

By June 15, 1991, the commissioner of human services shall convene an advisory council to examine the rules governing facilities certified as intermediate care facilities for persons with mental retardation or related conditions under Code of Federal Regulations, title 42, parts 431, 435, 442, and 483. The council shall examine the following rules: Minnesota Rules, parts 9525.0215; 9525.0225; 9525.0235; 9525.0243; 9525.0245; 9525.0255; 9525.0265; 9525.0275; 9525.0285; 9525.0295; 9525.0305; 9525.0315; 9525.0325; 9525.0335; 9525.0345; and 9525.0355. The commissioner shall submit to the legislature, by January 1, 1992, a plan for simplification of rules and regulations governing services to persons with developmental disabilities and related conditions. The plan must provide recommendations and draft legislation. The commissioner shall submit to the legislature an initial interim report by August 15, 1991, and a second interim report by October 15, 1991.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Presented to the governor May 30, 1991

Signed by the governor June 3, 1991, 3:45 p.m.

---

CHAPTER 319—H.F.No. 693

*An act relating to data practices; providing for classifications of government data; amending Minnesota Statutes 1990, sections 13.01, by adding a subdivision; 13.03, by adding a subdivision; 13.40; 13.43, subdivisions 1, 2, and 3; 13.55; 13.82, subdivisions 4 and 10; 13.83, subdivisions 4, 8, and by adding a subdivision; 13.84, by adding a subdivision; 144.335, by adding a subdivision; 169.09, subdivision 13; 260.161, subdivision 3; 383B.225, subdivision 6; 390.11, subdivision 7; 390.32, subdivision 6; 403.07, subdivision 4; 471.705, subdivision 1; 595.024, subdivision 3; 626.556, subdivision 11c, and by adding a subdivision; 638.02, subdivision 3; 638.04; 638.05; and 638.06; proposing coding for new law in Minnesota Statutes, chapter 13.*

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

Section 1. Minnesota Statutes 1990, section 13.01, is amended by adding a subdivision to read:

Subd. 3. SCOPE. This chapter regulates the collection, creation, storage, maintenance, dissemination, and access to government data in state agencies, statewide systems, and political subdivisions. It establishes a presumption that government data are public and are accessible by the public for both inspection and copying unless there is federal law, a state statute, or a temporary classification of data that provides that certain data are not public.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 2. Minnesota Statutes 1990, section 13.03, is amended by adding a subdivision to read:

**Subd. 9. EFFECT OF CHANGES IN CLASSIFICATION OF DATA.** Unless otherwise expressly provided by a particular statute, the classification of data is determined by the law applicable to the data at the time a request for access to the data is made, regardless of the data's classification at the time it was collected, created, or received.

Sec. 3. Minnesota Statutes 1990, section 13.40, is amended to read:

**13.40 LIBRARY AND HISTORICAL DATA.**

Subdivision 1. **RECORDS SUBJECT TO THIS CHAPTER.** (a) For purposes of this section, "historical records repository" means an archives or manuscript repository operated by any state agency, statewide system, or political subdivision whose purpose is to collect and maintain data to further the history of a geographic or subject area. The term does not include the state archives as defined in section 138.17, subdivision 1, clause (5).

All records (b) Data collected, maintained, used, or disseminated by a library or historical records repository operated by any state agency, political subdivision, or statewide system shall be administered in accordance with the provisions of this chapter.

Subd. 2. **PRIVATE DATA; RECORDS OF BORROWING.** That portion of ~~records~~ data 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~~ under section 13.02, subdivision 12, and shall not be disclosed except pursuant to a valid court order.

Subd. 3. **NONGOVERNMENTAL DATA.** Data held in the custody of a historical records repository that were not originally created, received, maintained, or disseminated by a state agency, statewide system, or political subdivision are not government data. These data are accessible to the public unless:

(1) the data are contributed by private persons under an agreement that restricts access, to the extent of any lawful limitation; or

(2) access would significantly endanger the physical or organizational integrity of the data.

Sec. 4. Minnesota Statutes 1990, section 13.43, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** 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

New language is indicated by underline, deletions by ~~strikeout~~.

system or political subdivision or is a member of or an applicant for an advisory board or commission.

