law, local ordinance or charter provision. It includes any nonprofit corporation which is a community action agency organized pursuant to the economic opportunity act of 1964 (P.L. 88-452) as amended, 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, to the extent that the nonprofit social service agency or nonprofit corporation collects, stores, disseminates, and uses data on individuals because of a contractual relationship with state agencies, political subdivisions or statewide systems.

Subd. 12. Private data on individuals. "Private data on individuals" means data which is made by statute or federal law applicable to the data: (a) not public; and (b) accessible to the individual subject of that data.

Subd. 13. Protected non-public data. "Protected non-public data" means data not on individuals which is made by statute or federal law applicable to the data (a) not public and (b) not accessible to the subject of the data.

Subd. 14. Public data not on individuals. "Public data not on individuals" means data which is accessible to the public pursuant to section 13.03.

Subd. 15. Public data on individuals. "Public data on individuals" means data which is accessible to the public in accordance with the provisions of section 13.03.

Subd. 16. Responsible authority. "Responsible authority" in a state agency or statewide system means the state official designated by law or by the commissioner as the individual responsible for the collection, use and dissemination of any set of data on individuals, government data, or summary data. "Responsible authority" in any political subdivision means the individual designated by the governing body of that political subdivision as the individual responsible for the

collection, use, and dissemination of any set of data on individuals, government data, or summary data, unless otherwise provided by state law.

Subd. 17. **State agency.** "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. 18. **Statewide system.** "Statewide system" includes any record-keeping system in which government data is collected, stored, disseminated and used by means of a system common to one or more state agencies or more than one of its political subdivisions or any combination of state agencies and political subdivisions.

Subd. 19. **Summary data.** "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.

13.03 ACCESS TO GOVERNMENT DATA

Subdivision 1. **Public data.** All government data collected, created, received, maintained or disseminated by a state agency, political subdivision, or statewide system shall be public unless classified by statute, or temporary classification pursuant to section 13.06, or federal law, as nonpublic or protected nonpublic, or with respect to data on individuals, as private or confidential. The responsible authority in every state agency, political subdivision and statewide system shall keep records containing government data in such an arrangement and condition as to make them easily accessible for convenient use. Photographic, photostatic, microphotographic, or microfilmed records shall be considered as accessible for convenient use regardless of the size of such records.

Subd. 2. **Procedures.** The responsible authority in every state agency, political subdivision, and statewide system shall establish procedures, consistent with this chapter, to insure that requests for government data are received and complied with in an appropriate and prompt manner. Full convenience and comprehensive accessibility shall be allowed to researchers including historians, genealogists and other scholars to carry out extensive research and complete copying of all records containing government data except as otherwise expressly provided by law.

A responsible authority may designate one or more designees.

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 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, certifying, 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.

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

If data on individuals is classified as both private and confidential by this chapter, or any other statute or federal law, the data is private.

To the extent that government data is disseminated to state agencies, political subdivisions, or statewide systems by another state agency, political subdivision, or statewide system, the data disseminated shall have the same classification in the hands of the agency receiving it as it had in the hands of the entity providing it.

Subd. 5. Copyright or patent of computer program. Nothing in this chapter or any other statute shall be construed to prevent a state agency, statewide system, or political subdivision from acquiring a copyright or patent for a computer software program or components of a program created by that government agency. In the event that a government agency does acquire a patent or copyright to a computer software program or component of a program, the data shall be treated as trade secret information pursuant to section 13.37.

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

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

13.04 RIGHTS OF SUBJECTS OF DATA.

Subdivision 1. Type of data. The rights of individuals on whom the data is stored or to be stored shall be as set forth in this section.

Subd. 2. Information required to be given individual. An individual asked to supply private or confidential data concerning himself shall be informed of: (a) the purpose and intended use of the requested data within the collecting state agency, political subdivision or statewide system; (b) whether he may refuse or is legally required to supply the requested data; (c) any known consequence arising from his supplying or refusing to supply private or confidential data; and (d) the identity of other persons or entities authorized by state or federal law to receive the data. This requirement shall not apply when an individual is asked to supply investigative data to a law enforcement officer.

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

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

Subd. 4. Procedure when data is not accurate or complete. 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 either: (a) correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual; or (b) notify the individual that he believes the data to be correct. Data in dispute shall be disclosed only if the individual's statement of disagreement is included with the disclosed data.

The determination of the responsible authority may be appealed pursuant to the provisions of the administrative procedure act relating to contested cases.

13.05 DUTIES OF RESPONSIBLE AUTHORITY.

Subdivision 1. Public document of data categories. The responsible authority shall prepare a public document containing his name, title and address, and a

MINNESOTA

GOVERNMENT DATA PRACTICES 13.05

Description of each category of record, file, or process relating to private or confidential data on individuals maintained by his state agency, statewide system, or political subdivision. Forms used to collect private and confidential data shall be included in the public document. Beginning August 1, 1977 and annually thereafter, the responsible authority shall update the public document and make any changes necessary to maintain the accuracy of the document. The document shall be available from the responsible authority to the public in accordance with the provisions of sections 13.03 and 15.17.

Subd. 2. Copies to commissioner. The commissioner may require responsible authorities to submit copies of the public document required in subdivision 1, and may request additional information relevant to data collection practices, policies and procedures.

Subd. 3. General standards for collection and storage. 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.

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 subsequent to the collection of the data.

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

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

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

MINNESOTA

13.05 GOVERNMENT DATA PRACTICES

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

Subd. 5. **Data protection.** The responsible authority shall (1) establish procedures to assure that all data on individuals is accurate, complete, and current for the purposes for which it was collected; and (2) establish appropriate security safeguards for all records containing data on individuals.

Subd. 6. **Contracts.** Except as provided in section 13.46, subdivision 5, in any contract between a governmental unit subject to this chapter and any person, when the contract requires that data on individuals be made available to the contracting parties by the governmental unit, that data shall be administered consistent with this chapter. A contracting party shall maintain the data on individuals which it received according to the statutory provisions applicable to the data.

Subd. 7. **Preparation of summary data.** The use of summary data derived from private or confidential data on individuals under the jurisdiction of one or more responsible authorities shall be permitted. Unless classified pursuant to section 13.06, summary data is public. 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 summary data is borne by the requesting person. The responsible authority may delegate the power to prepare summary data (1) to the administrative officer responsible for any central repository of summary data; or (2) to a person outside of its agency if the person, in writing, sets forth his purpose and agrees not to disclose, and the agency reasonably determines that the access will not compromise private or confidential data on individuals.

Subd. 8. **Publication of access procedures.** The responsible authority shall prepare a public document setting forth in writing the rights of the data subject pursuant to section 13.04 and the specific procedures in effect in the state agency, statewide system or political subdivision for access by the data subject to public or private data on individuals.

Subd. 9. **Intergovernmental access of data.** A responsible authority shall allow another responsible authority access to data classified as not public only when the access is authorized or required by statute or federal law. An agency that supplies government data under this subdivision may require the requesting agency to pay the actual cost of supplying the data.

Data shall have the same classification in the hands of the agency receiving it as it had in the agency providing it.

Subd. 10. **International dissemination prohibited.** No state agency or political subdivision shall transfer or disseminate any private or confidential data on individuals to the private international organization known as Interpol.

13.06 TEMPORARY CLASSIFICATION.

Subdivision 1. **Application to commissioner.** Notwithstanding the provisions of section 13.03, the responsible authority of a state agency, political subdivision or statewide system may apply to the commissioner for permission to classify data or types of data on individuals as private or confidential, or data not on individuals as non-public or protected non-public, for its own use and for the use of other

similar agencies, political subdivisions or statewide systems on a temporary basis until a proposed statute can be acted upon by the legislature. The application for temporary classification is public.

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

Subd. 2. Contents of application for private or confidential data. An application for temporary classification of data on individuals shall include and the applicant shall have the burden of clearly establishing that no statute currently exists which either allows or forbids classification as private or confidential; and either

(a) That data similar to that for which the temporary classification is sought has been treated as either private or confidential by other state agencies or political subdivisions, and by the public; or

(b) That a compelling need exists for immediate temporary classification, which if not granted could adversely affect the public interest or the health, safety, well being or reputation of the data subject.

Subd. 3. Contents of application for nonpublic or nonpublic protected data. An application for temporary classification of government data not on individuals shall include and the applicant shall have the burden of clearly establishing that no statute currently exists which either allows or forbids classification as nonpublic or protected nonpublic; and either

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

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

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

Subd. 4. Procedure when classification affects others. If the commissioner determines that an application for temporary classification involves data which would reasonably be classified in the same manner by all agencies, political subdivisions, or statewide systems similar to the one which made the application, the commissioner may approve or disapprove the classification for data of the kind which is the subject of the application for the use of all agencies, political subdivisions, or statewide systems similar to the applicant. If the commissioner deems this approach advisable, he shall provide notice of his intention by publication in the state register and by notification to the intergovernmental information systems advisory council, within ten days of receiving the application. Within 30 days after publication in the state register and notification to the council, an affected agency, political subdivision, the public, or statewide system may submit comments on the commissioner's proposal. The commissioner shall consider any comments received when granting or denying a classification for data of the kind which is the subject of the application, for the use of all agencies, political subdivisions, or statewide systems similar to the applicant. Within 45 days after the close of the period for submitting comment, the commissioner shall grant or disapprove the application. Applications processed under this subdivision shall be either approved or disapproved by the commissioner within 90 days of the receipt of the application. For purposes of subdivision 1, the data which is the subject of the classification shall be deemed to be classified as set forth in the application for a period of 90 days, or until the application is disapproved or

MINNESOTA

13.06 GOVERNMENT DATA PRACTICES

granted by the commissioner, whichever is earlier. If requested in the application, or determined to be necessary by the commissioner, the data in the application shall be so classified for all agencies, political subdivisions, or statewide systems similar to the applicant until the application is disapproved or granted by the commissioner, whichever is earlier. Proceedings after the grant or disapproval shall be governed by the provisions of subdivision 5.

Subd. 5. Determination. The commissioner shall either grant or disapprove the application for temporary classification within 45 days after it is filed. If the commissioner disapproves the application, he shall set forth in detail his reasons for the disapproval, and shall include a statement of what classification he believes is appropriate for the data which is the subject of the application. Twenty days after the date of the commissioner's disapproval of an application, the data which is the subject of the application shall become public data, unless the responsible authority submits an amended application for temporary classification which requests the classification deemed appropriate by the commissioner in his statement of disapproval or which sets forth additional information relating to the original proposed classification. Upon the filing of an amended application, the data which is the subject of the amended application shall be deemed to be classified as set forth in the amended application for a period of 20 days or until the amended application is granted or disapproved by the commissioner, whichever is earlier. The commissioner shall either grant or disapprove the amended application within 20 days after it is filed. Five working days after the date of the commissioner's disapproval of the amended application, the data which is the subject of the application shall become public data. No more than one amended application may be submitted for any single file or system.

If the commissioner grants an application for temporary classification, it shall become effective immediately, and the complete record relating to the application shall be submitted to the attorney general, who shall review the classification as to form and legality. Within 25 days, the attorney general shall approve the classification, disapprove a classification as confidential but approve a classification as private, or disapprove the classification. If the attorney general disapproves a classification, the data which is the subject of the classification shall become public data five working days after the date of the attorney general's disapproval.

Subd. 6. Expiration of temporary classification. Emergency classifications granted before July 1, 1979 are redesignated as temporary classifications. All temporary classifications granted under this section prior to April 24, 1980 and still in effect, and all temporary classifications thereafter applied for and granted pursuant to this section shall expire on July 31, 1981 or 24 months after the classification is granted, whichever occurs later.

Subd. 7. Legislative consideration of temporary classifications. On or before January 15 of each year, the commissioner shall submit all temporary classifications in effect on January 1 in bill form to the legislature.

13.07 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 this chapter. The rules shall not affect section 13.04, relating to rights of subjects of data. 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 14.06 of the date and place of hearing, enclosing a copy of the rules and regulations to be adopted.

13.08 CIVIL REMEDIES.

Subdivision 1. **Action for damages.** Notwithstanding section 466.03, a political subdivision, responsible authority or state agency which violates any provision of this chapter 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, statewide system or state agency to cover any damages sustained, plus costs and reasonable attorney fees. In the case of a willful violation, the political subdivision, statewide system or state agency shall, in addition, be liable to exemplary damages of not less than \$100, nor more than \$10,000 for each violation. The state is deemed to have waived any immunity to a cause of action brought under this chapter.

Subd. 2. **Injunction.** A political subdivision, responsible authority, statewide system or state agency which violates or proposes to violate this chapter may be enjoined by the district court. The court may make any order or judgment as may be necessary to prevent the use or employment by any person of any practices which violate this chapter.

Subd. 3. **Venue.** An action filed pursuant to 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.

Subd. 4. **Action to compel compliance.** In addition to the remedies provided in subdivisions 1 to 3 or any other law, any aggrieved person may bring an action in district court to compel compliance with this chapter and may recover costs and disbursements, including reasonable attorney's fees, as determined by the court. If the court determines that an action brought under this subdivision is frivolous and without merit and a basis in fact, it may award reasonable costs and attorney fees to the responsible authority. The matter shall be heard as soon as possible. In an action involving a request for government data under section 13.03 or 13.04, the court may inspect in camera the government data in dispute, but shall conduct its hearing in public and in a manner that protects the security of data classified as not public.

13.09 PENALTIES.

Any person who willfully violates the provisions of sections 13.02 to 13.09 or any lawful rules and regulations promulgated thereunder is guilty of a misdemeanor. Willful violation of sections 13.02 to 13.09 by any public employee constitutes just cause for suspension without pay or dismissal of the public employee.

DATA MAINTAINED BY STATE AGENCIES AND POLITICAL SUBDIVISIONS

13.30 ATTORNEYS.

Notwithstanding the provisions of this chapter and section 15.17, the use, collection, storage, and dissemination of data by an attorney acting in his

MINNESOTA

13.30 GOVERNMENT DATA PRACTICES

professional capacity for the state, a state agency or a political subdivision shall be governed by statutes, rules, and professional standards concerning discovery, production of documents, introduction of evidence, and professional responsibility; provided that this section shall not be construed to affect the applicability of any statute, other than this chapter and section 15.17, which specifically requires or prohibits disclosure of specific information by the attorney, nor shall this section be construed to relieve any responsible authority, other than the attorney, from his duties and responsibilities pursuant to this chapter and section 15.17.

13.31 BENEFIT DATA.

Subdivision 1. Definition. As used in this section, "benefit data" means data on individuals collected or created because an individual seeks information about becoming, is, or was an applicant for or a recipient of benefits or services provided under various housing, home ownership, and rehabilitation and community action agency programs administered by state agencies, political subdivisions, or statewide systems. Benefit data does not include welfare data which shall be administered in accordance with section 13.46.

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

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

13.32 EDUCATIONAL DATA.

Subdivision 1. As used in this section:

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

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

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

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

(b) "Student" includes a person currently or formerly enrolled or registered, and applicants for enrollment or registration at a public educational agency or institution.

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

Subd. 2. **Student health data.** Health data concerning students, including but not limited to, data concerning immunizations, notations of special physical or mental problems and records of school nurses; and pupil census data, including but not limited to, emergency information, family information and data concerning parents shall be considered educational data. Access by parents to student health data shall be pursuant to section 13.02, subdivision 8.

Subd. 3. Except as provided in subdivision 5, educational data is private data on individuals and shall not be disclosed except as follows:

- (a) Pursuant to section 13.05;
- (b) Pursuant to a valid court order;
- (c) Pursuant to a statute specifically authorizing access to the private data;
- (d) To disclose information in health and safety emergencies pursuant to the provisions of 20 U.S.C., Section 1232g(b)(1)(I) and 45 C.F.R., Section 99.36 which are in effect on July 1, 1979;
- (e) Pursuant to the provisions of 20 U.S.C., Sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3) and 45 C.F.R., Sections 99.31, 99.32, 99.33, 99.34 and 99.35 which are in effect on July 1, 1979; or
- (f) To appropriate health authorities but only to the extent necessary to administer immunization programs.

Subd. 4. A student shall not have the right of access to private data provided in section 13.04, subdivision 3, as to financial records and statements of his parents or any information contained therein.

Subd. 5. Information designated as directory information pursuant to the provisions of 20 U.S.C., Section 1232g and regulations adopted pursuant thereto which are in effect on July 1, 1979 is public data on individuals.

13.33 ELECTED OFFICIALS; CORRESPONDENCE; PRIVATE DATA.

Correspondence between individuals and elected officials is private data on individuals, but may be made public by either the sender or the recipient.

13.34 EXAMINATION DATA.

Data consisting solely of testing or examination materials, or scoring keys used solely to determine individual qualifications for appointment or promotion in public service, or used to administer a licensing examination, or academic examination, the disclosure of which would compromise the objectivity or fairness of the testing or examination process are classified as nonpublic, except pursuant to court order. Completed versions of personnel, licensing, or academic examinations shall be accessible to the individual who completed the examination, unless the responsible authority determines that access would compromise the objectivity, fairness, or integrity of the examination process. Notwithstanding section 13.04, the responsible authority shall not be required to provide copies of completed examinations or answer keys to any individual who has completed an examination.

13.35 FEDERAL CONTRACTS DATA.

To the extent that a federal agency requires it as a condition for contracting with a state agency or political subdivision, all government data collected and maintained by the state agency or political subdivision because that agency

MINNESOTA

13.35 GOVERNMENT DATA PRACTICES

contracts with the federal agency are classified as either private or nonpublic depending on whether the data are data on individuals or data not on individuals.

