

..... moves to amend H.F. No. 857 as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

## CORRECTIONS DATA

Section 1. Minnesota Statutes 2016, section 241.065, subdivision 2, is amended to read:

**Subd. 2. Establishment.** The Department of Corrections shall administer and maintain a computerized data system for the purpose of assisting criminal justice agencies in conducting official duties and in monitoring and enforcing the conditions of conditional release imposed on criminal offenders by a sentencing court or the commissioner of corrections.

**Subd. 2a. Statewide supervision system access.** (a) The adult data and juvenile data as defined in section 260B.171 in the statewide supervision system are private data as defined in section 13.02, subdivision 12, ~~but~~ and are accessible to:

(1) criminal justice agencies as defined in section 13.02, subdivision 3a, to;

(2) the Minnesota sex offender program as provided in section 246B.04, subdivision 3;

to:

(3) public defenders as provided in section 611.272, to;

(4) all trial courts and appellate courts; and to

(5) criminal justice agencies in other states in the conduct of their official duties.

1.20       (b) Adult data in the statewide supervision system are accessible to the secretary of state  
1.21       for the purposes described in section 201.157.

Subd. 2b. **Case planning access.** Case planning data in the statewide supervision system are private data as defined in section 13.02, subdivision 12, and are accessible to state prison

2.1       facility staff, correction staff in community corrections act counties and county probation  
2.2       counties, and Department of Corrections field services staff for monitoring and enforcing  
2.3       conditions as described in subdivision 2.

2.4       Sec. 2. Minnesota Statutes 2016, section 241.065, subdivision 3, is amended to read:

2.5       **Subd. 3. Authority to enter or retrieve data.** Only criminal justice agencies may submit  
2.6       data to the statewide supervision system and only persons who are authorized users under  
2.7       subdivision 2 may obtain data from the system. The commissioner of corrections may require  
2.8       that any or all information be submitted to the statewide supervision system. A consent to  
2.9       the release of data in the statewide supervision system from the individual who is the subject  
2.10       of the data is not effective. According to subdivision 2b, a finalized case plan can be provided  
2.11       to community service providers for the purposes under subdivision 2.

## ARTICLE 2

### PERSONNEL DATA

2.14       Section 1. Minnesota Statutes 2016, section 13.43, subdivision 2, is amended to read:

2.15       **Subd. 2. Public data.** (a) Except for employees described in subdivision 5 and subject  
2.16       to the limitations described in subdivision 5a, the following personnel data on current and  
2.17       former employees, volunteers, and independent contractors of a government entity is public:

2.18       (1) name; employee identification number, which must not be the employee's Social  
2.19       Security number; actual gross salary; salary range; terms and conditions of employment  
2.20       relationship; contract fees; actual gross pension; the value and nature of employer paid  
2.21       fringe benefits; and the basis for and the amount of any added remuneration, including  
2.22       expense reimbursement, in addition to salary;

2.23       (2) job title and bargaining unit; job description; education and training background;  
2.24       and previous work experience;

2.25       (3) date of first and last employment;

2.26       (4) the existence and status of any complaints or charges against the employee, regardless  
2.27       of whether the complaint or charge resulted in a disciplinary action;

2.28       (5) the final disposition of any disciplinary action together with the specific reasons for  
2.29       the action and data documenting the basis of the action, excluding data that would identify  
2.30       confidential sources who are employees of the public body;

3.1       (6) the complete terms of any agreement settling any dispute arising out of an employment  
3.2       relationship, including a buyout agreement as defined in section 123B.143, subdivision 2,  
3.3       paragraph (a); except that the agreement must include specific reasons for the agreement if  
3.4       it involves the payment of more than \$10,000 of public money;

3.5       (7) work location; a work telephone number; badge number; work-related continuing  
3.6       education; and honors and awards received; and

3.7       (8) payroll time sheets or other comparable data that are only used to account for  
3.8       employee's work time for payroll purposes, except to the extent that release of time sheet  
3.9       data would reveal the employee's reasons for the use of sick or other medical leave or other  
3.10      not public data; and

3.11      (9) video, audio, or other recordings of government employees, independent contractors,  
3.12      or volunteers, unless the data is subject to section 13.825, in which case the data is treated  
3.13      in accordance with the requirements of that section.