Sec. 5. Minnesota Statutes 1990, section 13.43, subdivision 2, is amended to read:

Subd. 2. **PUBLIC DATA.** (a) 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 existence and 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 together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body; the terms of any agreement settling administrative or judicial proceedings; work location; a work telephone number; badge 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, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data; and city and county of residence.

(b) For purposes of this subdivision, a final disposition occurs when the state agency, statewide system, or political subdivision makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the state agency, statewide system, political subdivision, or arbitrator.

(c) The state agency, statewide system, or political subdivision may display a photograph of a current or former employee to a prospective witness as part of the state agency's, statewide system's, or political subdivision's investigation of any complaint or charge against the employee.

Sec. 6. Minnesota Statutes 1990, section 13.43, subdivision 3, is amended to read:

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 or appointment to an advisory board or commission is public: veteran status; relevant test scores; rank on eligible list; job history; education and training; and

New language is indicated by underline, deletions by ~~strikeout~~.

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. Names and home addresses of applicants for appointment to and members of an advisory board or commission are public.

Sec. 7. **[13.48] AWARD DATA.**

Financial data on business entities submitted to a state agency, statewide system, or political subdivision for the purpose of presenting awards to business entities for achievements in business development or performance are private data on individuals or nonpublic data.

Sec. 8. Minnesota Statutes 1990, section 13.55, is amended to read:

13.55 **ST. PAUL CIVIC CONVENTION CENTER AUTHORITY DATA.**

Subdivision 1. **NONPUBLIC NOT PUBLIC CLASSIFICATION.** The following data received, created or maintained by ~~the St. Paul civic center authority~~ or for publicly owned and operated convention facilities, civic center authorities, or the metropolitan sports facilities commission are classified as nonpublic data pursuant to section 13.02, subdivision 9; or private data on individuals pursuant to section 13.02, subdivision 12.

(a) A letter or other documentation from any person who makes inquiry to or who is contacted by the authority as to facility regarding the availability of ~~authority facilities~~ the facility for staging events;

(b) Identity of firms and corporations which contact the ~~authority~~ facility;

(c) Type of event which they wish to stage in ~~authority facilities~~ the facility;

(d) Suggested terms of rentals; and

(e) Responses of authority staff to these inquiries.

Subd. 2. **PUBLIC DATA.** The data made ~~nonpublic not public~~ by the provisions of subdivision 1 shall become public upon the occurrence of any of the following:

(a) A Five years elapse from the date on which the lease or contract is entered into between the authority facility and the inquiring party or parties or the event which was the subject of inquiry occurs at the facility, whichever occurs earlier;

(b) The event which was the subject of inquiry does not occur; or

(c) The event which was the subject of inquiry occurs elsewhere.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. EXHIBITOR DATA. The names, addresses, and contact persons for individual exhibitors at an exhibition may be withheld at the discretion of the facility to protect the competitive position of the facility or its customers.

Sec. 9. Minnesota Statutes 1990, section 13.82, subdivision 4, is amended to read:

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; ~~and~~
- (j) Response or incident report number; and
- (k) Dates of birth of the parties involved in a traffic accident.

Sec. 10. Minnesota Statutes 1990, section 13.82, subdivision 10, is amended to read:

Subd. 10. **PROTECTION OF IDENTITIES.** A law enforcement agency or a law enforcement dispatching agency working under direction of a law enforcement agency may withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

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

New language is indicated by underline, deletions by ~~strikeout~~.

(b) When access to the data would reveal the identity of a 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;

(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, and the agency reasonably determines that revealing the identity of the victim or witness would threaten the personal safety or property of the individual; or

(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; or

(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.