13.36 FIREARMS DATA

All data pertaining to the purchase or transfer of firearms and applications for permits to carry firearms which are collected by state agencies, political subdivisions or statewide systems pursuant to sections 624.712 to 624.718 are classified as private, pursuant to section 13.02, subdivision 12.

13.37 GENERAL NONPUBLIC DATA.

Subdivision 1. Definitions. As used in this section, the following terms have the meanings given them.

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

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

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

Subd. 2. Classification. The following government data is classified as nonpublic data with regard to data not on individuals, pursuant to section 13.02, subdivision 9, and as private data with regard to data on individuals, pursuant to section 13.02, subdivision 12: Security information, trade secret information, sealed absentee ballots prior to opening by an election judge, sealed bids prior to the opening of the bid, and labor relations information. Provided that specific labor relations information which relates to a specific labor organization is classified as protected nonpublic data pursuant to section 13.02, subdivision 13.

13.38 HEALTH DATA.

Subdivision 1. Private data. The following data created, collected and maintained by the department of health, political subdivisions, or statewide systems are classified as private, pursuant to section 13.02, subdivision 12: data on individual patients pertaining to the investigation and study of non-sexually transmitted diseases, except that the data may be made public to diminish a threat to the public health.

Subd. 2. Confidential data. The following data created, collected and maintained by a department of health operated by the state or a political subdivision are classified as confidential, pursuant to section 13.02, subdivision 3: investigative files on individuals maintained by the department in connection with the epidemiologic investigation of sexually transmitted diseases, provided that infor-

mation may be released to the individual's personal physician and to a health officer, as defined in section 145.01, for the purposes of treatment, continued medical evaluation and control of the disease.

13.39 INVESTIGATIVE DATA.

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

Subd. 2. Civil actions. Data collected by state agencies, political subdivisions or statewide systems as part of an active investigation undertaken for the purpose of the commencement or defense of a pending civil legal action, or which are retained in anticipation of a pending civil legal action, are classified as protected nonpublic data pursuant to section 13.02, subdivision 13 in the case of data not on individuals and confidential pursuant to section 13.02, subdivision 3 in the case of data on individuals. Any agency, political subdivision or statewide system may make any data classified as confidential or protected nonpublic pursuant to this subdivision accessible to any person, agency or the public if the agency, political subdivision or statewide system determines that the access will aid the law enforcement process, promote public health or safety or dispel widespread rumor or unrest.

13.40 LIBRARY DATA.

Subdivision 1. All records collected, maintained, used or disseminated by a library operated by any state agency, political subdivision or statewide system shall be administered in accordance with the provisions of this chapter.

Subd. 2. That portion of records maintained by a library which links a library patron's name with materials requested or borrowed by the patron or which links a patron's name with a specific subject about which the patron has requested information or materials is classified as private, pursuant to section 13.02, subdivision 12, and shall not be disclosed except pursuant to a valid court order.

13.41 LICENSING DATA.

Subdivision 1. Definition. As used in this section "licensing agency" means any board, department or agency of this state which is given the statutory authority to issue professional or other types of licenses, except the various agencies primarily administered by the commissioner of public welfare. Data pertaining to persons or agencies licensed or registered under authority of the commissioner of public welfare shall be administered pursuant to section 13.46, subdivision 4.

Subd. 2. Private data. The following data collected, created or maintained by any licensing agency are classified as private, pursuant to section 13.02, subdivision 12: data, other than their names and addresses, submitted by applicants for licenses; the identity of complainants who have made reports concerning licensees or applicants which appear in inactive complaint data unless the complainant consents to having his or her name disclosed; the nature or content of unsubstantiated complaints when the information is not maintained in anticipation of legal action; the identity of patients whose medical records are received by any health licensing agency for purposes of review or in anticipation of a contested matter; inactive investigative data relating to violations of statutes or rules; and the record of any disciplinary proceeding except as limited by subdivision 4.

MINNESOTA

13.41 GOVERNMENT DATA PRACTICES

Subd. 3. **Confidential data.** The following data collected, created or maintained by any licensing agency are classified as confidential, pursuant to section 13.02, subdivision 3: active investigative data relating to the investigation of complaints against any licensee.

Subd. 4. **Public data.** Licensing agency minutes, application data on licensees, orders for hearing, findings of fact, conclusions of law and specification of the final disciplinary action contained in the record of the disciplinary action are classified as public, pursuant to section 13.02, subdivision 15. The entire record concerning the disciplinary proceeding is public data pursuant to section 13.02, subdivision 15, in those instances where there is a public hearing concerning the disciplinary action.

13.42 MEDICAL DATA.

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

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

Subd. 2. **Public hospitals; directory information.** If a person is a patient in a hospital operated by a state agency or political subdivision pursuant to legal commitment, directory information is public data. If a person is a patient other than pursuant to commitment in a hospital controlled by a state agency or political subdivision, directory information is public data unless the patient requests otherwise, in which case it is private data on individuals.

Directory information about an emergency patient who is unable to communicate which is public under this subdivision shall not be released until a reasonable effort is made to notify the next of kin. Although an individual has requested that directory information be private, the hospital may release directory information to a law enforcement agency pursuant to a lawful investigation pertaining to that individual.

Subd. 3. **Classification of medical data.** Unless the data is summary data or a statute specifically provides a different classification, medical data are private but are available only to the subject of the data as provided in section 144.335, and shall not be disclosed to others except:

- (a) Pursuant to section 13.05;
- (b) Pursuant to a valid court order;
- (c) To administer federal funds or programs;
- (d) To the surviving spouse or next of kin of a deceased patient or client;
- (e) To communicate a patient's or client's condition to a family member or other appropriate person in accordance with acceptable medical practice, unless the patient or client directs otherwise; or
- (f) As otherwise required by law.

13.43 PERSONNEL DATA.

Subdivision 1. As used in this section, "personnel data" means data on individuals collected because the individual is or was an employee of or an

applicant for employment by, performs services on a voluntary basis for, or acts as an independent contractor with a state agency, statewide system or political subdivision or is a member of an advisory board or commission.

Subd. 2. Except for employees described in subdivision 5, the following personnel data on current and former employees, volunteers and independent contractors of a state agency, statewide system or political subdivision and members of advisory boards or commissions is public: name; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; job title; job description; education and training background; previous work experience; date of first and last employment; the status of any complaints or charges against the employee, whether or not the complaint or charge resulted in a disciplinary action; and the final disposition of any disciplinary action and supporting documentation; work location; a work telephone number; badge number; honors and awards received; data which accounts for the individual's work time; and, city and county of residence.

Subd. 3. **Public employment.** Except for applicants described in subdivision 5, the following personnel data on current and former applicants for employment by a state agency, statewide system or political subdivision is public: veteran status; relevant test scores; rank on eligible list; job history; education and training; and work availability. Names of applicants shall be private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the appointing authority to be finalists for a position in public employment. For purposes of this subdivision, "finalist" means an individual who is selected to be interviewed by the appointing authority prior to selection.

Subd. 4. All other personnel data is private data on individuals, except pursuant to a valid court order.

Subd. 5. All personnel data maintained by any state agency, statewide system or political subdivision relating to an individual employed as or an applicant for employment as an undercover law enforcement officer is private data on individuals.

Subd. 6. **Access by labor organizations.** Personnel data may be disseminated to labor organizations to the extent that the responsible authority determines that the dissemination is necessary to conduct elections, notify employees of fair share fee assessments, and implement the provisions of chapter 179. Personnel data shall be disseminated to labor organizations and to the bureau of mediation services to the extent the dissemination is ordered or authorized by the director of the bureau of mediation services.

Subd. 7. **Employee assistance data.** All data created, collected or maintained by any state agency or political subdivision to administer employee assistance programs similar to the one authorized by section 16.02, subdivision 28, are classified as private, pursuant to section 13.02, subdivision 12. This section shall not be interpreted to authorize the establishment of employee assistance programs.

13.44 PROPERTY COMPLAINT DATA.

The names of individuals who register complaints with state agencies or political subdivisions concerning violations of state laws or local ordinances concerning the use of real property are classified as confidential, pursuant to section 13.02, subdivision 3.

13.45 GOVERNMENT DATA PRACTICES

13.45 SALARY BENEFIT SURVEY DATA.

Salary and personnel benefit survey data purchased from consulting firms, nonprofit corporations or associations or obtained from employers with the written understanding that the data shall not be made public which is maintained by state agencies, political subdivisions or statewide systems are classified as nonpublic pursuant to section 13.02, subdivision 9.

13.46 WELFARE DATA.

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

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

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

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

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

(a) Pursuant to section 13.05;

(b) Pursuant to a valid court order;

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

(d) To an agent of the welfare system, including appropriate law enforcement personnel, who are acting in the investigation, prosecution, criminal or civil proceeding relating to the administration of a program;

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

(f) To administer federal funds or programs; or

(g) Between personnel of the welfare system working in the same program.

Subd. 3. **Investigative data.** Data on persons including data on vendors of services, which is collected, maintained, used or disseminated by the welfare system in an investigation, authorized by statute and relating to the enforcement of rules or law, is confidential pursuant to section 13.02, subdivision 3, and shall not be disclosed except:

(a) Pursuant to section 13.05;

(b) Pursuant to statute or valid court order;

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

The data referred to in this subdivision shall be classified as public data upon its submission to a hearing examiner or court in an administrative or judicial proceeding.

Subd. 4. **Licensing data.** All data pertaining to persons licensed or registered under the authority of the commissioner of public welfare, except for personal and personal financial data submitted by applicants and licensees under the home day care program and the family foster care program, is public data. Personal and personal financial data on home day care program and family foster

care program applicants and licensees is private data pursuant to section 13.02, subdivision 12.

Subd. 5. Medical data; contracts. Data relating to the medical, psychiatric or mental health of any person, including diagnosis, progress charts, treatment received, case histories, and opinions of health care providers, which is collected, maintained, used or disseminated by a private health care provider under contract to any agency of the welfare system is private data on individuals, and is subject to the provisions of sections 13.02 to 13.07, and this section, except that the provisions of section 13.02, subdivision 5, shall not apply. Access to medical data referred to in this subdivision by the individual who is the subject of the data is subject to the provisions of section 144.335.

Subd. 6. Other data. Data collected, used, maintained or disseminated by the welfare system that is not data on individuals is public pursuant to section 13.03, except that security information as defined in section 13.37, subdivision 1, clause (a) shall be nonpublic.

DATA MAINTAINED ONLY BY POLITICAL SUBDIVISIONS

13.50 APPRAISAL DATA.

Subdivision 1. Confidential data. Estimated or appraised values of individual parcels of real property which are made by personnel of a political subdivision or by independent appraisers acting for political subdivisions for the purpose of acquiring land through purchase or condemnation are classified as confidential data on individuals pursuant to section 13.02, subdivision 3.

Subd. 2. Public data. The data made confidential by the provisions of subdivision 1 shall become public upon the occurrence of any of the following:

- (a) The negotiating parties exchange appraisals;
- (b) The data are submitted to a court appointed condemnation commissioner;
- (c) The data are presented in court in condemnation proceedings; or
- (d) The negotiating parties enter into an agreement for the purchase and sale of the property.

13.51 ASSESSOR'S DATA.

Subdivision 1. Generally. The following data collected, created and maintained by political subdivisions are classified as private, pursuant to section 13.02, subdivision 12, or nonpublic depending on the content of the specific data:

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

Subd. 2. Income property assessment data. The following data collected by political subdivisions from individuals or business entities concerning income properties are classified as private or nonpublic data pursuant to section 13.02, subdivisions 9 and 12:

- (a) Detailed income and expense figures for the current year plus the previous three years;
- (b) Average vacancy factors for the previous three years;
- (c) Verified net rentable areas or net usable areas, whichever is appropriate;
- (d) Anticipated income and expenses for the current year; and
- (e) Projected vacancy factor for the current year.

MINNESOTA

13.52 GOVERNMENT DATA PRACTICES

13.52 DEFERRED ASSESSMENT DATA.

Any data, collected by political subdivisions pursuant to section 435.193, which indicate the amount or location of cash or other valuables kept in the homes of applicants for deferred assessment, are private data pursuant to section 13.02, subdivision 12.

13.53 FOSTER CARE DATA.

The following data collected, created and maintained by a community action agency in a study of the impact of foster care policies on families are classified as confidential data, pursuant to section 13.02, subdivision 3: names of persons interviewed; foster care placement plans obtained from other public and private agencies; and all information gathered during interviews with study participants.

13.54 HOUSING AGENCY DATA.

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

Subd. 2. Confidential data. The following data on individuals maintained by the housing agency are classified as confidential data, pursuant to section 13.02, subdivision 3: correspondence between the agency and the agency's attorney containing data collected as part of an active investigation undertaken for the purpose of the commencement or defense of potential or actual litigation, including but not limited to: referrals to the office of the inspector general or other prosecuting agencies for possible prosecution for fraud; initiation of lease terminations and unlawful detainer actions; admission denial hearings concerning prospective tenants; commencement of actions against independent contractors of the agency; and tenant grievance hearings.

Subd. 3. Protected nonpublic data. The following data not on individuals maintained by the housing agency are classified as protected nonpublic data, pursuant to section 13.02, subdivision 13: correspondence between the agency and the agency's attorney containing data collected as part of an active investigation undertaken for the purpose of the commencement or defense of potential or actual litigation, including but not limited to, referrals to the office of the inspector general or other prosecuting bodies or agencies for possible prosecution for fraud and commencement of actions against independent contractors of the agency.

Subd. 4. Nonpublic data. The following data not on individuals maintained by the housing agency are classified as nonpublic data, pursuant to section 13.02, subdivision 9: all data pertaining to negotiations with property owners regarding the purchase of property. With the exception of the housing agency's evaluation of properties not purchased, all other negotiation data shall be public at the time of the closing of the property sale.

13.55 ST. PAUL CIVIC CENTER AUTHORITY DATA.

Subdivision 1. Nonpublic classification. The following data received, created or maintained by the St. Paul civic center authority are classified as nonpublic data pursuant to section 13.02, subdivision 9:

- (a) A letter or other documentation from any person who makes inquiry to the authority as to the availability of authority facilities for staging events;
- (b) Identity of firms and corporations which contact the authority;

- (c) Type of event which they wish to stage in authority facilities;
- (d) Suggested terms of rentals; and
- (e) Responses of authority staff to these inquiries.

Subd. 2. **Public data.** The data made nonpublic by the provisions of subdivision 1 shall become public upon the occurrence of any of the following:

- (a) A lease or contract is entered into between the authority and the inquiring party or parties;
- (b) The event which was the subject of inquiry does not occur; or
- (c) The event which was the subject of inquiry occurs elsewhere.

13.56 SEXUAL ASSAULT DATA.

Subdivision 1. **Definitions.** (a) "Community based program" means any office, institution, or center offering assistance to victims of sexual assault and their families through crisis intervention, medical, and legal accompaniment and subsequent counseling.

(b) "Sexual assault counselor" means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault.

(c) "Victim" means a person who consults a sexual assault counselor for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by a sexual assault.

(d) "Sexual assault communication data" means all information transmitted in confidence between a victim of sexual assault and a sexual assault counselor and all other information received by the sexual assault counselor in the course of providing assistance to the victim. The victim shall be deemed the subject of sexual assault communication data.

Subd. 2. **Classification.** All sexual assault communication data is classified as private data on individuals.

13.57 SOCIAL RECREATIONAL DATA.

The following data collected and maintained by political subdivisions for the purpose of enrolling individuals in recreational and other social programs are classified as private, pursuant to section 13.02, subdivision 12: data which describes the health or medical condition of the individual, family relationships and living arrangements of an individual or which are opinions as to the emotional makeup or behavior of an individual.

DATA MAINTAINED ONLY BY STATE AGENCIES

13.65 ATTORNEY GENERAL DATA.

Subdivision 1. **Private data.** The following data created, collected and maintained by the office of the attorney general are classified as private, pursuant to section 13.02, subdivision 12:

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

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

MINNESOTA

13.65 GOVERNMENT DATA PRACTICES

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

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

Subd. 2. **Confidential data.** The following data created, collected and maintained by the office of the attorney general are classified as confidential, pursuant to section 13.02, subdivision 3: data acquired through communications made in official confidence to members of the attorney general's staff where the public interest would suffer by disclosure of the data.

Subd. 3. **Public data.** Data describing the final disposition of disciplinary proceedings held by any state agency, board or commission are classified as public, pursuant to section 13.02, subdivision 15.

13.66 CORRECTIONS OMBUDSMAN DATA.

Subdivision 1. **Private data.** The following data maintained by the ombudsman for corrections are classified as private, pursuant to section 13.02, subdivision 12:

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

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

(c) Client index cards;

(d) Case assignment data; and

(e) Monthly closeout data.

Subd. 2. **Confidential data.** The following data maintained by the ombudsman are classified as confidential, pursuant to section 13.02, subdivision 3: the written summary of the investigation to the extent it identifies individuals.

Subd. 3. **Public data.** The following data maintained by the ombudsman are classified as public, pursuant to section 13.02, subdivision 15: client name, client location; and the inmate identification number assigned by the department of corrections.

13.67 EMPLOYEE RELATIONS DATA.

The following data collected, created or maintained by the department of employee relations are classified as nonpublic pursuant to section 13.02, subdivision 9:

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

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

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

MINNESOTA

GOVERNMENT DATA PRACTICES 13.71

13.68 ENERGY AND FINANCIAL DATA AND STATISTICS.

Subdivision 1. Energy and financial data, statistics, and information furnished to the department of energy, planning and development by a coal supplier or petroleum supplier pursuant to section 116J.17, either directly or through a federal department or agency are classified as nonpublic data as defined by section 13.02, subdivision 9.