3.14      (b) For purposes of this subdivision, a final disposition occurs when the government  
3.15      entity makes its final decision about the disciplinary action, regardless of the possibility of  
3.16      any later proceedings or court proceedings. Final disposition includes a resignation by an  
3.17      individual when the resignation occurs after the final decision of the government entity, or  
3.18      arbitrator. In the case of arbitration proceedings arising under collective bargaining  
3.19      agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or  
3.20      upon the failure of the employee to elect arbitration within the time provided by the collective  
3.21      bargaining agreement. A disciplinary action does not become public data if an arbitrator  
3.22      sustains a grievance and reverses all aspects of any disciplinary action.

3.23      (c) The government entity may display a photograph of a current or former employee  
3.24      to a prospective witness as part of the government entity's investigation of any complaint  
3.25      or charge against the employee.

3.26      (d) A complainant has access to a statement provided by the complainant to a government  
3.27      entity in connection with a complaint or charge against an employee.

3.28      (e) Notwithstanding paragraph (a), clause (5), and subject to paragraph (f), upon  
3.29      completion of an investigation of a complaint or charge against a public official, or if a  
3.30      public official resigns or is terminated from employment while the complaint or charge is  
3.31      pending, all data relating to the complaint or charge are public, unless access to the data  
3.32      would jeopardize an active investigation or reveal confidential sources. For purposes of this  
3.33      paragraph, "public official" means:

- 4.1       (1) the head of a state agency and deputy and assistant state agency heads;
- 4.2       (2) members of boards or commissions required by law to be appointed by the governor  
4.3       or other elective officers;
- 4.4       (3) executive or administrative heads of departments, bureaus, divisions, or institutions  
4.5       within state government; and
- 4.6       (4) the following employees:
- 4.7           (i) the chief administrative officer, or the individual acting in an equivalent position, in  
4.8       all political subdivisions;
- 4.9           (ii) individuals required to be identified by a political subdivision pursuant to section  
4.10      471.701;
- 4.11          (iii) in a city with a population of more than 7,500 or a county with a population of more  
4.12       than 5,000: managers; chiefs; heads or directors of departments, divisions, bureaus, or  
4.13       boards; and any equivalent position; and
- 4.14          (iv) in a school district: business managers; human resource directors; athletic directors  
4.15       whose duties include at least 50 percent of their time spent in administration, personnel,  
4.16       supervision, and evaluation; chief financial officers; directors; individuals defined as  
4.17       superintendents and principals under Minnesota Rules, part 3512.0100; and in a charter  
4.18       school, individuals employed in comparable positions.
- 4.19          (f) Data relating to a complaint or charge against an employee identified under paragraph  
4.20      (e), clause (4), are public only if:
- 4.21           (1) the complaint or charge results in disciplinary action or the employee resigns or is  
4.22       terminated from employment while the complaint or charge is pending; or
- 4.23           (2) potential legal claims arising out of the conduct that is the subject of the complaint  
4.24       or charge are released as part of a settlement agreement.
- 4.25       This paragraph and paragraph (e) do not authorize the release of data that are made not  
4.26       public under other law.

## ARTICLE 3

### DENIAL REQUIREMENTS

- 4.29      Section 1. Minnesota Statutes 2016, section 13.03, subdivision 3, is amended to read:
- 4.30      Subd. 3. **Request for access to data.** (a) Upon request to a responsible authority or  
4.31       designee, a person shall be permitted to inspect and copy public government data at

5.1 reasonable times and places, and, upon request, shall be informed of the data's meaning. If  
5.2 a person requests access for the purpose of inspection, the responsible authority may not  
5.3 assess a charge or require the requesting person to pay a fee to inspect data.

5.4 (b) For purposes of this section, "inspection" includes, but is not limited to, the visual  
5.5 inspection of paper and similar types of government data. Inspection does not include  
5.6 printing copies by the government entity, unless printing a copy is the only method to provide  
5.7 for inspection of the data. In the case of data stored in electronic form and made available  
5.8 in electronic form on a remote access basis to the public by the government entity, inspection  
5.9 includes remote access to the data by the public and the ability to print copies of or download  
5.10 the data on the public's own computer equipment. Nothing in this section prohibits a  
5.11 government entity from charging a reasonable fee for remote access to data under a specific  
5.12 statutory grant of authority. A government entity may charge a fee for remote access to data  
5.13 where either the data or the access is enhanced at the request of the person seeking access.