Sec. 11. Minnesota Statutes 1990, section 13.83, subdivision 4, is amended to read:

Subd. 4. **INVESTIGATIVE 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 or protected nonpublic data, 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 or nonpublic data, ~~except that~~ unless the final summary and the death certificate indicate the manner of death is homicide, undetermined, or pending investigation and there is an active law enforcement investigation, within the meaning of section 13.82, subdivision 5, relating to the death of the deceased individual, if there is an active law enforcement investigation of a possible homicide, the data remain confidential or protected nonpublic. However, upon review by the county attorney of the jurisdiction in which the law enforcement investigation is active, the data may be released to persons described in subdivision 8 if the county attorney determines release would not impede the ongoing investigation. When the law enforcement investigation becomes inactive, the data shall become private or nonpublic data. Nothing in this subdivision shall be construed to make not public the data elements identified in subdivision 2 at any point in the investigation or thereafter.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 12. Minnesota Statutes 1990, section 13.83, subdivision 8, is amended to read:

Subd. 8. **ACCESS TO NONPUBLIC DATA.** The data made nonpublic by this section are accessible to the physician who attended the decedent at the time of death, the legal representative of the decedent's estate and to the decedent's surviving spouse, parents, children, and siblings and their legal representatives.

Sec. 13. Minnesota Statutes 1990, section 13.83, is amended by adding a subdivision to read:

**Subd. 10. CLASSIFICATION OF CERTAIN MEDICAL EXAMINER AND CORONER DATA.** Data described in sections 383B.225, subdivision 6, 390.11, subdivision 7, and 390.32, subdivision 6, shall be classified as described therein.

Sec. 14. Minnesota Statutes 1990, section 13.84, is amended by adding a subdivision to read:

**Subd. 8. CHILD ABUSE DATA; RELEASE TO CHILD PROTECTIVE SERVICES.** A court services agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under section 626.556 to a local welfare agency if:

(1) the local welfare agency has an active case involving a common client or clients who are the subject of the data; and

(2) the data are necessary for the local welfare agency to effectively process the agency's case, including investigating or performing other duties relating to the case required by law.

Court services data disclosed under this subdivision may be used only for purposes of the active case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.

Sec. 15. Minnesota Statutes 1990, section 144.335, is amended by adding a subdivision to read:

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

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

New language is indicated by underline, deletions by strikeout.

(c) A person who negligently or intentionally releases a health record in violation of this subdivision, or who forges a signature on a consent form, or who obtains under false pretenses the consent form or health records of another person, or who, without the person's consent, alters a consent form, is liable to the patient for compensatory damages caused by an unauthorized release, plus costs and reasonable attorney's fees.

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

Sec. 16. Minnesota Statutes 1990, section 169.09, subdivision 13, is amended to read:

Subd. 13. **ACCIDENT REPORTS CONFIDENTIAL.** All written reports and supplemental reports required under this section to be provided to the department of public safety shall be without prejudice to the individual so reporting and shall be for the confidential use of the department of public safety and other appropriate state, federal, county, and municipal governmental agencies for accident analysis purposes, except that the department of public safety or any law enforcement department of any municipality or county in this state shall, upon written request of any person involved in an accident or upon written request of the representative of the person's estate, surviving spouse, or one or more surviving next of kin, or a trustee appointed pursuant to section 573.02, disclose to the requester, the requester's legal counsel or a representative of the requester's insurer any information contained therein except the parties' version of the accident as set out in the written report filed by the parties or may disclose identity of a person involved in an accident when the identity is not otherwise known or when the person denies presence at the accident. No report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department of public safety shall furnish upon the demand of any person who has, or claims to have, made a report, or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department of public safety solely to prove a compliance or a failure to comply with the requirements that the report be made to the department of public safety. Disclosing any information contained in any accident report, except as provided herein, is unlawful and a misdemeanor.

Nothing herein shall be construed to prevent any person who has made a report pursuant to this chapter from providing information to any persons involved in an accident or their representatives or from testifying in any trial, civil or criminal, arising out of an accident, as to facts within the person's knowledge. It is intended by this subdivision to render privileged the reports required but it is not intended to prohibit proof of the facts to which the reports relate. ~~Legally qualified newspaper publications and licensed radio and television stations shall upon request to a law enforcement agency be given an oral statement covering only the time and place of the accident, the names, addresses, and dates of birth of the parties involved, whether a citation was~~

New language is indicated by underline, deletions by strikeout.



issued, and if so, what it was for, and whether the parties involved were wearing seat belts, and a general statement as to how the accident happened without attempting to fix liability upon anyone; but said legally qualified newspaper publications and licensed radio and television stations shall not be given access to the hereinbefore mentioned confidential reports; nor shall any such statements or information so orally given be used as evidence in any court proceeding; but shall merely be used for the purpose of a proper publication or broadcast of the news. Response or incident data may be released pursuant to section 13.82, subdivision 4.