Subd. 2. **Energy audit data.** Data contained in copies of bids, contracts, letters of agreement between utility companies and third party auditors and firms, and in utility statements or documents showing costs for employee performance of energy audits which are received by the department of energy, planning and development in order to arbitrate disputes arising from complaints concerning the award of contracts to perform energy conservation audits are classified as protected nonpublic data not on individuals as defined by section 13.02, subdivision 13.

13.69 PUBLIC SAFETY DATA.

Subdivision 1. The following data collected and maintained by the state department of public safety are classified as private, pursuant to section 13.02, subdivision 12: medical data on driving instructors, licensed drivers, and applicants for parking certificates and special license plates issued to physically handicapped persons. The following data collected and maintained by the state department of public safety are classified as confidential, pursuant to section 13.02, subdivision 3: data concerning an individual's driving ability when that data is received from a member of the individual's family.

Subd. 2. **Photographic negatives.** Photographic negatives obtained by the department of public safety in the process of issuing drivers licenses or Minnesota identification cards shall be private data on individuals pursuant to section 13.02, subdivision 12.

13.70 REVENUE DEPARTMENT DATA.

Subdivision 1. The following data created, collected and maintained by the state department of revenue are classified as protected non-public, pursuant to section 13.02, subdivision 13: criteria used in the computer processing of income tax returns to determine which returns are selected for audit; department criteria used to determine which income tax returns are selected for an in-depth audit; and department criteria and procedures for determining which accounts receivable balances below a specified amount are cancelled or written-off.

Subd. 2. **Informant data.** Names of informers, informer letters and other unsolicited data, in whatever form, furnished to the state department of revenue by a person, other than the data subject or revenue department employee, which inform that a specific taxpayer is not or may not be in compliance with the tax laws of this state are classified as confidential data pursuant to section 13.02, subdivision 3.

13.71 SURPLUS LINE INSURANCE DATA.

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

MINNESOTA

13.72 GOVERNMENT DATA PRACTICES

13.72 TRANSPORTATION DEPARTMENT DATA.

Subdivision 1. **Estimates for construction projects.** Estimates of the cost of construction projects of the Minnesota department of transportation prepared by department employees are non-public data and are not available to the public from the time of final design until the bids are opened for the project.

Subd. 2. **Rideshare data.** The following data on participants, collected by the department of transportation for the purpose of administering the rideshare program, are classified as private pursuant to section 13.02, subdivision 12: residential address and phone number; beginning and ending work hours; current mode of commuting to and from work; and type of rideshare service information requested.

13.73 WORKERS' COMPENSATION SELF-INSURANCE DATA.

Financial data relating to nonpublic companies which are submitted to the commissioner of insurance for the purpose of obtaining approval to self-insure workers' compensation liability as a group are classified as nonpublic data, pursuant to section 13.02, subdivision 9.

DATA MAINTAINED BY CRIMINAL JUSTICE AGENCIES

13.80. Domestic abuse data

All government data on individuals which is collected, created, received or maintained by police departments, sheriffs' offices or clerks of court pursuant to the domestic abuse act, section 518B.01, are classified as confidential data, pursuant to section 18.02, subdivision 8, until a temporary court order made pursuant to subdivisions 5 or 7 of section 518B.01 is executed or served upon the data subject who is the respondent to the action.

13.81. Repealed by Laws 1985, c. 298, § 45, eff. June 5, 1985

The repealed section, which related to law enforcement data, was derived from:

Laws 1984, c. 552, § 1.

Laws 1982, c. 545, § 24.

Laws 1981, c. 311, §§ 15, 89.

Laws 1981, c. 273, § 1.

St.1980, § 15.1695.

Laws 1979, c. 328, § 20.

See, now, § 13.82.

13.82. Comprehensive law enforcement data

Subdivision 1. Application. This section shall apply to agencies which carry on a law enforcement function, including but not limited to municipal police departments, county sheriff departments, fire departments, the bureau of criminal apprehension, the Minnesota state patrol, the board of peace officer standards and training, the department of commerce, and the department of labor and industry fraud investigation unit.

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

- (a) Time, date and place of the action;
- (b) Any resistance encountered by the agency;
- (c) Any pursuit engaged in by the agency;
- (d) Whether any weapons were used by the agency or other individual;
- (e) The charge, arrest or search warrants, or other legal basis for the action;
- (f) The identities of the agencies, units within the agencies and individual persons taking the action;
- (g) Whether and where the individual is being held in custody or is being incarcerated by the agency;
- (h) The date, time and legal basis for any transfer of custody and the identity of the agency or person who received custody;
- (i) The date, time and legal basis for any release from custody or incarceration;
- (j) The name, age, sex and last known address of an adult person or the age and sex of any juvenile person cited, arrested, incarcerated or otherwise substantially deprived of liberty;
- (k) Whether the agency employed wiretaps or other eavesdropping techniques, unless the release of this specific data would jeopardize an ongoing investigation;
- (l) The manner in which the agencies received the information that led to the arrest and the names of individuals who supplied the information unless the identities of those individuals qualify for protection under subdivision 10; and
- (m) Response or incident report number.

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

- (a) The nature of the request or the activity complained of;
- (b) The name and address of the individual making the request unless the identity of the individual qualifies for protection under subdivision 10;
- (c) The time and date of the request or complaint; and
- (d) The response initiated and the response or incident report number.

MINNESOTA

Subd. 3a. Audio recording of 911 call. The audio recording of a call placed to a 911 system for the purpose of requesting service from a law enforcement, fire, or medical agency is private data on individuals with respect to the individual making the call, except that a written transcript of the audio recording is public, unless it reveals the identity of an individual otherwise protected under subdivision 10. A transcript shall be prepared upon request. The person requesting the transcript shall pay the actual cost of transcribing the call, in addition to any other applicable costs provided under section 13.03, subdivision 3. The audio recording may be disseminated to law enforcement agencies for investigative purposes. The audio recording may be used for public safety and emergency medical services training purposes.

Subd. 4. Response or incident data. The following data created or collected by law enforcement agencies which documents the agency's response to a request for service including, but not limited to, responses to traffic accidents, or which describes actions taken by the agency on its own initiative shall be public government data:

- (a) date, time and place of the action;
- (b) agencies, units of agencies and individual agency personnel participating in the action unless the identities of agency personnel qualify for protection under subdivision 10;
- (c) any resistance encountered by the agency;
- (d) any pursuit engaged in by the agency;
- (e) whether any weapons were used by the agency or other individuals;
- (f) a brief factual reconstruction of events associated with the action;
- (g) names and addresses of witnesses to the agency action or the incident unless the identity of any witness qualifies for protection under subdivision 10;
- (h) names and addresses of any victims or casualties unless the identities of those individuals qualify for protection under subdivision 10;
- (i) the name and location of the health care facility to which victims or casualties were taken;
- (j) response or incident report number;
- (k) dates of birth of the parties involved in a traffic accident;
- (l) whether the parties involved were wearing seat belts; and
- (m) the alcohol concentration of each driver.

Subd. 5. Criminal investigative data. Except for the data defined in subdivisions 2, 3, and 4, investigative data collected or created by a law enforcement agency in order to prepare a case against a person, whether known or unknown, for the commission of a crime or other offense for which the agency has primary investigative responsibility is confidential or protected nonpublic while the investigation is active. Inactive investigative data is public unless the release of the data would jeopardize another ongoing investigation or would reveal the identity of individuals protected under subdivision 10. Photographs which are part of inactive investigative files and which are clearly offensive to common sensibilities are classified as private or nonpublic data, provided that the existence of the photographs shall be disclosed to any person requesting access to the inactive investigative file. An investigation becomes inactive upon the occurrence of any of the following events:

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

(b) expiration of the time to bring a charge or file a complaint under the applicable statute of limitations, or 30 years after the commission of the offense, whichever comes earliest; or

(c) exhaustion of or expiration of all rights of appeal by a person convicted on the basis of the investigative data.

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

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

any harm to the public, to the agency or to any person identified in the data. The data in dispute shall be examined by the court in camera.

Subd. 5a. Child abuse identity data. Active or inactive investigative data that identify a victim of child abuse or neglect reported under section 626.556 are private data on individuals. Active or inactive investigative data that identify a reporter of child abuse or neglect under section 626.556 are confidential data on individuals, unless the subject of the report compels disclosure under section 626.556, subdivision 11.

Subd. 5b. Inactive child abuse data. Investigative data that become inactive under subdivision 5, clause (a) or (b), and that relate to the alleged abuse or neglect of a child by a person responsible for the child's care, as defined in section 626.556, subdivision 2, are private data.

Subd. 5c. Vulnerable adult identity data. Active or inactive investigative data that identify a victim of vulnerable adult maltreatment under section 626.557 are private data on individuals. Active or inactive investigative data that identify a reporter of vulnerable adult maltreatment under section 626.557 are private data on individuals.

Subd. 5d. Inactive vulnerable adult maltreatment data. Investigative data that becomes inactive under subdivision 5, paragraph (a) or (b), and that relate to the alleged maltreatment of a vulnerable adult by a caregiver or facility are private data on individuals.

Subd. 5e. Name change data. Data on court records relating to name changes under section 259.10, subdivision 2, which is held by a law enforcement agency is confidential data on an individual while an investigation is active and is private data on an individual when the investigation becomes inactive.

MINNESOTA

Subd. 6. Access to data for crime victims. On receipt of a written request, the prosecuting authority shall release investigative data collected by a law enforcement agency to the victim of a criminal act or alleged criminal act or to the victim's legal representative unless the release to the individual subject of the data would be prohibited under section 13.391 or the prosecuting authority reasonably believes:

- (a) that the release of that data will interfere with the investigation; or
- (b) that the request is prompted by a desire on the part of the requester to engage in unlawful activities.

Subd. 7. Withholding public data. A law enforcement agency may temporarily withhold response or incident data from public access if the agency reasonably believes that public access would be likely to endanger the physical safety of an individual or cause a perpetrator to flee, evade detection or destroy evidence. In such instances, the agency shall, upon the request of any person, provide a statement which explains the necessity for its action. Any person may apply to a district court for an order requiring the agency to release the data being withheld. If the court determines that the agency's action is not reasonable, it shall order the release of the data and may award costs and

attorney's fees to the person who sought the order. The data in dispute shall be examined by the court in camera.

Subd. 8. Public benefit data. Any law enforcement agency may make any data classified as confidential or protected nonpublic pursuant to subdivision 5 accessible to any person, agency, or the public if the agency determines that the access will aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest.

Subd. 9. Public access. When data is classified as public under this section, a law enforcement agency shall not be required to make the actual physical data available to the public if it is not administratively feasible to segregate the public data from the confidential. However, the agency must make the information described as public data available to the public in a reasonable manner. When investigative data becomes inactive, as described in subdivision 5, the actual physical data associated with that investigation, including the public data, shall be available for public access.

Subd. 10. Protection of identities. A law enforcement agency or a law enforcement dispatching agency working under direction of a law enforcement agency shall withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

- (a) when access to the data would reveal the identity of an undercover law enforcement officer, as provided in section 13.43, subdivision 5;
- (b) when access to the data would reveal the identity of a victim or alleged victim of criminal sexual conduct or of a violation of section 617.246, subdivision 2;
- (c) when access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant;

MINNESOTA

(d) when access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, unless the agency reasonably determines that revealing the identity of the victim or witness would not threaten the personal safety or property of the individual;

(e) when access to the data would reveal the identity of a deceased person whose body was unlawfully removed from a cemetery in which it was interred;

(f) when access to the data would reveal the identity of a person who placed a call to a 911 system or the identity or telephone number of a service subscriber whose phone is used to place a call to the 911 system and: (1) the agency determines that revealing the identity may threaten the personal safety or property of any person; or (2) the object of the call is to receive help in a mental health emergency. For the purposes of this paragraph, a voice recording of a call placed to the 911 system is deemed to reveal the identity of the caller;

(g) when access to the data would reveal the identity of a juvenile witness and the agency reasonably determines that the subject matter of the investigation justifies protecting the identity of the witness; or

(h) when access to the data would reveal the identity of a mandated reporter under sections 626.556 and 626.557.

Data concerning individuals whose identities are protected by this subdivision are private data about those individuals. Law enforcement agencies shall establish procedures to acquire the data and make the decisions necessary to protect the identity of individuals described in clauses (c), (d), (f), and (g).

Subd. 11. Data retention. Nothing in this section shall require law enforcement agencies to create, collect or maintain data which is not required to be created, collected or maintained by any other applicable rule or statute.

Subd. 12. Data in arrest warrant indices. Data in arrest warrant indices are classified as confidential data until the defendant has been taken into custody, served with a warrant, or appears before the court, except when the law enforcement agency determines that the public purpose is served by making the information public.

Subd. 13. Property data. Data that uniquely describe stolen, lost, confiscated, or recovered property are classified as either private data on individuals or nonpublic data depending on the content of the not public data.

Subd. 14. Reward program data. To the extent that the release of program data would reveal the identity of an informant or adversely affect the integrity of the fund, financial records of a program that pays rewards to informants are protected nonpublic data in the case of data not on individuals or confidential data in the case of data on individuals.

Subd. 14a. Data on registered criminal offenders. Data described in section 243.166 shall be classified as described in that section.

Subd. 14b. Data in missing children bulletins. Data described in section 299C.54 shall be classified as described in that section.

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

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

Subd. 17. Booking photographs. (a) For purposes of this subdivision, "booking photograph" means a photograph or electronically produced image taken by law enforcement for identification purposes in connection with the arrest of a person.

(b) Except as otherwise provided in this subdivision, a booking photograph is public data. A law enforcement agency may temporarily withhold access to a

booking photograph if the agency determines that access will adversely affect an active investigation.

Subd. 18. Pawnshop data. Data that would reveal the identity of persons who are customers of a licensed pawnbroker or secondhand goods dealer are private data on individuals. Data describing the property in a regulated transaction with a licensed pawnbroker or secondhand goods dealer are public.

Amended by Laws 1984, c. 552, § 2; Laws 1985, c. 298, §§ 30 to 36, eff. June 5, 1985; Laws 1986, c. 444; Laws 1988, c. 625, § 1; Laws 1989, c. 177, § 1; Laws 1989, c. 351, §§ 12, 13; Laws 1990, c. 402, § 1; Laws 1991, c. 285, §§ 1, 2; Laws 1991, c. 319, §§ 9, 10; Laws 1993, c. 351, §§ 16 to 18; Laws 1994, c. 618, art. 1, §§ 14, 15; Laws 1994, c. 636, art. 4, § 3; Laws 1995, c. 229, art. 3, §§ 1 to 3, eff. Oct. 1, 1995; Laws 1995, c. 231, art. 2, § 2; Laws 1995, c. 259, art. 1, §§ 19 to 23; Laws 1995, c. 259, art. 4, § 3; Laws 1996, c. 440, art. 1, §§ 16, 17.

13.83. Medical examiner data

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

MINNESOTA

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

Subd. 3. Unidentified individual; public data. Whenever a county coroner or medical examiner unable during an investigation to identify a deceased individual, may release to the public any relevant data which would assist in ascertaining identity.

Subd. 4. Confidential data. Data created or collected by a county coroner or medical examiner which is part of an active investigation mandated by chapter 390, or any other general or local law relating to coroners or medical examiners is confidential data on individuals pursuant to section 13.02, subdivision 3, until the completion of the coroner's or medical examiner's final summary of findings at which point the data collected in the investigation and the final summary thereof shall become private data on individuals, except that nothing in this subdivision shall be construed to make private or confidential the data elements identified in subdivision 2 at any point in the investigation or thereafter.

Subd. 5. Private data. All other medical examiner data on deceased individuals is private pursuant to section 13.02, subdivision 12, and shall not be disclosed except pursuant to the provisions of chapter 390, or any other general or local law on county coroners or medical examiners, or pursuant to a valid court order.

Subd. 6. Other data. Unless a statute specifically provides a different classification, all other data created or collected by a county coroner or medical examiner that is not data on deceased individuals or the manner and circumstances of their death is public pursuant to section 13.03.

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

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

Subd. 9. Change in classification. Notwithstanding section 13.10, data classified as private or confidential by this section shall be classified as public 30 years after the date of death of the decedent.

Amended by Laws 1985, c. 298, § 37, eff. June 5, 1985; Laws 1986, c. 444; Laws 1987, c. 49, § 1.

13.84. Court services data

Subdivision 1. Definition. As used in this section "court services data" means data that are created, collected, used or maintained by a court services department, parole or probation authority, correctional agency, or by an agent designated by the court to perform studies or other duties and that are on individuals who are or were defendants, parolees or probationers of a municipal, district or county court, participants in diversion programs, petitioners or respondents to a family court, or juveniles adjudicated delinquent and committed, detained prior to a court hearing or hearings, or found to be dependent or neglected and placed under the supervision of the court.

Subd. 2. General. Unless the data is summary data or a statute, including sections 609.115 and 257.70, specifically provides a different classification, the following court services data are classified as private pursuant to section 13.02, subdivision 12:

(a) Court services data on individuals gathered at the request of a municipal, district or county court to determine the need for any treatment, rehabilitation, counseling, or any other need of a defendant, parolee, probationer, or participant in a diversion program, and used by the court to assist in assigning an appropriate sentence or other disposition in a case;

(b) Court services data on petitioners or respondents to a family court gathered at the request of the court for purposes of, but not limited to, individual, family, marriage, chemical dependency and marriage dissolution adjustment counseling, including recommendations to the court as to the custody of minor children in marriage dissolution cases;

(c) Court services data on individuals gathered by psychologists in the course of providing the court or its staff with psychological evaluations or in the course of counseling individual clients referred by the court for the purpose of assisting them with personal conflicts or difficulties.