5.14 (c) The responsible authority or designee shall provide copies of public data upon request.  
5.15 If a person requests copies or electronic transmittal of the data to the person, the responsible  
5.16 authority may require the requesting person to pay the actual costs of searching for and  
5.17 retrieving government data, including the cost of employee time, and for making, certifying,  
5.18 and electronically transmitting the copies of the data or the data, but may not charge for  
5.19 separating public from not public data. However, if 100 or fewer pages of black and white,  
5.20 letter or legal size paper copies are requested, actual costs shall not be used, and instead,  
5.21 the responsible authority may charge no more than 25 cents for each page copied. If the  
5.22 responsible authority or designee is not able to provide copies at the time a request is made,  
5.23 copies shall be supplied as soon as reasonably possible.

5.24 (d) When a request under this subdivision involves any person's receipt of copies of  
5.25 public government data that has commercial value and is a substantial and discrete portion  
5.26 of or an entire formula, pattern, compilation, program, device, method, technique, process,  
5.27 database, or system developed with a significant expenditure of public funds by the  
5.28 government entity, the responsible authority may charge a reasonable fee for the information  
5.29 in addition to the costs of making and certifying the copies. Any fee charged must be clearly  
5.30 demonstrated by the government entity to relate to the actual development costs of the  
5.31 information. The responsible authority, upon the request of any person, shall provide  
5.32 sufficient documentation to explain and justify the fee being charged.

5.33 (e) The responsible authority of a government entity that maintains public government  
5.34 data in a computer storage medium shall provide to any person making a request under this  
5.35 section a copy of any public data contained in that medium, in electronic form, if the

6.1 government entity can reasonably make the copy or have a copy made. This does not require  
6.2 a government entity to provide the data in an electronic format or program that is different  
6.3 from the format or program in which the data are maintained by the government entity. The  
6.4 entity may require the requesting person to pay the actual cost of providing the copy.

6.5 (f) If the responsible authority or designee determines that the requested data is classified  
6.6 so as to deny the requesting person access, the responsible authority or designee shall inform  
6.7 the requesting person of the determination either orally at the time of the request, or in  
6.8 writing as soon after that time as possible, and shall cite the specific statutory section,  
6.9 including the statutory section's subdivision, paragraph, or clause, if applicable, temporary  
6.10 classification, or specific provision of federal law on which the determination is based.  
6.11 Upon the request of any person denied access to data, the responsible authority or designee  
6.12 shall certify in writing that the request has been denied and cite the specific statutory section,  
6.13 including the statutory section's subdivision, paragraph, or clause, if applicable, temporary  
6.14 classification, or specific provision of federal law upon which the denial was based.

## 6.15 ARTICLE 4

### 6.16 ELECTRONIC ACCESS DATA

6.17 Section 1. Minnesota Statutes 2016, section 13.15, subdivision 1, is amended to read:

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

6.20 (a) "Electronic access data" means data created, collected, or maintained about a person's  
6.21 access to a government entity's computer by a person, other than the government entity's  
6.22 employee or independent contractor, for the purpose of:

- 6.23 (1) gaining access to data or information;
- 6.24 (2) transferring data or information; or
- 6.25 (3) using government services.

6.26 (b) "Cookie" means any data that a government-operated computer electronically places  
6.27 on the computer of a person who has gained access to a government computer.

## 6.28 ARTICLE 5

### 6.29 BUSINESS DATA

6.30 Section 1. Minnesota Statutes 2016, section 13.591, is amended by adding a subdivision  
6.31 to read:

Subd. 2a. **Small business certification program data.** Subdivisions 1 and 2 apply to financial information about a business submitted to a government entity as part of the business' application for certification as a small, small minority-owned, small woman-owned, or veteran-owned business, or for certification under sections 16C.16 to 16C.21.

## ARTICLE 6

## **STUDY BY LEGISLATIVE COMMISSION**

**Section 1. EXPANDED PUBLIC ACCESS TO LEGISLATIVE RECORDS AND MEETINGS; STUDY AND RECOMMENDATIONS.**

(a) No later than December 15, 2017, the Legislative Commission on Data Practices and Personal Data Privacy must study and recommend options for expanding public access to legislative records and meetings. The recommendations must facilitate increased public access, participation, and accountability in the legislative process, while also preserving the rights and duties of the legislature and its members to function as a constitutional coequal branch of government.

(b) The study and recommendations should consider:

(1) current laws, rules, and customs and practices of the legislature that provide public access to legislative records and meetings;

(2) the experiences of other state legislatures in providing public access to their records and meetings:

(3) the potential benefits and risks to the legislative process in expanded public access to records and meetings:

(4) the potential benefits and risks to constituents and other individual members of the public in expanded access to legislative records and meetings; and

(5) impacts on the administrative operations of the legislature in implementing any recommended change, including the potential for increased costs or staffing needs "

726 Amend the title accordingly