When these reports are released for accident analysis purposes the identity of any involved person shall not be revealed. Data contained in these reports shall only be used for accident analysis purposes, except as otherwise provided by this subdivision. Accident reports and data contained therein which may be in the possession or control of departments or agencies other than the department of public safety shall not be discoverable under any provision of law or rule of court.

Notwithstanding other provisions of this subdivision to the contrary, the commissioner of public safety shall give to the commissioner of transportation the name and address of a carrier subject to section 221.031 that is named in an accident report filed under subdivision 7 or 8. The commissioner of transportation may not release the name and address to any person. The commissioner shall use this information to enforce accident report requirements under chapter 221. In addition the commissioner of public safety may give to the United States Department of Transportation commercial vehicle accident information in connection with federal grant programs relating to safety.

The department may charge authorized persons a \$5 fee for a copy of an accident report.

Sec. 17. Minnesota Statutes 1990, section 260.161, subdivision 3, is amended to read:

Subd. 3. (a) Except for records relating to an offense where proceedings are public under section 260.155, subdivision 1, peace officers' records of children shall be kept separate from records of persons 18 years of age or older and shall not be open to public inspection or their contents disclosed to the public except (1) by order of the juvenile court, (2) as required by section 126.036, (3) as authorized under section 13.82, subdivision 2, ~~or~~ (4) to the child's parent or guardian unless disclosure of a record would interfere with an ongoing investigation; ~~except that traffic investigation reports may be open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident, 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. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

New language is indicated by underline, deletions by ~~strikeout~~.

(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.

(c) 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 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, 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.

Sec. 18. Minnesota Statutes 1990, section 383B.225, subdivision 6, is amended to read:

Subd. 6. **INVESTIGATION PROCEDURE.** (a) Upon notification of the death of any person, as provided in subdivision 5, the county medical examiner or a designee may proceed to the body, take charge of it, and order, when necessary, that there be no interference with the body or the scene of death. Any person violating the order of the examiner is guilty of a misdemeanor. The examiner or the examiner's designee shall make inquiry regarding the cause and manner of death and prepare written findings together with the report of death and its circumstances, which shall be filed in the office of the examiner. When it appears that death may have resulted from a criminal act and that further investigation is advisable, a copy of the report shall be transmitted to the county attorney. The examiner may take possession of all property of the deceased, mark it for identification, and make an inventory. The examiner shall take possession of all articles useful in establishing the cause of death, mark them for identification and retain them securely until they are no longer needed for evidence or investigation. The examiner shall release any property or articles needed for any criminal investigation to law enforcement officers conducting the investigation. When a reasonable basis exists for not releasing property or articles to law enforcement officers, the examiner shall consult with the county attorney. If the county attorney determines that a reasonable basis exists for not releasing the property or articles, the examiner may retain them. The property or articles shall be returned immediately upon completion of the investigation. When the property or articles are no longer needed for the investigation or as evidence, the examiner shall release the property or articles to the person or persons entitled to them. Notwithstanding any other law to the contrary, when per-

New language is indicated by underline, deletions by ~~strikeout~~.