Subd. 3. Third party information. Whenever, in the course of gathering the private data specified above, a psychologist, probation officer or other agent of the court is directed by the court to obtain data on individual defendants, parolees, probationers, or petitioners or respondents in a family court, and the source of that data provides the data only upon the condition of its being held confidential, that data and the identity of the source shall be confidential data on individuals, pursuant to section 13.02, subdivision 3.

Subd. 4. Probation data. Progress reports and other reports and recommendations provided at the request of the court by parole or probation officers for the purpose of determining the appropriate legal action or disposition regarding an individual on probation are confidential data on individuals.

Subd. 5. Disclosure. Private or confidential court services data shall not be disclosed except:

(a) Pursuant to section 13.05;

MINNESOTA

- (b) Pursuant to a statute specifically authorizing disclosure of court services data;
- (c) With the written permission of the source of confidential data;
- (d) To the court services department, parole or probation authority or correctional agency having statutorily granted supervision over the individual subject of the data; or
- (e) Pursuant to a valid court order.

Subd. 6. Public data. The following court services data on adult individuals is public:

- (a) name, age, sex, occupation and the fact that an individual is a parolee, probationer or participant in a diversion program, and if so, at what location;
- (b) the offense for which the individual was placed under supervision;
- (c) the dates supervision began and ended and the duration of supervision;
- (d) court services data which was public in a court or other agency which originated the data;
- (e) arrest and detention orders, orders for parole or probation revocation and the reasons for revocation;
- (f) the conditions of parole, probation or participation and the extent to which those conditions have been or are being met;
- (g) identities of agencies, units within agencies and individuals providing supervision; and
- (h) the legal basis for any change in supervision and the date, time and locations associated with the change.

Subd. 7. Limitation. Nothing in this section shall limit public access to data made public by section 13.82.

Amended by Laws 1985, c. 298, §§ 88, 89, eff. June 5, 1985.

13.85. Corrections and detention data

Subdivision 1. Definition. As used in this section, "corrections and detention data" means data on individuals created, collected, used or maintained because of their lawful confinement or detainment in state reformatories, prisons and correctional facilities, municipal or county jails, lockups, work houses, work farms and all other correctional and detention facilities.

Subd. 2. Private data. Unless the data are summary data or arrest data, or a statute specifically provides a different classification, corrections and detention data on individuals are classified as private pursuant to section 13.02, subdivision 12, to the extent that the release of the data would either (a) disclose personal, medical, psychological, or financial information or (b) endanger an individual's life.

Subd. 3. Confidential data. Corrections and detention data are confidential, pursuant to section 13.02, subdivision 3, to the extent that release of the data would: (a) endanger an individual's life, (b) endanger the effectiveness of an investigation authorized

MINNESOTA

by statute and relating to the enforcement of rules or law, (c) identify a confidential informant, or (d) clearly endanger the security of any institution or its population.

Subd. 4. Public data. After any presentation to a court, any data made private or confidential by this section shall be public to the extent reflected in court records.

13.86. Investigative detention data

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

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

- (a) Pursuant to section 13.05 or any other statute;
- (b) Pursuant to a valid court order; or
- (c) To a party named in a civil or criminal proceeding, whether administrative or judicial, to the extent required by the relevant rules of civil or criminal procedure.

13.87 CRIMINAL HISTORY DATA.

[For text of subd 1, see M.S.1992]

Subd. 2. Classification. Criminal history data maintained by agencies, political subdivisions and statewide systems are classified as private, pursuant to section 13.02, subdivision 12, except that data created, collected, or maintained by the bureau of criminal apprehension that identify an individual who was convicted of a crime and the offense of which the individual was convicted are public data for 15 years following the discharge of the sentence imposed for the offense.

The bureau of criminal apprehension shall provide to the public at the central office of the bureau the ability to inspect in person, at no charge, through a computer monitor the criminal conviction data classified as public under this subdivision.

13.88. Community dispute resolution center data

The guidelines shall provide that all files relating to a case in a community dispute resolution program are to be classified as private data on individuals, pursuant to section 13.02, subdivision 12, with the following exceptions:

- (1) When a party to the case has been formally charged with a criminal offense, the data are to be classified as public data on individuals, pursuant to section 13.02, subdivision 15.

(2) Data relating to suspected neglect or physical or sexual abuse of children or vulnerable adults are to be subject to the reporting requirements of sections 626.556 and 626.557.

13.89. Dissemination of data to protection and advocacy systems

Subdivision 1. Mental retardation. Data on clients and residents of facilities licensed pursuant to sections 144.50 to 144.58, 245.781 to 245.812, and 252.28, subdivision 2, may be disseminated to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if:

(1) the protection and advocacy system receives a complaint by or on behalf of that person; and

(2) the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person.

Subd. 2. Mental illness or emotional impairment. Data on an individual who has significant mental illness or emotional impairment and who is an inpatient or resident in a facility rendering care or treatment may be disseminated to the protection and advocacy system established in this state pursuant to Public Law Number 99-319¹ to protect the rights of mentally ill individuals if:

(1) the protection and advocacy system receives a complaint by or on behalf of the person or there is probable cause to believe that the person has been subjected to abuse or neglect, as defined in Public Law Number 99-319;¹

(2) the person is by reason of a mental or physical condition unable to authorize the system to have access to data; and

(3) the person does not have a legal guardian or the state is the legal guardian of the person.

Laws 1985, c. 298, § 42, eff. June 5, 1985. Amended by Laws 1987, c. 236, § 1.

¹ 42 U.S.C.A. § 10802.

13.90. - Government data practices

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

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

Laws 1985, c. 298, § 44, eff. June 5, 1985. Amended by Laws 1986, 1st Sp., c. 3, art. 1, § 82.

14.63. Application

Any person aggrieved by a final decision in a contested case is entitled to judicial review of the decision under the provisions of sections 14.63 to 14.68, but nothing in sections 14.63 to 14.68 shall be deemed to prevent resort to other means of review, redress, relief, or trial de novo provided by law. A petition for a writ of certiorari by an aggrieved person for judicial review under sections 14.63 to 14.68 must be filed with the court of appeals and

served on the agency not more than 30 days after the party receives the final decision and order of the agency.

Amended by Laws 1983, c. 247, § 9, eff. Aug. 1, 1983.

14.64. Petition; service

Proceedings for review under sections 14.63 to 14.68 shall be instituted by serving a petition for a writ of certiorari personally or by certified mail upon the agency and by promptly filing the proof of service in the office of the clerk of the appellate courts and the matter shall proceed in the manner provided by the rules of civil appellate procedure.

If a request for reconsideration is made within ten days after the decision and order of the agency, the 30-day period provided in section 14.63 shall not begin to run until service of the order finally disposing of the application for reconsideration. Nothing herein shall be construed as requiring that an application for reconsideration be filed with and disposed of by the agency as a prerequisite to the institution of a review proceeding under sections 14.63 to 14.68.

Copies of the writ shall be served, personally or by certified mail, upon all parties to the proceeding before the agency in the proceeding in which the order sought to be reviewed was made. For the purpose of service, the agency upon request shall certify to the petitioner the names and addresses of all parties as disclosed by its records. The agency's certification shall be conclusive. The agency and all parties to the proceeding before it shall have the right to participate in the proceedings for review. A copy of the petition shall be provided to the attorney general at the time of service of the parties.

14.65. Stay of decision; stay of other appeals

The filing of the writ of certiorari shall not stay the enforcement of the agency decision; but the agency may do so, or the court of appeals may order a stay upon such terms as it deems proper. When review of or an appeal from a final decision is commenced under sections 14.63 to 14.68 in the court of appeals, any other later appeal under sections 14.63 to 14.68 from the final decision involving the same subject matter shall be stayed until final decision of the first appeal.

Amended by Laws 1983, c. 247, § 11, eff. Aug. 1, 1983.

14.66. Transmittal of record

Within 30 days after service of the writ of certiorari, or within any further time as the court allows, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

14.67. New evidence, hearing by agency

If, before the date set for hearing, application is made to the court of appeals for leave to present additional evidence on the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon such conditions as the court deems proper. The agency may modify its findings and decision by reason of the additional evidence and shall file with the reviewing court, to become a part of the record, the additional evidence, together with any modifications or new findings or decision.

14.68. Procedure on review

The review shall be confined to the record, except that in cases of alleged irregularities in procedure, not shown in the record, the court of appeals may transfer the case to the district court for the county in which the agency has its principal office or the county in which the contested case hearing was held. The district court shall have jurisdiction to take testimony and to hear and determine the alleged irregularities in procedure. Appeal from the district court determination may be taken to the court of appeals as in other civil cases.

14.69. Scope of judicial review

In a judicial review under sections 14.63 to 14.68, the court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative finding, inferences, conclusion, or decisions are:

- (a) In violation of constitutional provisions; or
- (b) In excess of the statutory authority or jurisdiction of the agency; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Unsupported by substantial evidence in view of the entire record as submitted; or
- (f) Arbitrary or capricious.

CHAPTER 13. APPENDIX

INTERIM RULES ON ACCESS TO PUBLIC RECORDS

**Adopted October 2, 1985
Effective November 1, 1985**

Rule

1. Scope of Rules.
2. Policy.
3. Definitions.
4. Manner of Making Request.

Rule

5. Response.
6. Inspection and Photocopying.
7. Appeal to State Court Administrator in Certain Cases.

ORDER PROMULGATING INTERIM RULES ON ACCESS TO PUBLIC RECORDS

WHEREAS, the Minnesota Supreme Court has the inherent power and statutory authority pursuant to Laws 1985, Chapter 298, to promulgate rules governing access to public records maintained by the judicial branch of the State of Minnesota;

NOW, THEREFORE, IT IS HEREBY ORDERED that the attached Interim Rules on Access to Public Records be, and the same hereby are, adopted for the regulation of access to data maintained by the judicial branch of the State of Minnesota, effective November 1, 1985.

IT IS HEREBY FURTHER ORDERED that there is established an Advisory Committee on Rules on Access to Public Records, to be appointed by this Court, to study the operation of the interim rules and to make recommendations to this Court concerning the need for their revision.

Dated: October 2, 1985

BY THE COURT

/s/DOUGLAS K. AMDAHL
CHIEF JUSTICE
MINNESOTA SUPREME COURT

INTERIM RULES ON ACCESS TO PUBLIC RECORDS

RULE 1. SCOPE OF RULES

These rules govern public access to public records maintained by the judicial branch of the State of Minnesota.

RULE 2. POLICY

All public records within the judicial branch shall be open to inspection by any member of the public at all times during the regular office hours maintained by the custodian of those records.

RULE 3. DEFINITIONS

Subdivision 1. When used in these rules, the words listed below have the meanings given them.

Subd. 2. "Public records" mean any recorded information, regardless of its physical form, storage media or conditions of use, that is collected, created, received, maintained, or disseminated by any component of the judicial branch, except:

(a) records maintained by a court administrator pursuant to the domestic abuse act, Minnesota Statutes, Section 518B.01, until a temporary court order made pursuant to subdivision 5 or 7 of Section 518B.01 is executed or served upon the record subject who is the respondent to the action;

(b) records on individuals maintained by a judicial branch court services department or probation authority, that are:

(i) gathered at the request of a municipal, district, or county court to determine the need for any treatment, rehabilitation, counseling, or any other need of a defendant, parolee, probationer, or participant in a diversion program, and used by the court to assist in assigning an appropriate sentence or other disposition in a case; or

(ii) gathered at the request of a family court for purposes of, but not limited to, individual, family, marriage, chemical dependency and marriage dissolution adjustment counseling, including recommendations to the court as to the custody of minor children in marriage dissolution cases; or

(iii) gathered by psychologists in the course of providing the court or its staff with psychological evaluations or in the course of counseling individual clients referred by the court for the purpose of assisting them with personal conflicts or difficulties;

Provided, however, that the following information on adult individuals is public: name, age, sex, occupation, and the fact that an individual is a parolee, probationer, or participant in a diversion program, and if so, at what location; the offense for which the individual was placed under supervision; the dates supervision began and ended and the duration of supervision; information which was public in a court or other agency which originated the data; arrest and detention orders; orders for parole, probation or participation and the extent to which those conditions have been or are being met; identifiers of agencies, units within agencies and individuals providing supervision; and the legal basis for any change in supervision and the date, time and locations associated with the change.

(c) records on individuals collected because the individual is or was an employee of, performs services on a voluntary basis for, or acts as an independent contractor with the judicial branch, provided, however, that the following information is public: name; actual gross salary; salary range; contract fees, actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; job title; job description; education and training background; previous work experience; date of first and last employment; the status of any complaints or charges against the employee, whether or not the complaint or charge resulted in a disciplinary action; the final disposition of any disciplinary action and supporting documentation; work location; a work telephone number; honors and awards received; payroll time sheets or other comparable data, that are only used to account for employee's work time for payroll purposes, to the extent that they do not reveal the employee's reasons for the use of sick or other medical leave or other information that is not public;

(d) records on individuals collected because the individual is or was an applicant for employment with the judicial branch, provided, however, that the following information is public: veteran status; relevant test scores; rank on eligible list; job history; education and training; work availability; and, after the applicant has been certified by the appointing authority to be a finalist for a position in public employment, the name of the applicant;

(e) correspondence between individuals and justices or judges;

(f) memoranda, notes, or preliminary drafts prepared by or under the direction of any justice, judge, referee, judicial officer, board member, or commissioner within the judicial branch that relate to the adjudication, resolution, or disposition of any past, present, or future case, controversy, or legal issue;

(g) the work product of any attorney or law clerk employed by or representing the judicial branch that is produced in the regular course of business or representation of the judicial branch;

(h) information collected by the judicial branch as part of an active investigation undertaken for the purpose of the commencement or defense of a pending civil legal action, or which is retained in anticipation of a pending civil legal action;

(i) schedules and related records, other than court orders regarding assignments of justices, judges, referees and judicial officers, the public disclosure of which would affect the orderly and effective administration of justice;

(j) records that have not been filed with the court administrator, admitted into evidence, or otherwise made a part of a civil or criminal case, the disclosure of which would be likely to substantially jeopardize the security of information, possessions, individuals, or property against theft, tampering, improper use, illegal disclosure, trespass, or physical injury;

(k) records, including a formula, pattern, compilation, program, device, method, technique or process that was supplied by the judicial branch, that is the subject of efforts by the judicial branch that are reasonable under the circumstances to maintain its secrecy, and that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use;

(l) computer programs and related components of a program for which the judicial branch has acquired a patent or copyright;

(m) records maintained by the State Judicial Information System and the Trial Court Information System for purposes of compliance with Minnesota Statutes, Section 542.27;

(n) records maintained by a library operated by the judicial branch, which links a patron's name with materials requested or borrowed by the patron or which links a patron's name with a specific subject about which the patron has requested information or materials;

(o) all records of the office of the Board of Law Examiners except the names of applicants admitted to practice and information ordered to be released by the Supreme Court pursuant to the Rules for Admission to the Bar, or by other order;

(p) information reported by lawyers to the Supreme Court or the Lawyers Trust Account Board for purposes of compliance with Rule 1.15 of the Minnesota Rules of Professional Conduct;

(q) passport applications and accompanying documents received by court administrators, and lists of applications that have been transmitted to the United States Passport Office;

(r) matters that are made inaccessible to the public pursuant to:

(i) state statute, other than Minnesota Statutes, Chapter 13; or

(ii) federal law; or

(iii) rules promulgated by the Minnesota Supreme Court regarding judicial or administrative proceedings, including but not limited to, rules governing the Lawyers Professional Responsibility Board, the Board of Judicial Standards, and the Board of Continuing Legal Education;

(s) any other records determined by order of the Supreme Court to be inaccessible to the public.

If a request is made for information which is not maintained in tangible form by the judicial branch in the regular course of business, the request shall be considered a request for information rather than a request to inspect a public record, and is not subject to the provisions of these rules.

Subd. 3. "Court administrator" means the court administrator pursuant to Laws 1985, Chapter 273, or the clerk of the appellate courts pursuant to Rule 101.02, subdivision 5 of the Minnesota Rules of Civil Appellate Procedure.

Subd. 4. "Judicial district administrator" means the district administrator pursuant to Minnesota Statutes, Section 484.68.

Subd. 5. "State court administrator" means the court administrator pursuant to Minnesota Statutes, Section 480.13.

Order of Supreme Court of Minnesota In Re Inaccessibility of Sealed Bids.

WHEREAS, the state court administrator's office has adopted a competitive bidding process for the service, purchase, and lease of micro processor computer systems to be installed at various judicial offices including appellate courts, trial courts, judicial district administration and court administration offices throughout the state, and

WHEREAS, the integrity of the bidding process requires that all sealed bids remain sealed until the time specified in the bid request for opening the bids, and

WHEREAS, sound public policy, reflected in Minn.Stat. § 13.37, requires that bona fide trade secrets, including but not limited to customer lists, that are submitted pursuant to a bid request remain unavailable to the public.

NOW, THEREFORE, pursuant to Rule 3, subdivision 2(s) of the Interim Rules on Access to Public Records, and by virtue of and under the inherent power and statutory authority of the

Minnesota Supreme Court to regulate access to public records maintained by the judicial branch, IT IS HEREBY ORDERED that the following provisions apply to records submitted in response to a judicial branch bid request:

1. Sealed bids, including the number of bids received, shall be inaccessible to the public prior to the opening of the bids at the time specified in the bid request.