sonal property of a decedent has come into the possession of the examiner, and is not used for a criminal investigation or as evidence, and has not been otherwise released as provided in this subdivision, the name of the decedent shall be filed with the probate court, together with a copy of the inventory of the decedent's property. At that time, an examination of the records of the probate court shall be made to determine whether a will has been admitted to probate or an administration has been commenced. Property of a nominal value, including wearing apparel, may be released to the spouse or any blood relative of the decedent or to the person accepting financial responsibility for burial of the decedent. If property has not been released by the examiner and no will has been admitted to probate or administration commenced within six months after death, the examiner shall sell the property at a public auction upon notice and in a manner as the probate court may direct. If the name of the decedent is not known, the examiner shall inventory the property of the decedent and after six months may sell the property at a public auction. The examiner shall be allowed reasonable expenses for the care and sale of the property and shall deposit the net proceeds of the sale with the county administrator, or the administrator's designee, in the name of the decedent, if known. If the decedent is not known, the examiner shall establish a means of identifying the property of the decedent with the unknown decedent and shall deposit the net proceeds of the sale with the county administrator, or a designee, so, that, if the unknown decedent's identity is established within six years, the proceeds can be properly distributed. In either case, duplicate receipts shall be provided to the examiner, one of which shall be filed with the court, the other of which shall be retained in the office of the examiner. If a representative shall qualify within six years from the time of deposit, the county administrator, or a designee, shall pay the amount of the deposit to the representative upon order of the court. If no order is made within six years, the proceeds of the sale shall become a part of the general revenue of the county.

(b) For the purposes of this section, health-related records or data on a decedent, except health data defined in section 13.38, whose death is being investigated under this section, whether the records or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, shall be made promptly available to the medical examiner, upon the medical examiner's written request, by a person having custody of, possession of, access to, or knowledge of the records or data. The medical examiner shall pay the reasonable costs of copies of records or data provided to the medical examiner under this section. Data collected or created pursuant to this subdivision relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated shall remain confidential or protected nonpublic data, except that the medical examiner's report may contain a summary of such data.

Sec. 19. Minnesota Statutes 1990, section 390.11, subdivision 7, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 7. **REPORTS.** (a) Deaths of the types described in this section must be promptly reported for investigation to the coroner by the law enforcement officer, attending physician, mortician, person in charge of the public institutions referred to in subdivision 1, or other person with knowledge of the death.

(b) For the purposes of this section, health-related records or data on a decedent, except health data defined in section 13.38, whose death is being investigated under this section, whether the records or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, shall be made promptly available to the coroner, upon the coroner's written request, by a person having custody of, possession of, access to, or knowledge of the records or data. The coroner shall pay the reasonable costs of copies of records or data provided to the coroner under this section. Data collected or created pursuant to this subdivision relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated shall remain confidential or protected nonpublic data, except that the coroner's report may contain a summary of such data.

Sec. 20. Minnesota Statutes 1990, section 390.32, subdivision 6, is amended to read:

Subd. 6. **REPORT OF DEATHS.** (a) Deaths of the types described in this section must be promptly reported for investigation to the sheriff by the attending physician, mortician, person in charge of the public institutions referred to in subdivision 1, or other person having knowledge of the death.

(b) For the purposes of this section, health-related records or data on a decedent, except health data as defined in section 13.38, whose death is being investigated under this section, whether the records or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, shall be made promptly available to the medical examiner, upon the medical examiner's written request, by a person having custody of, possession of, access to, or knowledge of the records or data. The medical examiner shall pay the reasonable costs of copies of records or data provided to the medical examiner under this section. Data collected or created pursuant to this subdivision relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated shall remain confidential or protected nonpublic data, except that the medical examiner's report may contain a summary of such data.

Sec. 21. Minnesota Statutes 1990, section 403.07, subdivision 4, is amended to read:

Subd. 4. **USE OF FURNISHED INFORMATION.** Names, addresses, and telephone numbers provided to a 911 system under subdivision 3 are private data and may be used only for identifying the location or identity, or both, of a

New language is indicated by underline, deletions by ~~strikeout~~.

person calling a 911 public safety answering point. The information furnished under subdivision 3 may not be used or disclosed by 911 system agencies, their agents, or their employees for any other purpose except under a court order. ~~This subdivision does not affect access to service data under section 13.82, subdivision 3, when data subject to that provision is sought from a law enforcement agency.~~

Sec. 22. Minnesota Statutes 1990, section 471.705, subdivision 1, is amended to read:

Subdivision 1. Except as otherwise expressly provided by statute, all meetings, including executive sessions, of any state agency, board, commission or department when required or permitted by law to transact public business in a meeting, and the governing body of any school district however organized, unorganized territory, county, city, town, or other public body, and of any committee, subcommittee, board, department or commission thereof, shall be open to the public, except meetings of ~~the board of pardons and~~ the commissioner of corrections. The votes of the members of such state agency, board, commission or department or of such governing body, committee, subcommittee, board, department or commission on any action taken in a meeting herein required to be open to the public shall be recorded in a journal kept for that purpose, which journal shall be open to the public during all normal business hours where such records are kept. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims and amounts fixed by statute. This section shall not apply to any state agency, board, or commission when exercising quasi-judicial functions involving disciplinary proceedings.

Sec. 23. Minnesota Statutes 1990, section 595.024, subdivision 3, is amended to read:

Subd. 3. **DETERMINATION; APPEAL.** The district court shall consider the nature of the proceedings, the merits of the claims and defenses, the adequacies of alternative remedies, the relevancy of the information sought, and the possibility of establishing by other means that which the source is expected or may tend to prove. The court shall make its appropriate order after making findings of fact. The order may be appealed directly to the court of appeals according to the rules of appellate procedure. The order is stayed and nondisclosure shall remain in full force and effect during the pendency of the appeal. Where the court finds that the information sought has been published or broadcast, there shall be no automatic stay unless an appeal is filed within two days after the order is issued. Either party may request expedited consideration.

Sec. 24. Minnesota Statutes 1990, section 626.556, is amended by adding a subdivision to read:

Subd. 10h. CHILD ABUSE DATA; RELEASE TO FAMILY COURT SERVICES. The responsible authority or its designee of a local welfare agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under this section to a court services agency if:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) the court services agency has an active case involving a common client or clients who are the subject of the data; and

(2) the data are necessary for the court services agency to effectively process the court services' case, including investigating or performing other duties relating to the case required by law.

The data disclosed under this subdivision may be used only for purposes of the active court services case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.

Sec. 25. Minnesota Statutes 1990, section 626.556, subdivision 11c, is amended to read:

Subd. 11c. **WELFARE, COURT SERVICES AGENCY, AND SCHOOL RECORDS MAINTAINED.** Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, court services agencies, or schools under this section shall be destroyed as provided in paragraphs (a) to ~~(e)~~ (d) by the responsible authority.

(a) If upon assessment or investigation there is no determination of maltreatment or the need for child protective services, the records may be maintained for a period of four years. After the individual alleged to have maltreated a child is notified under subdivision 10f of the determinations at the conclusion of the assessment or investigation, upon that individual's request, records shall be destroyed within 30 days.

(b) All records relating to reports which, upon assessment or investigation, indicate either maltreatment or a need for child protective services shall be destroyed seven years after the date of the final entry in the case record.

(c) All records regarding a report of maltreatment, including any notification of intent to interview which was received by a school under subdivision 10, paragraph (d), shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

(d) Private or confidential data released to a court services agency under subdivision 10h must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.

Sec. 26. Minnesota Statutes 1990, section 638.02, subdivision 3, is amended to read:

Subd. 3. Upon granting a pardon extraordinary the board of pardons shall

New language is indicated by underline, deletions by ~~strikeout~~.

file a copy thereof with the district court of the county in which the conviction occurred, ~~whereupon and~~ 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 include a copy of the pardon in the court file.~~

Sec. 27. Minnesota Statutes 1990, section 638.04, is amended to read:

#### 638.04 MEETINGS.

The board of pardons shall hold meetings at least twice each year and shall hold a meeting whenever it takes formal action on an application for a pardon or commutation of sentence. All board meetings shall be open to the public as provided in section 471.705.

The victim of an applicant's crime has a right to submit an oral or written statement at the meeting. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the application for a pardon or commutation should be granted or denied. In addition, any law enforcement agency may submit an oral or written statement at the meeting, giving its recommendation on whether the application should be granted or denied. The board must consider the victim's and the law enforcement agency's statement when making its decision on the application.

Sec. 28. Minnesota Statutes 1990, section 638.05, is amended to read:

#### 638.05 APPLICATION FOR PARDON.

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

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

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

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

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

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

New language is indicated by underline, deletions by ~~strikeout~~.