2. A common law trade secret or a trade secret as defined in Minn.Stat. § 325C.01, that is required to be submitted pursuant to a judicial branch bid request, shall be inaccessible to the public provided that:

a. the bidder marks the document(s) containing the trade secret "CONFIDENTIAL;"

b. the bidder submits as part of the bid a written request to maintain confidentiality; and

c. the trade secret information is not publicly available, already in the possession of the judicial branch, or known to or obtained by the judicial branch from third parties.

Dated: March 25, 1987

BY THE COURT:

/s/DOUGLAS K. AMDAHL
Chief Justice

RULE 4. MANNER OF MAKING REQUEST

Subdivision 1. Custodian of Records. A request to inspect or to obtain copies of public records shall be made to the custodian of those records. The court administrator is the custodian of records of judicial proceedings within the court where the records are located, vital statistics records, and drivers license and permit application records. The judicial district administrator is the custodian of administrative records for the judicial district in which the records are located. The state court administrator is the custodian of records relating to overall administration of the courts of the State of Minnesota. The state law librarian is the custodian of the records of the State Law Library. The custodian of the records maintained by any board, commission, or committee shall be the individual designated by the board, commission, or committee. The custodian of the records of any other office shall be the individual designated by the appointing authority or, if the office is an elective office, the individual occupying the office.

Subd. 2. Designee. The custodian may appoint one or more designees to respond to inspection and copy requests.

Subd. 3. Form of Request.

(a) A request to inspect or obtain copies of public records shall be made in writing to the custodian of the records unless otherwise allowed by the custodian.

(b) A written request to inspect or obtain copies of administrative records shall include:

(i) the name, mailing address, and telephone number of the requesting person;

(ii) the specific documents which the person wishes to inspect or to have copied;

(c) A request to inspect or obtain copies of records other than administrative records shall be made in the manner designated by the custodian of the records.

RULE 5. RESPONSE

Subdivision 1. The custodian shall acknowledge the request orally or in writing no later than five working days after the request is made. The response shall indicate whether the records are public, and if so, when and where inspection may take place or copies may be obtained. The custodian must inform the requestor that the records will be available for inspection in no fewer than five working days.

Subd. 2. If the custodian determines the records can be made available for inspection or can be copied without unreasonable disruption to ongoing court or administrative activities, inspection or copying shall take place within five working days after the custodian receives the request.

Subd. 3. If the custodian determines the records cannot be made available for inspection or cannot be copied within five days after the custodian receives the request, the custodian shall notify the requestor of when and where inspection may take place or when and where copies will be provided, and shall inform the requestor of the reasons for the delay. Inspection must be permitted or copies provided within a reasonable time from the date of the request.

Subd. 4. If the records do not exist, the response shall so indicate.

Subd. 5. If the request does not provide sufficient information to locate the records, the request shall be returned, and the requestor notified.

Subd. 6. If access to the records is not permitted under these Rules, the response shall indicate the statute, federal law, or court or administrative rule that is the basis for denial of the inspection request.

Subd. 7. If either the court administrator or judicial district administrator, as custodian, cannot determine whether access to records of judicial proceedings or administrative records is permitted, the response shall state that the inspection request has been referred to the office of the state court administrator for determination. A response from the state court administrator shall be forwarded to the custodian or the person making the request no later than five working days after the state court administrator receives the referral.

Subd. 8. If the custodian determines that the number of records requested is so great that inspection or reproduction would create an unreasonable disruption to ongoing court or administrative activities, the custodian may require that the request be limited, or the custodian may limit the request.

Subd. 9. If the person making the request does not inspect or obtain the copies of the records during the time period permitted by the custodian, the request shall be deemed withdrawn, but may be renewed.

RULE 6. INSPECTION AND PHOTOCOPYING

Subdivision 1. Priority of Ongoing Court or Administrative Activities. Inspection and copying shall be conducted in a manner which will not disrupt ongoing court or administrative activities.

Subd. 2. Access to Original Records. The requesting person shall be allowed to inspect or to obtain copies of original versions of public records in the place where such records are normally kept, during regular working hours. However, if access to the original records would result in disclosure of information to which access is not permitted, jeopardize the security of the records, or prove otherwise impractical, copies, edited copies, reasonable facsimiles or other appropriate formats may be produced for inspection. Unless expressly allowed by the custodian, records shall not be removed from the area where they are normally kept.

Subd. 3. Fees. Before providing copies, the custodian may require payment of the copying fee established by law or court rule. When a request involves any person's receipt of public information that has commercial value and is an entire formula, pattern, compilation, program, device, method, technique, process, data base, or system developed with a significant expenditure of public funds by the judicial branch, the custodian may charge a reasonable fee for the information in addition to costs of making, certifying, and compiling the copies. The custodian may grant a person's request to permit the person to make copies, and may specify the condition under which this copying will be permitted.

RULE 7. APPEAL TO STATE COURT ADMINISTRATOR IN CERTAIN CASES

A denial of or limitation upon a request to inspect public administrative records or public records of judicial proceedings may be appealed in writing to the state court administrator, and a written response will be sent to the requesting person no later than five working days after the state court administrator receives the appeal.

MINNESOTA

Chapter 152

Prohibited Drugs

152.18. Discharge and dismissal

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 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 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 person and discharge the person from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against that person. Discharge and dismissal hereunder shall be without court adjudication of guilt, but a nonpublic record thereof 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 person. The court shall forward a record of any discharge and dismissal hereunder to the department of public safety who shall make and maintain the nonpublic record thereof as hereinbefore provided. Such 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.

Subd. 2. Upon the dismissal of such person and discharge of the proceedings against him pursuant to subdivision 1, such person may apply to the district court in which the trial was had for an order to expunge from all official records, other than the nonpublic record retained by the department of public safety pursuant to subdivision 1, all recordation relating to arrest, indictment or information, trial and dismissal and discharge pursuant to subdivision 1. If the court determines, after hearing, that such person was discharged and the proceedings against him dismissed, it shall enter such order. The effect of the order shall be to restore the person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such an order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made for him for any purpose.

Subd. 3. Any person who has been found guilty of a violation of section 152.09 with respect to a small amount of marijuana which violation occurred prior to April 11, 1976, and whose conviction would have been a petty misdemeanor under the provisions of section 152.15, subdivision 2, clause (5) in effect on April 11, 1976, but whose conviction was for an offense more serious than a petty misdemeanor under laws in effect prior to April 11, 1976, may petition the court in which he was convicted to expunge from all official records, other than the nonpublic record retained by the department of public safety pursuant to section 152.15, subdivision 2, clause (5), all recordation relating to his arrest, indictment or information, trial and conviction of an offense more serious than a petty misdemeanor. The court, upon being satisfied that a small amount was involved in the conviction, shall order all the recordation expunged. No person as to whom an order has been entered pursuant to this subdivision shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge conviction of an offense greater than a petty misdemeanor, unless possession of marijuana is material to a proceeding.

MINNESOTA

242.31. Restoration of civil rights; possession of firearms

Subdivision 1. Whenever a person who has been committed to the custody of the commissioner of corrections upon conviction of a crime following certification 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. The commissioner shall file a copy of the order with the district court of the county in which the conviction occurred.

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 of it, is discharged from probation, the court shall issue an order of discharge pursuant to subdivision 2a and section 609.165.

This order restores the defendant to civil rights.

Subd. 2a. **Crimes of violence; ineligibility to possess firearms.** The order of discharge must provide that a person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, is not entitled to ship, transport, possess, or receive a firearm until ten years have elapsed since the person was restored to civil rights and during that time the person was not convicted of any other crime of violence. Any person who has received such a discharge 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.

Subd. 3. Repealed by Laws 1996, c. 408, art. 9, § 10.

Amended by Laws 1992, c. 569, § 14, eff. Oct. 1, 1992; Laws 1994, c. 576, § 3; Laws 1995, c. 226, art. 3, § 14; Laws 1996, c. 408, art. 9, §§ 3, 4.

260.161 RECORDS.

Subdivision 1. Records required to be kept. (a) The juvenile court judge shall keep such minutes and in such manner as the court deems necessary and proper. Except as provided in paragraph (b), the court shall keep and maintain records pertaining to delinquent adjudications until the person reaches the age of 23 years and shall release the records on an individual to another juvenile court that has jurisdiction of the juvenile, to a requesting adult court for purposes of sentencing, or to an adult court or juvenile court as required by the right of confrontation of either the United States Constitution or the Minnesota Constitution. The juvenile court shall provide, upon the request of any other juvenile court, copies of the records concerning adjudications involving the particular child. The court shall also keep an index in which files pertaining to juvenile matters shall be indexed under the name of the child. After the name of each file shall be shown the file number and, if ordered by the court, the book and page of the register in which the documents pertaining to such file are listed. The court shall also keep a register properly indexed in which shall be listed under the name of the child all documents filed pertaining to the child and in the order filed. The list shall show the name of the document and the date of filing thereof. The juvenile court legal records shall be deposited in files and shall include the petition, summons, notice, findings, orders, decrees, judgments, and motions and such other matters as the court deems necessary and proper. Unless otherwise provided by law, all court records shall be open at all reasonable times to the inspection of any child to whom the records relate, and to the child's parent and guardian.

(b) The court shall retain records of the court finding that a juvenile committed an act that would be a violation of, or an attempt to violate, section 609.342, 609.343, 609.344, or 609.345, until the offender reaches the age of 25. If the offender commits another violation of sections 609.342 to 609.345 as an adult, the court shall retain the juvenile records for as long as the records would have been retained if the offender had been an adult at the time of the juvenile offense. This paragraph does not apply unless the juvenile was represented by an attorney when the petition was admitted or proven.

[For text of subs 1a and 2, see M.S.1992]

Subd. 3. Peace officer records of children. (a) Except for records relating to an offense where proceedings are public under section 260.155, subdivision 1, peace officers' records of children who are or may be delinquent or who may be engaged in criminal acts shall be kept separate from records of persons 18 years of age or older and are private data but shall be disseminated: (1) by order of the juvenile court, (2) as required by section 126.036, (3) as authorized under section 13.82, subdivision 2, (4) to the child or the child's parent or guardian unless disclosure of a record would interfere with an

ongoing investigation, or (5) as provided in paragraph (d). Except as provided in paragraph (c), no photographs of a child taken into custody may be taken without the consent of the juvenile court unless the child is alleged to have violated section 169.121 or 169.129. Peace officers' records containing data about children who are victims of crimes or witnesses to crimes must be administered consistent with section 13.82, subdivisions 2, 3, 4, and 10. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

In the case of computerized records maintained about juveniles by peace officers, the requirement of this subdivision that records about juveniles must be kept separate from adult records does not mean that a law enforcement agency must keep its records concerning juveniles on a separate computer system. Law enforcement agencies may keep juvenile records on the same computer as adult records and may use a common index to access both juvenile and adult records so long as the agency has in place procedures that keep juvenile records in a separate place in computer storage and that comply with the special data retention and other requirements associated with protecting data on juveniles.

(b) Nothing in this subdivision prohibits the exchange of information by law enforcement agencies if the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing a criminal investigation.

MINNESOTA

(c) A photograph may be taken of a child taken into custody pursuant to section 260.165, subdivision 1, clause (b), provided that the photograph must be destroyed when the child reaches the age of 19 years. The commissioner of corrections may photograph juveniles whose legal custody is transferred to the commissioner. Photographs of juveniles authorized by this paragraph may be used only for institution management purposes, case supervision by parole agents, and to assist law enforcement agencies to apprehend juvenile offenders. The commissioner shall maintain photographs of juveniles in the same manner as juvenile court records and names under this section.

(d) Traffic investigation reports are open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident. Identifying information on juveniles who are parties to traffic accidents may be disclosed as authorized under section 13.82, subdivision 4, and accident reports required under section 169.09 may be released under section 169.09, subdivision 13, unless the information would identify a juvenile who was taken into custody or who is suspected of committing an offense that would be a crime if committed by an adult, or would associate a juvenile with the offense, and the offense is not a minor traffic offense under section 260.193.

CHAPTER 364. CRIMINAL OFFENDERS, REHABILITATION

Section	Section
364.01. Policy.	364.06. Violations, procedure.
364.02. Definitions.	364.07. Application.
364.03. Relation of conviction to employment or occupation.	364.08. Practice of law; exception.
364.04. Availability of records.	364.09. Exceptions.
364.05. Notification upon denial of employment or disqualification from occupation.	364.10. Violation of civil rights.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

364.01. Policy

The legislature declares that it is the policy of the state of Minnesota to encourage and contribute to the rehabilitation of criminal offenders and to assist them in the resumption of the responsibilities of citizenship. The opportunity to secure employment or to pursue, practice, or engage in a meaningful and profitable trade, occupation, vocation, profession or business is essential to rehabilitation and the resumption of the responsibilities of citizenship.

Laws 1974, c. 298, § 1.

364.02. Definitions

Subdivision 1. For the purposes of sections 364.01 to 364.10, the terms defined in this section have the meanings given them.

Subd. 2. "Occupation" includes all occupations, trades, vocations, professions, businesses, or employment of any kind for which a license is required to be issued by the state of Minnesota, its agencies, or political subdivisions.

Subd. 3. "License" includes all licenses, permits, certificates, registrations, or other means required to engage in an occupation which are granted or issued by the state of Minnesota, its agents or political subdivisions before a person can pursue, practice, or engage in any occupation.

Subd. 4. "Public employment" includes all employment with the state of Minnesota, its agencies, or political subdivisions.

Subd. 5. "Conviction of crime or crimes" shall be limited to convictions of felonies, gross misdemeanors, and misdemeanors for which a jail sentence may be imposed. No other criminal conviction shall be considered.

Subd. 6. "Hiring or licensing authority" shall mean the person, board, commission, or department of the state of Minnesota, its agencies or political subdivisions, responsible by law for the hiring of persons for public employment or the licensing of persons for occupations.

Laws 1974, c. 298, § 2.

364.03. Relation of conviction to employment or occupation

Subdivision 1. Notwithstanding any other provision of law to the contrary, no person shall be disqualified from public employment, nor shall a person be disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior conviction of a crime or crimes, unless the crime or crimes for which convicted directly relate to the position of employment sought or the occupation for which the license is sought.

Subd. 2. In determining if a conviction directly relates to the position of public employment sought or the occupation for which the license is sought, the hiring or licensing authority shall consider:

(a) The nature and seriousness of the crime or crimes for which the individual was convicted;

(b) The relationship of the crime or crimes to the purposes of regulating the position of public employment sought or the occupation for which the license is sought;

(c) The relationship of the crime or crimes to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment or occupation.

Subd. 3. A person who has been convicted of a crime or crimes which directly relate to the public employment sought or to the occupation for which a license is sought shall not be disqualified from the employment or occupation if the person can show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the public employment sought or the occupation for which the license is sought. Sufficient evidence of rehabilitation may be established by the production of:

(a) A copy of the local, state, or federal release order; and

(b) Evidence showing that at least one year has elapsed since release from any local, state, or federal correctional institution without subsequent conviction of a crime; and evidence showing compliance with all terms and conditions of probation or parole; or

(c) A copy of the relevant department of corrections discharge order or other documents showing completion of probation or parole supervision.

In addition to the documentary evidence presented, the licensing or hiring authority shall consider any evidence presented by the applicant regarding:

(1) The nature and seriousness of the crime or crimes for which convicted;

(2) All circumstances relative to the crime or crimes, including mitigating circumstances or social conditions surrounding the commission of the crime or crimes;

(3) The age of the person at the time the crime or crimes were committed;

(4) The length of time elapsed since the crime or crimes were committed; and

(5) All other competent evidence of rehabilitation and present fitness presented, including, but not limited to, letters of reference by persons who have been in contact with the applicant since the applicant's release from any local, state, or federal correctional institution.

Laws 1974, c. 298, § 3. Amended by Laws 1986, c. 444.

304.04. Availability of records

The following criminal records shall not be used, distributed, or disseminated by the state of Minnesota, its agents or political subdivisions in connection with any application for public employment nor in connection with an application for a license:

(1) Records of arrest not followed by a valid conviction.

(2) Convictions which have been, pursuant to law, annulled or expunged.

(3) Misdemeanor convictions for which no jail sentence can be imposed.

Laws 1974, c. 298, § 4.

364.05. Notification upon denial of employment or disqualification from occupation

If a hiring or licensing authority denies an individual a position of public employment or disqualifies the individual from pursuing, practicing, or engaging in any occupation for which a license is required, solely or in part because of the individual's prior conviction of a crime, the hiring or licensing authority shall notify the individual in writing of the following:

- (1) The grounds and reasons for the denial or disqualification;
- (2) The applicable complaint and grievance procedure as set forth in section 364.06;
- (3) The earliest date the person may re-apply for a position of public employment or a license; and
- (4) That all competent evidence of rehabilitation presented will be considered upon re-application.

Laws 1974, c. 298, § 5.

364.06. Violations, procedure

Any complaints or grievances concerning violations of sections 364.01 to 364.10 shall be processed and adjudicated in accordance with the procedures set forth in chapter 14, the administrative procedure act.

Laws 1974, c. 298, § 6. Amended by Laws 1982, c. 424, § 130.

364.07. Application

The provisions of sections 364.01 to 364.10 shall prevail over any other laws and rules which purport to govern the granting, denial, renewal, suspension, or revocation of a license or the initiation, suspension, or termination of public employment on the grounds of conviction of a crime or crimes. In deciding to grant, deny, revoke, suspend, or renew a license, or to deny, suspend, or terminate public employment for a lack of good moral character or the like, the hiring or licensing authority may consider evidence of conviction of a crime or crimes but only in the same manner and to the same effect as provided for in sections 364.01 to 364.10. Nothing in sections 364.01 to 364.10 shall be construed to otherwise affect relevant proceedings involving the granting, denial, renewal, suspension, or revocation of a license or the initiation, suspension, or termination of public employment.