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

Every application for a pardon or commutation of sentence shall contain a statement by the applicant consenting to the disclosure to the board of any private data concerning the applicant contained in the application or in any other record relating to the grounds on which the pardon or commutation is sought.

Sec. 29. Minnesota Statutes 1990, section 638.06, is amended to read:

#### 638.06 ACTION ON APPLICATION.

Every such application shall be filed with the clerk of the board of pardons. If an application for a pardon or commutation has been once heard and denied on the merits, no subsequent application shall be filed without the consent of two members of the board endorsed thereon. The clerk shall, immediately on receipt of any application, mail notice thereof, and of the time and place of hearing thereon, to the judge of the court wherein the applicant was tried and sentenced, and to the prosecuting attorney who prosecuted the applicant, or a successor in office; ~~provided, pardons or commutations of sentence of persons committed to a county jail or workhouse may be granted by the board without notice.~~ The clerk shall also make all reasonable efforts to locate any victim of the applicant's crime. The clerk shall mail notice of the application and the time and place of the hearing to any victim who is located. This notice shall specifically inform the victim of the victim's right to be present at the hearing and to submit an oral or written statement to the board as provided in section 638.04.

#### Sec. 30. IMMUNITY FROM LIABILITY.

No cause of action may arise as a result of the release of data contained in a termination or personnel settlement agreement if the data were not public data as defined in Minnesota Statutes, section 13.02, at the time the agreement was executed but become public data under a law enacted after execution.

#### Sec. 31. LICENSING DATA STUDY.

The commissioner of administration shall study and make recommendations on the appropriate treatment and classification of state licensing data. The study shall include an examination of issues related to the sale of lists of the data for commercial purposes as part of a mailing list or telephone solicitation. The commissioner shall report to the legislature by January 15, 1992.

#### Sec. 32. EFFECTIVE DATES

Sections 2 and 30 are effective the day following final enactment and apply to data collected, created, or received before, on, or after the effective date. Section 26 is effective August 1, 1992, and applies to pardons extraordinary granted on or after the effective date.

Presented to the governor May 30, 1991

New language is indicated by underline, deletions by ~~strikeout~~.



Signed by the governor June 3, 1991, 4:00 p.m.

CHAPTER 320—H.F.No. 137

*An act relating to elections; changing time for examination by judges of certain return envelopes; changing the form of an affidavit; providing a deadline for withdrawal from the general election ballot; changing certain withdrawal procedures; clarifying procedures for filling certain vacancies; providing for counting a write-in vote for a candidate for governor as a vote for that candidate's selection for lieutenant governor; modifying requirements for absentee ballots; amending Minnesota Statutes 1990, sections 203B.12, subdivision 2; 203B.13, subdivision 3a; 203B.21, subdivision 3; 204B.04, subdivision 2; 204B.12, subdivision 3, and by adding subdivisions; 204B.13, subdivisions 1, 2, 4, and by adding subdivisions; 204B.41; 204C.22, by adding a subdivision; and 308A.635, subdivision 6; repealing Minnesota Statutes 1990, section 204B.13, subdivision 3.*

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

Section 1. Minnesota Statutes 1990, section 203B.12, subdivision 2, is amended to read:

Subd. 2. **EXAMINATION OF RETURN ENVELOPES.** Two or more election judges shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision. If a ballot has been prepared under section 5 or 204B.41, the election judges shall not begin removing ballot envelopes from the return envelopes until 8:00 p.m. on election day, either in the polling place or at an absentee ballot board established under section 203B.13.

The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges or a majority of them are satisfied that:

(a) the voter's signature on the return envelope is the genuine signature of the individual who made the application for ballots and the certificate has been completed as prescribed in the directions for casting an absentee ballot;

(b) the voter is registered and eligible to vote in the precinct or has included a properly completed registration card in the return envelope; and

(c) the voter has not already voted at that election, either in person or by absentee ballot.

The return envelope from accepted ballots must be preserved and returned to the county auditor.

New language is indicated by underline, deletions by ~~strikeout~~.