Laws 1974, c. 298, § 7. Amended by Laws 1985, c. 248, § 70.

364.08. Practice of law; exception

This chapter shall not apply to the practice of law; but nothing in this section shall be construed to preclude the supreme court, in its discretion, from adopting the policies set forth in sections 364.01 to 364.10.

Laws 1974, c. 298, § 8.

364.09. Exceptions

This chapter shall not apply to the practice of law enforcement, to eligibility for a family day care license, a family foster care license, a home care provider license, or to eligibility for school bus driver endorsements. Nothing in this section shall be construed to preclude the Minnesota police and peace officers training board from recommending policies set forth in this chapter to the attorney general for adoption in the attorney general's discretion to apply to law enforcement.

Laws 1974, c. 298, § 9. Amended by Laws 1983, c. 304, § 5; Laws 1986, c. 444; Laws 1986, 1st Sp., c. 1, art. 9, § 28, eff. April 10, 1986; Laws 1987, c. 378, § 16, eff. June 3, 1987.

364.10. Violation of civil rights

Violation of the rights established in sections 364.01 to 364.10 shall constitute a violation of a person's civil rights.

Laws 1974, c. 298, § 10.

609.166. Convictions, setting aside in certain instances

Any person who is convicted of or pleads guilty to a felony, gross misdemeanor or misdemeanor may move the convicting court for the entry of an order setting aside the conviction where:

- (a) the offense was committed before the person was 21 years of age;
- (b) five years have lapsed since the person has served the sentence imposed or has been discharged from probation, and during the five year period the person has not been convicted of a felony or gross misdemeanor; and
- (c) the offense is not one for which a sentence of life imprisonment may be imposed.

Laws 1971, c. 779, § 1, eff. June 5, 1971. Amended by Laws 1974, c. 331, § 1; Laws 1986, c. 444.

609.167. Procedure in entering order

Subdivision 1. A copy of the motion and supporting affidavits shall be served upon the office of the prosecuting attorney who prosecuted the offense 30 days prior to hearing on the motion.

Subd. 2. At hearing on the motion the court may require the filing of such further affidavits and the taking of such evidence as it deems necessary and proper.

Subd. 3. Where the court determines that the circumstances and behavior of the person from the date of conviction warrant setting aside the conviction, it may enter such an order.

Laws 1971, c. 779, § 2, eff. June 5, 1971. Amended by Laws 1986, c. 444.

609.168. Effect of order

Where an order is entered by the court setting aside the conviction the person shall be deemed not to have been previously convicted.

Laws 1971, c. 779, § 3, eff. June 5, 1971.

Chapter 638

638.02. Pardons

Subdivision 1. The board of pardons may grant an absolute or a conditional pardon, but every conditional pardon shall state the terms and conditions on which it was granted. Every pardon or commutation of sentence shall be in writing and shall have no force or effect unless granted by a unanimous vote of the board duly convened.

Subd. 2. Any person, convicted of 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. If the board of pardons shall determine that such 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 person a pardon extraordinary. Such pardon extraordinary, when granted, shall have the effect of restoring such person to all civil rights, and shall have the effect of setting aside the conviction and nullifying the same and of purging such person thereof and such person shall never thereafter be required to disclose the conviction at any time or place other than in a judicial proceeding thereafter instituted.

The application for such pardon extraordinary and the proceedings thereunder and notice thereof shall be governed by the statutes and the rules of the board in respect to other proceedings before the board and contain such further information as the board may require.

Subd. 3. Upon granting a pardon extraordinary the board of pardons shall file a copy thereof with the district court of the county in which the conviction occurred, whereupon 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 criminal judicial proceeding thereafter instituted.

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.

Subd. 5. The term "records" shall include but is not limited to all matters, files, documents and papers incident to the arrest, indictment, information, trial, appeal, dismissal and discharge, which relate to the conviction for which the pardon extraordinary has been granted.

Amended by Laws 1955, c. 448, § 1; Laws 1963, c. 819, § 1; Laws 1974, c. 582, § 1.

Regulations

**Department of Administration
Data Privacy Division**

**Adopted Rules Governing the Enforcement and Administration of the "Minnesota
Government Data Practices Act"**

The rules proposed and published as *State Register*, Volume 3, Number 9, pp. 346-368, September 4, 1978 (3 S.R. 346) are adopted with the following amendments:

Rules as Adopted

2 MCAR § 1.201. **Scope and purpose.** These rules relate to and shall apply to the provisions of Minn. Stat. §§ ~~15.163~~ 15.1611 through ~~15.167~~ 15.1699.

A. These rules shall apply to those governmental entities as defined by Minn. Stat. § ~~15.162~~ 15.162, subds. 5, 7, and 8, which collect, create, use store, and disseminate data on individuals as defined in Minn. Stat. § 15.162, subd. 3.

(6 S.R. 265)

MINNESOTA

These rules shall only apply to data on individuals, as defined by Minn. Stat. § 15.162, subd. 3, which is created, collected, maintained, used or disseminated by governmental entities.

B. Non-profit social service agencies meeting the requirements of Minn. Stat. § 15.162, subd. 5 shall include, but are not limited to, agencies providing mental health, physical health, counseling and day-activities services.

1. These rules shall only apply in the instance where such an agency is required, by the terms of a written contract with a state agency, political subdivision, or statewide system to collect, create, store, use, or disseminate data on individuals.

2. In the event of such a contract, these rules shall only apply to the data on individuals that is actually generated by the social service agency because of the contract.

3. Any data generated by activities of the social service agency that are independent of the contractually based activities shall not be subject to these rules.

4. These rules shall not apply to personnel data maintained on employees of such social service agencies.

C. These rules shall not apply to any governmental data collected, created, used, stored, or disseminated which is not data on individuals as defined in Minn. Stat. § 15.162, subd. 3, except these rules shall apply to summary data.

D. Nothing in these rules shall limit the discovery procedures available at law to any party in a civil or criminal action or administrative proceeding as described in the Minnesota Rules of Civil Procedure and the Minnesota Rules of Criminal Procedure as adopted by the Minnesota Supreme Court or in Minnesota Statutes and rules adopted thereunder.

E. Nothing in these rules shall restrict or limit the scope or operation of any judicial order or rule issued by a state or federal court.

In the event of the issuance of a subpoena duces tecum for any private or confidential data or a subpoena requiring any agent of an entity to testify concerning any private or confidential data, the court's attention shall be called, through the proper channels, to those statutory provisions, rules, or regulations which restrict the disclosure of such information.

F. Nothing in these rules shall be construed to diminish the rights conferred on subjects of data by Minn. Stat. § 15.065, or any other statute.

G. The purpose of these rules is to aid governmental entities in implementing and administering Minn. Stat. §§ ~~15.161~~ 15.1611 through ~~15.167~~ 15.1699 as those sections relate to data on individuals. These rules are intended to guide entities so that while protection is given to individual privacy, neither necessary openness in government nor the orderly and efficient operation of government is curtailed.

2 MCAR § 1.202 Definitions. All terms shall have the meanings given them by Minn. Stat. § 15.162. Those terms and additional terms as used in these rules shall have the meanings as follows:

A. Act means Minn. Stat. §§ ~~15.161~~ 15.1611 through ~~15.167~~ 15.1699, as amended, commonly referred to as the "Data Privacy Act" or the Minnesota Fair Information Practices Act; officially entitled the "Minnesota Government Data Practices Act".

~~B. Arrest information means only those elements of data that are expressly listed in § 15.162, subd. 1a of the Act. Arrest information shall only include data which is collected, created, or maintained by an entity whose officers, employees, or agents are given arrest powers by statute, or the power to take into custody any person arrested by another citizen of this state.~~

~~C. Such entities include, but are not limited to, municipal police departments, county sheriff departments, the Minnesota State Patrol, and officers deputized as game wardens under the provisions of Minn. Stat. § 92.50.~~

~~D. B. Data means "data on individuals" as defined in § 15.162, subd. 3 of the Act, unless stated otherwise.~~

1. Data can be maintained in any form, including, but not limited to, paper records and files, microfilm, computer medium, or other processes.

2. The duration of the existence of data, including whether certain data is temporary rather than permanent, is not relevant to compliance with these rules.

3. All data, in whatever form it is maintained, is "data on individuals" if it can in any way identify any particular or unique individual.

4. Code numbers representing unique individuals in certain data constitute "data on individuals", provided a list or index of any type is made available by which the code number can be cross-referenced to identify unique individuals. Such data may qualify for treatment as summary data, pursuant to 2 MCAR § 1.209.

4. Code numbers, which are used to represent particular individuals, constitute "data on individuals" if a list or index of any type is available by which the code number can be cross referenced to a name or other unique personal identifier so that any individual's identity is revealed. Code numbers, lists of code numbers or data associated with code numbers may qualify for treatment as summary data, pursuant to 2 MCAR § 1.209.

a. Code number means the labeling or enumeration of data by use of a letter, number, or combination thereof, which is used in place of an individual's name, including but not limited to index numbers, dummy numbers, SOUNDDEX codes, and social security numbers.

5. Data is "data on individuals" if it identifies an individual in itself, or if it can be used in connection with other data elements to uniquely identify an individual. Such data shall include, but is not limited to, street addresses, job titles and so forth where the particular data could only describe or identify one individual.

D. Confidential data, as defined in § 15.162, subd. 2a of the Act, shall only include data which is expressly classified as confidential by either a state statute, including the provisions of § 15.1642 of the Act, or federal law.

MINNESOTA

1. Data is confidential only if a state statute or federal law provides substantially that:

a. Certain data shall not be available either to the public or to the data subject; or

b. Certain data shall not be available to anyone for any reason except agencies which need the data for agency purposes.

c. Certain data shall be confidential if a state statute or federal law provides that the data may be shown to the data subject only at the discretion of the person holding the data, and if such state statute or federal law provides standards which limit the exercise of the discretion of the person maintaining the data.

2. Data is not confidential if:

a. A state statute or federal law provides that the data is confidential, but the context of the statute or federal law, in which the term confidential appears, reasonably indicates the data is accessible by the data subject, or if the data subject is given access to the data only upon the discretion of the person holding the data and the state statute or federal law does not provide any standards which limit the exercise of such discretion. In such cases, the proper classification of the data is private.

3. A state agency rule, an executive order, an administrative decision, or a local ordinance shall not classify data as "confidential", or use wording to make data inaccessible to the data subject unless there is a state statute or federal law as the basis for the classification.

SD. Private data, as defined in § 15.162, subd. 5a of the Act, shall only include data which is expressly classified by either a state statute, including the provisions of § 15.1642 of the Act, or federal law.

1. Data is private if a state statute or federal law provides substantially that:

a. Certain data shall not be available to the public but shall be available to the subject of that data;

b. Certain data shall not be available to anyone, except the data subject or his designated representative such as an attorney;

c. Certain data shall be confidential and the person the data is about may view the data at reasonable times; or

d. Certain data shall be confidential and may be shown to the data subject at the discretion of the person holding the data. Such data shall be private if the state statute or federal law does not provide standards which limit the exercise of the discretion of the person maintaining the data.

e. Certain data is confidential, but the context of the statute or federal law in which the term confidential appears, reasonably indicates the data is accessible by the individual who is the subject of the data.

2. Data is not private if:

a. A federal agency rule provides substantially that as a part of its plan for implementation of a certain federal program, a state agency, statewide system, or political subdivision must provide for the confidentiality of data obtained from program subjects.

3. A state agency rule, an executive order, an administrative decision, or a local ordinance shall not classify data as "private", or use wording to make data inaccessible to the public unless there is a state statute or federal law as the basis for the classification.

FE. Public data shall mean "data on individuals", as defined in § 15.162, subd. 5b of the Act, which is neither private nor confidential data, and which is data that is an official record pursuant to Minn. Stat. § 15.17, not classified by state statute, including Section 15.1642, or federal law as private or confidential data.

→ Data is public if:

a. A state statute or federal law substantially provides that certain data shall be made available to the public pursuant to Minn. Stat. § 15.17, or any other similar wording.

b. A state statute or federal law substantially requires the collection of certain data by a state agency, political subdivision or state-wide system, and does not classify that data as private or confidential.

c. A state agency, statewide system, or political subdivision, without any express enabling authority to do so, collects certain data because that data is necessary to its operations, as defined in § 15.162, subd. 5b.

1. This rule shall not limit the ability of an entity to apply for temporary classifications of data pursuant to § 15.1642 of the Act.

(6 S.R. 267)

MINNESOTA

GF. Designee means any person designated by a responsible authority to be in charge of individual files or systems containing "data on individuals" shall have the meaning given that term by Minn. Stat. Section 15.162, subd. 10.

H.G. Entity means any governmental agency subject to the requirements of the Act, including state agencies, political subdivisions, and statewide systems as those terms are defined in § 15.162 of the Act.

1. State agency shall include any entity which is given power of statewide impact effect by statute or executive order.
2. Political subdivision shall include those local government entities which are given powers of less than statewide impact effect by statute or executive order.
3. Statewide systems shall include, but are not limited to, record keeping and data administering systems established by statute, federal law, administrative decision or agreement, or joint powers agreement.

a. Statewide systems shall include, but are not limited to, the Criminal Justice Information System administered by the Bureau of Criminal Apprehension, the Statewide Accounting System, the Minnesota Education Computing Consortium, and the various welfare systems primarily administered by the Department of Public Welfare.

H.H. Federal Law means United States Code, rules and regulations of federal agencies as published in the Federal Register Code of Federal Regulations, and federal case law, including decisions of any court in the federal judicial system.

H.I. Individual means any living human being. Individual shall not include any fictional entity or business such as a corporation, association, partnership, or sole proprietorship even in those instances where the name of such an entity or business includes the name of a natural person.

H.J. Records Management Act means Minn. Stat. § 138.17.

H.K. Responsible Authority means the individual in each entity who is designated or appointed pursuant to § 15.162, subd. 6 of the Act.

1. In state agencies, the Responsible Authority shall be as follows, unless otherwise provided by state law:
 - a. Departments: the commissioner of the department.
 - b. Constitutional Offices: the constitutional officer.
 - c. University of Minnesota: the individual appointed by the Board of Regents.
 - d. All other state agencies: the chief executive officer, or if none, then an individual chosen by the agency's governing body.
2. In political subdivisions, the Responsible Authority shall be as follows, unless otherwise provided by state law:
 - a. Counties: each elected official of the county shall be the Responsible Authority for his respective office. An individual who is an employee of the county shall be appointed by the county board to be the Responsible Authority for any data administered outside the offices of elected officials.
 - b. Cities: the city council shall appoint an individual who is an employee of the city.
 - c. School Districts: the school board shall appoint an individual who is an employee of the school district.
 - d. Nonprofit Corporations or Nonprofit Social Service Agencies: unless a statute or the governmental entity which created the corporation or agency appoints an individual, the governing body of the corporation or agency shall appoint an individual. If no appointment is made, the chief executive officer of the nonprofit corporation or agency shall be the Responsible Authority. If the corporation or agency is part of a statewide system, the Responsible Authority for the statewide system shall be the Responsible Authority for the corporation or agency as determined by this rule.
 - e. All other political subdivisions: the governing body shall appoint an individual who is an employee of the political subdivision.
3. In "Statewide Systems", the Responsible Authority shall be as follows, unless otherwise provided by state law:
 - a. The commissioner of any state department or any executive officer designated by statute or executive order as responsible for such a system; or
 - b. If a state statute or executive order does not designate an individual as Responsible Authority, the Commissioner of Administration shall appoint the Responsible Authority after the entities which participate in the system jointly apply for such an appointment in a form provided by the Commissioner of Administration.

M.L. Summary Data, as defined in § 15.162, subd. 9 of the Act, means data which has been extracted, manipulated, or summarized from private or confidential data, and from which all data elements that could link the data to a specific individual have been removed.

MINNESOTA

1. Summary data includes, but is not limited to, statistical data, case studies, reports of incidents, and research reports.
2. Once it is summarized from private or confidential data, summary data remains ~~data~~ is summary ~~data~~ if the Responsible Authority maintains any list of numbers or other data which could uniquely identify any individual in the summary data or physically separated from the summary data and the Responsible Authority ~~does~~ is not made make such a list or other data available to persons who gain access to, or possession of the summary data.

2 MCAR § 1.203. Access to public data. The Responsible Authority shall comply with the following general rules governing access to public data.

A. The Responsible Authority shall provide access to public data to any person, without regard to the nature of that person's interest in the data.

1. The Responsible Authority shall establish procedures to describe how such access may be gained. The procedures established shall be in compliance with Section 15.1621 of the Act.

a. In such procedures, the Responsible Authority may limit the time during which that public access to public data is available to the time during which the normal operations office hours of the agency are conducted.

b. In such procedures, the Responsible Authority shall provide for a response to a request for access within a reasonable time.

c. The Responsible Authority ~~shall~~ may charge a reasonable fee for providing copies of public data, ~~unless the costs incurred by the entity in providing the copies are minimal.~~

d. In determining the amount of the reasonable fee, the Responsible Authority shall be guided by the following:

- (1) The cost of materials, including paper, used to provide the copies.
- (2) The cost of the labor required to prepare the copies.
- (3) Any schedule of standard copying charges as established by the agency in its normal course of operations.
- (4) Any special costs necessary to produce such copies from machine based record keeping systems, including but not limited to computers and microfilm systems.
- (5) Mailing costs.

2 MCAR § 1.204. Access to private data. Pursuant to §§ ~~15.164~~ 15.163 and 15.162, subd. 5a of the Act, the Responsible Authority shall comply with the following rules concerning access to private data:

A. Access to private data shall be available only to the following:

1. The subject of such data, as limited by any applicable statute or federal law.
2. Individuals within the entity, whose work assignments reasonably require access.
3. Entities and agencies as determined by the Responsible Authority who are authorized by statute, including ~~§ 15.164~~ ~~(e)~~ 15.163, subd. 4 of the Act, or federal law to gain access to that specific data.
4. Entities or individuals given access by the express written direction of the data subject.

B. The Responsible Authority shall establish written procedures to assure that access is gained only by those parties identified in Part A of this rule.

~~→ In those procedures, the Responsible Authority shall provide for reasonable measures that will ensure that the person seeking to gain access to the private data is actually the subject of that data or the authorized representative of the data subject.~~

1. In those procedures, the Responsible Authority shall provide for reasonable measures to assure, in those instances where an individual who seeks to gain access to private data asserts that he or she is the subject of that data or the authorized representative of the data subject, that the individual making the assertion is in fact the subject of the data or the authorized representative of the data subject.

(6 S.R. 269)

MINNESOTA

2. Examples of such reasonable measures include, but are not limited to, the following:
 - a. Requiring the person seeking to gain access to appear at the offices of the entity to gain such access, or, in lieu of a personal appearance, requiring the notarized signature of any data subject who is unable to appear at the offices of the entity.
 - b. Requiring the person to provide reasonable identification.
- C. The Responsible Authority may limit the time that access is available to the data subject to the normal working hours of the agency.
- D. The Responsible Authority shall not charge the data subject any fee in those instances where the data subject only desires to view private data.
- E. The Responsible Authority shall may charge the data subject a reasonable fee for providing copies of private data.
 1. In determining the amount of the reasonable fee, the Responsible Authority shall be guided by the criteria set out in 2 MCAR § 1.203 concerning access to public data.

2 MCAR § 1.205. Access to private data concerning data subjects who are minors. Pursuant to §§ ~~15.164~~, and 15.162, subd. 4 and subd. 5a and 15.163 of the Act, the Responsible Authority shall comply with the following rules concerning access:

A. In addition to the particular requirements of this rule, access to private data concerning a minor data subject shall be subject to the requirements of 2 MCAR § 1.204 concerning access to all private data.

B. Access to private data concerning minors shall be available only to the following:

1. Those parties identified as having access to private data under part A. of 2 MCAR § 1.204.
2. Subject to the provisions of Minn. Stat. § 15.162, subd. 4, any other applicable statute, and the exception set out at part C + 1.205, C. 1, below, the parents of the minor data subject.

a. For purposes of this rule, the Responsible Authority shall presume the parent has the authority to exercise the rights inherent in the Act unless the Responsible Authority has been provided with evidence that there is a state law or court order governing such matters as divorce, separation, or custody, or a legally binding instrument which provides to the contrary.

C. Pursuant to the provisions of Minn. Stat. § 15.162, subd. 4, the Responsible Authority shall establish procedures to provide access by the parents of a minor data subject to provide data concerning that minor, subject to the following:

1. The Responsible Authority may deny parental access to private data when the minor, who is the subject of that data, requests that the Responsible Authority deny such access.

a. The Responsible Authority shall provide minors from whom the entity collects private or confidential data with a notification that the minor individual has the right to request that parental access to private data be denied.

eb. The Responsible Authority may require the minor data subject to submit a written request that the data be withheld. The written request shall set forth the reasons for denying parental access and shall be signed by the minor.

2. Upon receipt of such a request, the Responsible Authority shall determine if honoring the request to deny parental access would be in the best interest of the minor data subject.

a. In making the determination, the Responsible Authority shall be guided by at least the following:

(1) Whether the minor is of sufficient age and maturity to be able to explain the reasons for and to understand the consequences of the request to deny access.

(2) Whether the personal situation of the minor is such that denying parental access may protect the minor data subject from physical or emotional harm.

(3) Whether there is ground for believing that the minor data subject's reasons for precluding parental access are reasonably accurate.

(4) Whether the data in question is of such a nature that disclosure of it to the parent could lead to physical or emotional harm to the minor data subject.

~~(4)~~ (5) Whether the data in question is subject to the rights of parental access outlined in the "Family Educational Rights and Privacy Act of 1974", Public Law 93-380, and the rules promulgated thereunder.

(5) Whether the data concerns medical, dental, or other health services provided pursuant to Minn. Stat. §§ 144.341 through 144.347. If so, the data may be released only if failure to inform the parent would seriously jeopardize the health of the minor.

3. The Responsible Authority shall not deny access by parents to data that is considered an "education record", as that

(6 S.R. 270)

MINNESOTA

term is defined in Title 45 Code of Federal Regulations, Part 99, Section 99.3, unless the minor to whom the data pertains is enrolled as a full time student in a post-secondary educational institution or the student has attained the age eighteen. As of the date of the adoption of these rules, the term "education records" was defined by Title 45 Code of Federal Regulations, Part 99, Section 99.3 as follows: "'Education Records' (a) Means those records which: (1) Are directly related to a student, and (2) are maintained by an educational agency or institution or by a party acting for the agency or institution. (b) The term does not include: (1) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which: (i) Are in the sole possession of the maker thereof, and (ii) Are not accessible or revealed to any other individual except a substitute. For the purpose of this definition, a "substitute" means an individual who performs on a temporary basis the duties of the individual who made the record, and does not refer to an individual who permanently succeeds the maker of the record in his or her position. (2) Records of a law enforcement unit of an educational agency or institution which are: (i) Maintained apart from the records described in paragraph (a) of this definition; (ii) Maintained solely for law enforcement purposes, and (iii) Not disclosed to individuals other than law enforcement officials of the same jurisdiction: Provided, That education records maintained by the educational agency or institution are not disclosed to the personnel of the law enforcement unit; (3) (i) Records relating to an individual who is employed by an educational agency or institution which: (A) Are made and maintained in the normal course of business; (B) Relate exclusively to the individual in that individual's capacity as an employee, and (C) Are not available for use for any other purpose. (ii) This paragraph does not apply to records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student. (4) Records relating to an eligible student which are: (i) Created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity; (ii) Created, maintained, or used only in connection with the provision of treatment to the student, and (iii) Not disclosed to anyone other than individuals providing the treatment: Provided, That the records can be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities which are part of the program of instruction at the educational agency or institution. (5) Records of an educational agency or institution which contain only information relating to a person after that person was no longer a student at the educational agency or institution. An example would be information collected by an educational agency or institution pertaining to the accomplishments of its alumni."

4. Without a request from a minor, the Responsible Authority may deny parental access to private data on a minor, pursuant to the provisions of Minn. Stat. § 144.335 or any other statute or federal law that allows or requires the Responsible Authority the authority to do so, if such state statute or federal law provides standards which limit the exercise of the discretion of the Responsible Authority.

2 MCAR § 1.206. Access to confidential data. Pursuant to Minn. Stat. §§ ~~16.164~~ 15.163 and 15.162, subd. 2a, the Responsible Authority shall comply with the following rules concerning access to confidential data:

A. Access to confidential data is available only to the following:

1. Individuals within the entity, whose work assignments reasonably require access.

2. Entities and agencies who are authorized by statute, including § ~~16.164~~ 15.163 of the act, or federal law to gain access to that specific data.

B. The Responsible Authority shall establish written procedures to assure that access may be gained only by those parties identified in Part A of this rule.

1. In the drafting and administration of those procedures, the Responsible Authority shall provide measures by which data subjects or their authorized representatives shall be informed, upon request, if they are the subjects of confidential data.

a. The Responsible Authority shall not disclose the actual confidential data to the data subjects, but shall inform them whether confidential data concerning them is or is not retained.

b. The Responsible Authority shall take reasonable measures to assure that the person making inquiry is actually the individual data subject or the authorized representative of the data subject.

c. Reasonable measures may include, but are not limited to:

(1) Requiring the inquiring person to appear at the office of the entity to make his/her request:

(6 S.R. 271)

MINNESOTA

(2) Requiring the inquiring person to provide identification; or

(3) Requiring the notarized signature of any data subject who is unable to appear at the offices of the entity.

[2 MCAR § 1.207, "Access to Arrest Information," and 2 MCAR § 1.208, "Access to Investigative Data," as proposed by the Department of Administration have been withdrawn by the department. Subsequent sections of these rules have been re-numbered accordingly.]

2 MCAR ~~§ 1.209~~ 1.207 Access to summary data. Pursuant to Minn. Stat. ~~§ 15.164~~ § 15.163, subd. 7, the Responsible Authority shall comply with the following general rules concerning access to summary data:

A. Summary data is public data, unless classified by statute, federal law or temporary classification as not public. The Responsible Authority shall comply with 2 MCAR § 1.203, concerning access to public data.

B. The Responsible Authority shall prepare and implement procedures in his/her agency to assure that access to summary data is given to anyone who requests such data provided pursuant to Section 15.163, subd. 7 of the Act. In the preparation and administration of such procedures, the Responsible Authority shall comply with the following:

1. Preparation of summary data may be requested by any person. The request shall be in writing in a form provided by the Responsible Authority. Within ten days of the receipt of such a request, the Responsible Authority shall inform the requestor of the estimated costs if any, pursuant to Section 2 of this rule and subject to the provisions of that section either:

a. Provide the summary data requested; or

b. Provide a written statement to the requestor, describing a time schedule for preparing the requested summary data, including reasons for any time delays; or

c. Provide access to the requestor to the private or confidential data for the purpose of the requestor's preparation of summary data, pursuant to ~~§ 15.164~~ § 15.163, subd. 7, of the Act and subd. 4 of this section; or

d. Provide a written statement to the requestor stating reasons why the Responsible Authority has determined that the requestor's access would compromise the private or confidential data.

2. Any costs incurred in the preparation of summary data shall be borne by the requesting person. In assessing the costs associated with the preparation of summary data, the Responsible Authority shall:

a. Be guided by the provisions of 2 MCAR § 1.203 in determining costs.

b. Provide to the requesting person an estimate of the costs associated with the preparation of the summary data.

c. Prior to preparing or supplying the summary data, collect any funds necessary to reimburse the entity for its costs.

d. ~~Charge no more than reasonable copying costs when the summary data being requested requires only copying and no other preparation.~~

e. Take into account the reasonable value to the entity of the summary data prepared and where appropriate reduce the costs assessed to the requesting person.

3. For the purposes of administering Minn. Stat. ~~§ 15.164~~ § 15.163, subd. 7, the following terms shall have the meanings given them.

a. "Administrative officer" includes, but is not limited to, the entity's research director, statistician, or computer center director.

b. "Person outside" the entity includes the person requesting the summary data or any other person designated by the person requesting the data.

4. A non-disclosure agreement, as required by ~~§ 15.164~~ § 15.163, subd. 7 of the Act shall contain at least the following:

a. A general description of the private or confidential data which being used to prepare summary data.

b. The purpose for which the summary data is being prepared.

c. A statement that the preparer understands he/she may be subject to the civil or criminal penalty provisions of the Act in the event that the private or confidential data is disclosed.

5. Methods of preparing summary data include but are not limited to the following:

a. Removing from a set of data, a file, or a record keeping system all unique personal identifiers so that the data that remains fulfills the definition of summary data as defined by § 15.163, subd. 9 of the Act.

(6 S.R. 272)

MINNESOTA

b. Removing from the entity's report of any incident, or from any collection of data similar to an incident report, all unique personal identifiers so that the resulting report fulfills the definition of summary data in § 15.162, subd. 9 of the Act.

c. For the purpose of this rule, "removing all unique personal identifiers" includes but is not limited to:

(1) Blacking out personal identifiers on paper records.

(2) Tearing off or cutting out the portions of paper records that contain the personal identifiers.

(3) Programming computers in such a way that printed or terminal or other forms of output do not contain personal identifiers.

2 MCAR § 1.210 1.208. Classification of data. In order to comply with the provisions of §§ 15.162, ~~15.164~~, 15.165 and 15.163 of the Act the Responsible Authority shall:

A. Review and identify all of the types of data maintained by the entity, including data retained as active and inactive.

B. Determine the private, confidential, or public classification for each type of data. Determine what types of data maintained by the entity are classified as private or confidential, according to the definitions of those terms pursuant to § 15.162 of the Act and 2 MCAR § 1.202.

C. Identify either a state statute or provisions of federal law supporting any determination that certain data is either private or confidential.

D. Administer all agency data in accordance with the determinations made under 2 MCAR § 1.210 B.

2 MCAR § ~~1.209~~ 1.209. Authority of the Responsible Authority. Jurisdiction, as that term is used in § ~~15.164~~ (e) of the Act, means that the Responsible Authority shall have the authority to: Pursuant to § 15.162 through 15.163 of the Act, the Responsible Authority shall have the authority to:

A. Implement the Act and these rules in each entity.

B. Make good faith attempts to resolve all administrative controversies arising from the entity's practices of creation, collection, use and dissemination of data.

C. Prescribe changes to the administration of the entity's programs, procedures, and design of forms to bring those activities into compliance with the Act and with these rules.

D. Take all administrative actions necessary to comply with the general requirements of the Act, particularly Minn. Stat. § 15.165, and these rules.

E. Where necessary, direct designees to perform the detailed requirements of the Act and these rules under the general supervision of the Responsible Authority.

2 MCAR § ~~1.210~~ 1.210. Appointment of the Responsible Authority.

A. Pursuant to § 15.162, subd. 6 of the Act, the governing body of each political subdivision and the governing body of each state agency whose activities are subject to the direction of a governing body shall, within 30 days of the effective date of these rules, if it has not done so, appoint a Responsible Authority.

1. This rule shall not affect the appointments of Responsible Authorities made previous to the adoption of this rule.

2. The governing body shall confer on the Responsible Authority full administrative authority to carry out the duties assigned by the Act and by these rules.

3. Governing bodies may use the forms set forth in the appendix to these rules to appoint the Responsible Authority.

2 MCAR § ~~1.211~~ 1.211. Appointment power of the Responsible Authority. Pursuant to § ~~15.162~~ (e) 15.162, subd. 2 of the Act, the Responsible Authority shall, if he deems it to be in the best interest of the administration and enforcement of the Act, appoint designees who shall be members of the staff of the entity. In the exercise of this appointment power, the Responsible Authority shall comply with the following:

A. The appointment order shall be in writing and copies of the order constitute public data on individuals, pursuant to Minn. Stat. § 15.162, subd. 5(b) of the Act.

(6 S.R. 273)

MINNESOTA

B. The Responsible Authority shall instruct any designees in the requirement of the Act and of these rules. If the Responsible Authority deems it necessary, such instruction shall include:

1. Distribution to designees of written materials describing the requirements of the Act and of these rules.
2. Preparation of training programs whose objective is to familiarize agency personnel with the requirements of the Act and of these rules.
3. Requiring attendance of designees and other entity personnel at training programs held within or outside the entity.

2 MCAR ~~§ 4.044~~ 1.212. Duties of the Responsible Authority relating to public accountability. Pursuant to § 15.163 of the Act, the duties of the Responsible Authority shall include, but not be limited to the following:

A. For the purposes of public accountability, the Responsible Authority shall, within sixty days of the effective date of these rules, or until August 1 of each year when the requirements of Part B of this rule are fully complied with, place his/her name, job title and business address, and the name(s) and job titles of any designees selected by the Responsible Authority on a document.

1. Such document shall be made available to the public and/or posted in a conspicuous place by each entity.
2. The document shall identify the Responsible Authority or designees as the persons responsible for answering inquiries from the public concerning the provisions of the Act or of these rules.

B. In the public document to be prepared or updated by August 1 of each year as required by § 15.163 of the Act, the Responsible Authority shall identify and describe by type all records, files, or processes maintained by his/her entity, which contain private or confidential data.

1. In addition to the items to be placed in the public document as required by § 15.163 of the Act, the Responsible Authority shall include the following:

- a. The name, title, and address of designees appointed by the Responsible Authority.
- b. Identification of the files or systems for which each designee is responsible.
- c. A citation of the state statute or federal law which classifies the each type of data as private or confidential.

2. The Responsible Authority shall draft the descriptions of the types of records, files, and processes in easily understandable English. Technical or uncommon expressions, understandable only by a minority of the general public shall be avoided, except where required by the subject matter.

3. The Responsible Authority may use the form set forth in the appendix to these rules to prepare this public document.

2 MCAR ~~§ 4.044~~ 1.213. Duties of the Responsible Authority relating to the administration of private and confidential data. In order to administer the requirements of ~~§ 4.044~~ (e) 15.163, subd. 4 of the Act, the Responsible Authority shall determine for each type of record, file, or process identified in 2 MCAR § 1.214 whether the data contained therein was collected prior or on or subsequent to August 1, 1975.

A. For each type of record, file or process containing data collected prior to August 1, 1975, the Responsible Authority shall:

1. Review the federal, state or local legal enabling authority which mandated or necessitated the collection of the private or confidential data.
2. Based on that review, determine the lawful purpose for the collection of the data at the time it was originally collected.
3. Direct the staff of the entity that private or confidential data collected prior to August 1, 1975, shall not be used, stored, or disseminated for any purpose, unless that purpose was authorized by the enabling authority which was in effect at the time the data was originally collected.

B. For each type of record, file, or process containing private or confidential data collected on or subsequent to August 1, 1975, the Responsible Authority shall:

1. Review the legal enabling authority which mandates or necessitates the collection of the data.
2. Identify the purposes for the collection of and the intended uses of all private or confidential data that have been communicated to data subjects or should have been communicated to data subjects at the time of data collection, pursuant to § 15.165, subd. 2 of the Act.

C. Using the purposes and uses identified in A. and B. of this rule, the Responsible Authority shall:

1. Prepare lists which identify the uses of and purposes for the collection of private or confidential data for each type of record, file or process identified in 2 MCAR § 1.214.
 - a. Each list shall identify all persons, agencies, or entities authorized by state or federal law to receive any data disseminated from the particular record, file or process.

(6 S.R. 274)

MINNESOTA

2. Pursuant to § 15.165, subd. 2 of the Act, either:

a. Attach each list identifying purposes, uses and recipients of data to all agency forms which collect the private or confidential data that will be retained in each record, file or process; or

b. Communicate, in any reasonable fashion, the contents of each list to data subjects at the time particular data that will be retained in each record, file, or process is collected from them. For purposes of this section, "reasonable fashion" shall include, but not be limited to:

(1) Oral communications made to data subjects.

(2) Providing data subjects with brochures that describe the entity's purposes for the collection of and the uses to be made of private and confidential data.

D. In administering the entity's private or confidential data consistent with the provisions of the these rules, the Responsible Authority shall:

1. Educate entity personnel as to authorized purposes and uses.

2. Prepare administrative procedures that will acquaint entity personnel with authorized purposes and uses.

3. Distribute policy directives requiring compliance with the entity's determination of authorized purposes and uses.

E. The Responsible Authority shall authorize a new purpose for the collection of private or confidential data or a new use for private or confidential data under any one of the following conditions:

1. If subsequent passage of federal or state legislation requires initiation of a new or different purpose or use pursuant to ~~§ 15.164 (e) (2) of the Act~~ 15.163, subd. 4(b), of the Act, or

2. The Responsible Authority, prior to initiation of the new or different purpose or use, complies with the provisions of either ~~§ 15.164 (e) (2) or (3)~~ 15.163, subd. 4(a), subd. 4(c) or subd. 4(d) of the Act.

a. For the purposes of administration of Minn. Stat. ~~§ 15.164 (e) (2)~~ 15.163, subd. 4(a) or subd. 4(c), the Responsible Authority shall file a statement on in a form provided prescribed by the commissioner.

b. For the purposes of Minn. Stat. ~~§ 15.164 (e) (2)~~ 15.163, subd. 4(d) the following term shall have the meaning given it:

(1) "Informed consent" means the data subject possesses and exercises sufficient mental capacity to make a decision which reflects an appreciation of the consequences of allowing the entity to initiate a new purpose or use of the data in question.

c. For the purposes of the administration of Minn. Stat. ~~§ 15.164 (e) (2)~~ 15.163, subd. 4(d), the Responsible Authority shall comply with the following:

(1) The Responsible Authority shall not take any action to coerce any data subject to give an "informed consent." The Responsible Authority shall explain the necessity for or consequences of the new or different purpose or use.

(2) All informed consents shall be given in writing. Prior to any signature being affixed to it by the data subject, such writing shall identify the consequences of the giving of informed consent.

(3) If the Responsible Authority makes reasonable efforts to obtain the informed consent of a data subject and if those efforts are not acknowledged in any way, the Responsible Authority shall interpret the silence of the data subject as the giving of an implied consent to the new or different purpose or use of the data.

(a) For purposes of this section, "reasonable efforts" shall include:

(i) Depositing in the United States Mail, postage pre-paid and directed to the last known address of the data subject, at least two communications requesting informed consent.

(ii) Waiting for a period of not less than 60 days for a response to the second request.

(4) The data subject may give informed consent to less than all of the data elements in any list of data elements presented by a Responsible Authority, thereby giving only partial consent.

(6 S.R. 275)

MINNESOTA

(a) Only those elements that the data subject has expressly consented to shall become part of the new or different purpose or use.

D. If the Responsible Authority seeks an individual's informed consent to the release of private data to an insurer or the authorized representative of an insurer, the Responsible Authority shall comply with the provisions of Minn. Stat. § 15.163, subd. 4 (d), (1) through (7).

2 MCAR § 1.216 1.214. Duties of the Responsible Authority as they relate to the administration of all entity data. Pursuant to § ~~15.164~~ (b) 15.163, subd. 3 of the Act, the Responsible Authority shall, within eighteen months of the effective date of these rules, formulate a plan that will provide for the review and analysis of the data administration practices of the entity..

A. In the formulation of this plan, the Responsible Authority shall at least provide for the preparation of a list of or index to all data or types of data currently collected, stored, used, or disseminated by the entity.

1. The list or index developed shall include the identification of the state statute(s), federal law(s), or local ordinance(s) that authorize(s) the programs or functions for which data or types of data are collected, or which authorize(s) the actual data collection, storage, use or dissemination of data or types of data.

a. The plan shall further provide for the list or index to be updated when new or different data collection, storage, use or dissemination is authorized.

b. This list or index shall be available to members of the general public, upon request.

B. The Responsible Authority shall use this plan and the list or index developed to aid in the determination of whether collection and storage of data and use and dissemination of private or confidential data is necessary.

1. For purposes of this section, data is necessary if:

a. The particular data is both:

(1) Required to carry out programs and functions that are expressly or impliedly authorized by a provision of state statute, federal law or a local ordinance; and

(2) Periodically examined, updated, modified or referred to by the entity; or

b. The entity would be unable to fulfill its duties without undue or increased burden or expense, if the particular data were not collected, stored, used or disseminated; or

c. Retention of the particular data is required in the event that a legal action is brought against or by the entity; or

d. Retention of the particular data is essential to comply with a state or federal requirement that data be retained for a specified period for the purposes of auditing, records retention, historical interest, and other similar purposes.

C. For any data determined to be not necessary pursuant to B. of this rule, the Responsible Authority shall provide for the following activities in the entity's plan.

1. Taking all actions which include making changes to forms designs, routing procedures, and so forth, including modification of the entity's data collection forms and data collection procedures, to assure that all such unnecessary data is no longer collected and stored and all such private and confidential data determined to be not necessary is no longer used and disseminated. Private data shall continue to be disseminated upon request by the data subject.

2. Disposing of such data determined to be not necessary pursuant to the procedures of the Records Management Act.

a. Inquiries concerning procedures for disposition of data may be directed to the Records Management Division, Department of Administration, St. Paul, Minnesota, 55155.

D. In the formulation of the plan described in A. of this rule, the Responsible Authority shall provide for the establishment of administrative mechanisms and procedures that comply with § ~~15.164~~ (e) 15.163, subd. 5 of the Act. For purposes of this section.

1. "Accurate" means that the data in question is reasonably correct and free from error.

2. "Complete" means that the data in question reasonably reflects the history of an individual's transactions with the particular entity. Omissions in an individual's history that place the individual in a false light shall not be permitted.

3. "Current" means that the data in question must be logically related to the entity's required and actual use of the data in its day-to-day operations.

[2 MCAR § 1.217. "Duties of the Responsible Authority as they relate to computerized data", as proposed by the Department of Administration has been withdrawn by the department. Subsequent sections of these rules have been re-numbered accordingly.]

2 MCAR § ~~1.216~~ 1.215. Administrative appeal. Pursuant to § 15.165, subd. 4 of the Act, an individual may appeal an adverse determination of a Responsible Authority to the Commissioner of Administration.

(6 S.R. 276)

MINNESOTA

A. The appeal shall follow the procedures established in Minnesota Statutes, Chapter 15, as amended, and the rules of the Office of Hearing Examiners Administrative Hearings relating to Contested Case Proceedings.

B. Notice of an appeal must be submitted to the commissioner within a reasonable time of the determination made by the Responsible Authority pursuant to § 15.165, subd. 4 of the Act. For purposes of this section, "reasonable time" shall mean 180 days unless the Responsible Authority has provided the individual with a written statement which informs the individual of the right to appeal the determination to the commissioner. In the event this statement is provided, "reasonable time" for purposes of this section shall mean 60 days.

1. The notice shall be in writing and addressed to the Commissioner of Administration, State of Minnesota, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

2. The notice shall contain the following information:

- a. The name, address, and phone number if any, of the appealing party.
- b. The name of the Responsible Authority and the entity which he or she represents.
- c. A description of the nature of the dispute, including a description of the data.
- d. A description of the desired result of the appeal.

3. ~~The Commissioner may require additional information if it is reasonably necessary in order to establish the Contested Case Proceeding.~~

3. 4. Upon written request of the data subject stating reasons, the appeal may be processed under the name of a pseudonym.

C. The hearing examiner, at any stage of the proceedings, after all parties have had an opportunity to present their views, may recommend dismissal of any sham, capricious, or frivolous case, or any case not within the jurisdiction of the Department of Administration.

GD. The Department of Administration shall be reimbursed for all costs associated with the Contested Case Proceeding by the entity whose Responsible Authority has been the impetus for the individual's appeal to the Commissioner.

1. The commissioner shall establish appropriate accounting procedures to provide to the entity an itemized invoice.

2 MCAR § 1.219 1.216. General powers of the commissioner. Pursuant to § 15.163, subd. 2 of the Act and to assist in the general implementation and enforcement of the Act, the commissioner shall have the following powers:

A. If the commissioner determines that certain information is relevant to monitoring any entity's data collection and handling practices, policies and procedures, the commissioner shall require the Responsible Authority of such entity to submit the information.

B. Any inquiries concerning the Act or these rules and any information submissions required to be made by A. of this rule shall be directed to the Data Privacy Unit Division, Department of Administration, State of Minnesota, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

C. The Data Privacy Unit Division shall respond promptly to all inquiries within personnel and budgetary limitations.

2 MCAR § 1.330 1.217. Duties of the commissioner relating to temporary classification of data. Pursuant to Minn. Stat. § 15.1642, the commissioner and Responsible Authorities shall comply with the following:

A. The Responsible Authority, pursuant to § 15.163, subd. 6 of the Act, shall prepare any application for emergency temporary classification in writing in a form provided by the commissioner. Copies of the form are available from the Data Privacy Division.

4. ~~The form for an application is set out in the appendix to these rules. Copies of the form are available from the Data Privacy Unit.~~

B. For the purposes of the administration of § 15.1642 of the Act, the following terms have the meanings given to them:

1. "Days" means calendar, not working days.

(6 S.R. 277)

MINNESOTA

2. "Upon filing" means upon receipt of either an original or amended application by the commissioner.

3. "Date of disapproval" means the date the Responsible Authority actually receives the disapproval notification from the Commissioner.

4. "Within 30 25 days of submission to the Attorney General" means within 30 25 days of the date that the Attorney General's Office in the Department of Administration actually receives the record from the Commissioner.

C. Applications for emergency temporary classification of data shall be submitted to the Data Privacy Unit Division, Department of Administration, State of Minnesota, St. Paul, Minnesota 55155.

D. If the Data Privacy Unit Division requires the Responsible Authority to submit additional information in support of the application, that application is deemed to have been filed on the date the additional material is received by the Data Privacy Unit Division. The commissioner shall return any application to the applicant if the additional information requested is not received within 30 days.

E. The provisions of this rule shall terminate and cease to have force and effect on whichever of the following dates or events occurs later:

1. On August 1, 1979 or

2. On the effective date of a statute that repeals the Commissioner's authority to rule on emergency classification of data pursuant to Minn. Stat. § 16.164, subd. 2.

2 MCAR § 1.218. Severable provisions. If any provisions of these rules are found invalid for any reason, the remaining provisions shall remain valid.

ADVISORY FORM A
RESOLUTION APPOINTING A COUNTY RESPONSIBLE AUTHORITY

State of Minnesota
County of _____ (name of county)

WHEREAS, Minnesota Statutes, Section 15.162, Subdivision 6, requires that _____ (name of county) County appoint one person as the Responsible Authority to administer the requirements for collection, storage, use and dissemination of data on individuals within the county and,

WHEREAS, the _____ (name of county) County Board of Commissioners shares the concern expressed by the legislature on the responsible use of all County data and wishes to satisfy this concern by immediately appointing an administratively and technically qualified Responsible Authority as required under the statute.

BE IT RESOLVED, the County Board of Commissioners appoints _____ (name of individual) as the Responsible Authority for the purpose of meeting all requirements of Minnesota Statutes, Sections 15.162 through 15.169, as amended, and with rules as lawfully promulgated by the Commissioner of Administration as published in the State Register on _____ (insert appropriate date).

ADOPTED BY _____ (name of county) COUNTY COMMISSIONERS ON _____ (date)

ATTESTED TO: _____ (signature of appropriate official)
_____ (title of appropriate official)

ADVISORY FORM B
RESOLUTION APPOINTING A CITY RESPONSIBLE AUTHORITY

State of Minnesota
City of _____ (insert name of city)

Resolution Title: Appointment of Responsible Authority

WHEREAS, Minnesota Statutes, Section 15.162, Subdivision 6, as amended, requires that the City of _____ (insert name of city) appoint one person as the Responsible Authority to administer the requirements for collection, storage, use and dissemination of data on individuals, within the City and,

MINNESOTA

WHEREAS, the (insert name of city) City Council shares concern expressed by the legislature on the responsible use of all City data and wishes to satisfy this concern by immediately appointing an administratively qualified Responsible Authority as required under the statute.

BE IT RESOLVED, the City Council of (insert name of city) appoints (name of individual appointed) as the Responsible Authority for the purposes of meeting all requirements of Minnesota Statutes, Section 15.162 through 15.169, as amended, and with rules as lawfully promulgated by the Commissioner of Administration as published in the State Register on (insert appropriate date)

ADOPTED BY (insert name of city) CITY COUNCIL ON (date)

ATTESTED TO BY THE:

(Signature of Mayor) on (date)

(Signature of City Clerk) (date)

ADVISORY FORM C

RESOLUTION APPOINTING A SCHOOL DISTRICT RESPONSIBLE AUTHORITY

State of Minnesota
(name of district) School District
School District Number

Pursuant to the provisions of Minnesota Statutes, Section 15.162, Subdivision 6, as amended, (Insert name of individual) is hereby appointed Responsible Authority for the (insert name of district) School District Number

(insert name of individual appointed) is hereby authorized to take all actions necessary to assure that all programs, administrative procedures and forms used within School District (insert number) are administered in compliance with the provisions of Minnesota Statutes, Sections 15.162 through 15.169, as amended, and with rules as lawfully promulgated by the Commissioner of Administration as published in the State Register on (insert appropriate date)

ADVISORY FORM D

RESOLUTION APPOINTING A RESPONSIBLE AUTHORITY FOR STATE OR LOCAL BOARDS OR COMMISSIONS

State of Minnesota
(insert name of board or commission)

Under the provisions of Minnesota Statutes, Section 15.162, Subdivision 6, as amended, (name of individual) is hereby appointed Responsible Authority for (insert name of board or commission)

(insert name of individual appointed) is hereby authorized to take all actions necessary to assure that all programs, administrative procedures and forms used by the (insert name of board or commission) are administered in compliance with the provisions of Minnesota Statutes, Sections 15.162 through 15.169, as amended, and with rules as lawfully promulgated by the Commissioner of Administration and published in the State Register on (insert date)

ADVISORY FORM E

PUBLIC DOCUMENT AS REQUIRED BY MINNESOTA STATUTES, SECTION 15.163

GOVERNMENTAL (Name of Entity) RESPONSIBLE (Name)
ENTITY: (Address) AUTHORITY: (Title)
(Address)

MINNESOTA

NAME OF RECORD, FILE, SYSTEM OR PROCESS	DESCRIPTION OF RECORD, FILE, SYSTEM OR PROCESS	CLASSIFICATION	CITATION OF STATUTE OR FEDERAL LAW THAT CLASSIFIES THE DATA FOR FILE, ETC.	NAME, TITLE AND ADDRESS OF DESIGNEE, IF ANY
(Insert a name sufficient to identify.)	(Describe in terms understandable by the general public.)	(Insert private or confidential.)	(Insert citation to state or federal statute, federal rule, case law)	(Insert name, etc. of person appointed to be in charge of this file, etc.)

(Advisory Form F. "Application for Temporary Classification of Data", as proposed by the Department of Administration has been withdrawn by the Department.)

Office of the Secretary of State

Adopted Temporary Rule Governing Electronic or Automatic Data Processing System of Maintaining Duplicate Voter Registration Records

The rule proposed and published at *State Register*, Volume 6, Number 3, pp. 71-73, July 20, 1981 (6 S.R. 71) is adopted with the following amendments:

1 MCAR § 2.001 (Temporary)

F. Notice of ineffective registration. The county or municipality may modify the notice of ineffective registration in 1 MCAR § 2.0506 by adding the following additional statement:

~~"6. 4. Month and day of birth are required."~~

or

~~"6. 4. Month and day of birth are required on all registrations accepted in (name of county or municipality) after (date of notification of election)."~~

G. Request for birthdate

2. Please fill in your month and day of birth on the enclosed return form, sign the form, and mail it in the postage-paid envelope to (name of political subdivision). Return postage has been prepaid.

Only the month and day of your birth are requested; the year of your birth is not needed.

3. You will ~~not~~ NOT lose your registration if you do not provide this information or return this form, but your cooperation will be appreciated and helpful to election officials.

The return form shall include the following material:

The voter's name and address, pre-printed as they appear in the duplicate registration file.

_____/_____
 month of birth / day of birth

 Voter's signature

The return form shall be printed as a postage-paid postcard or the auditor or clerk shall include with the return form a postage-paid return envelope printed with the complete return mailing address of the political subdivision.

(6 S.R. 280)