

## CHAPTER 13

### GOVERNMENT DATA PRACTICES

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#### 13.01 GOVERNMENT DATA.

*[For text of subs 1 and 2, see M.S.1990]*

**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.

**History:** 1991 c 319 s 1

#### 13.03 ACCESS TO GOVERNMENT DATA.

*[For text of subs 1 and 2, see M.S.1990]*

**Subd. 3. Request for access to data.** Upon request to a responsible authority or designee, a person shall be permitted to inspect and copy public government data at reasonable times and places, and, upon request, shall be informed of the data's meaning. If a person requests access for the purpose of inspection, the responsible authority may not assess a charge or require the requesting person to pay a fee to inspect data. The responsible authority or designee shall provide copies of public data upon request. If a person requests copies or electronic transmittal of the data to the person, the responsible authority may require the requesting person to pay the actual costs of searching for and retrieving government data, including the cost of employee time, and for making, certifying, compiling, and electronically transmitting the copies of the data or the data, but may not charge for separating public from not public data. If the responsible authority is a state agency, the amount received is appropriated to the agency and added to the appropriations from which the costs were paid. If the responsible authority or designee is not able to provide copies at the time a request is made, copies shall be supplied as soon as reasonably possible.

When a request under this subdivision involves any person's receipt of copies of public government data that has commercial value and is a substantial and discrete portion of or an entire formula, pattern, compilation, program, device, method, technique, process, data base, or system developed with a significant expenditure of public funds by the agency, the responsible authority may charge a reasonable fee for the information in addition to the costs of making, 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.

*[For text of subs 4 to 8, see M.S.1990]*

**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.

**History:** 1991 c 319 s 2; 1991 c 345 art 1 s 44

### 13.08 CIVIL REMEDIES.

*[For text of subs 1 to 5, see M.S.1990]*

**Subd. 6. Immunity from liability; personnel settlement.** 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 section 13.02, at the time the agreement was executed but become public data under a law enacted after execution.

**History:** 1991 c 319 s 30

### 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).

(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 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, 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.

**History:** 1991 c 319 s 3

### 13.43 PERSONNEL DATA.

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

**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.

*[For text of subd 2a, see M.S.1990]*

**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 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.

*[For text of subs 4 to 7, see M.S.1990]*

**History:** 1991 c 319 s 4-6

## 13.46 WELFARE DATA.

*[For text of subd 1, see M.S.1990]*

**Subd. 2. General.** (a) 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:

- (1) pursuant to section 13.05;
- (2) pursuant to court order;
- (3) pursuant to a statute specifically authorizing access to the private data;
- (4) to an agent of the welfare system, including a law enforcement person, attor-

ney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) 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;

(6) to administer federal funds or programs;

(7) between personnel of the welfare system working in the same program;

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names and social security numbers, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, and the income tax;

(9) to the Minnesota department of jobs and training for the purpose of monitoring the eligibility of the data subject for unemployment compensation, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential facilities as defined in section 245A.02 may be disclosed 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 the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person; or

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education coordinating board to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5).

(b) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

*[For text of subs 3 to 11, see M.S.1990]*

**History:** 1991 c 292 art 5 s 1

### 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.

**History:** 1991 c 319 s 7

### 13.51 ASSESSOR'S DATA.

*[For text of subd 1, see M.S.1990]*

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;
- (e) projected vacancy factor for the current year; and
- (f) lease information.

Subd. 3. **Data on income of individuals.** Income information on individuals collected and maintained by political subdivisions to determine eligibility of property for classification 4c under section 273.13, subdivision 25, paragraph (c), is private data on individuals as defined in section 13.02, subdivision 12.

**History:** 1991 c 291 art 1 s 1,2

### 13.54 HOUSING AGENCY DATA.

*[For text of subs 1 to 4, see M.S.1990]*

Subd. 5. **Private data on individuals.** Income information on individuals collected and maintained by a housing agency to determine eligibility of property for classification 4c under section 273.13, subdivision 25, paragraph (c), is private data on individuals as defined in section 13.02, subdivision 12. The data may be disclosed to the county and local assessors responsible for determining eligibility of the property for classification 4c.

**History:** 1991 c 291 art 1 s 3

### 13.55 CONVENTION CENTER DATA.

Subdivision 1. **Not public classification.** The following data received, created, or maintained by 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 facility regarding the availability of the facility for staging events;
- (b) identity of firms and corporations which contact the facility;
- (c) type of event which they wish to stage in the facility;
- (d) suggested terms of rentals; and
- (e) responses of authority staff to these inquiries.

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

- (a) five years elapse from the date on which the lease or contract is entered into between the 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.

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.

**History:** 1991 c 319 s 8

### 13.645 AQUACULTURE PERMIT DATA.

The following data collected and maintained by an agency issuing aquaculture permits under sections 17.47 to 17.498 are classified as private or nonpublic: the names and addresses of customers provided in the permit application.

**History:** 1991 c 309 s 1

**13.71 DEPARTMENT OF COMMERCE DATA.**

*[For text of subs 1 to 6, see M.S.1990]*

**Subd. 7. Classification of PPO agreement data.** Data described in section 62E.13, subdivision 11, are nonpublic data.

**History:** 1991 c 165 s 1

**13.72 TRANSPORTATION DEPARTMENT DATA.**

**Subdivision 1. Estimates for construction projects.** An estimate of the cost of a construction project of the Minnesota department of transportation prepared by department employees is nonpublic data and is not available to the public from the time of final design until the project is awarded.

*[For text of subs 2 to 7, see M.S.1990]*

**History:** 1991 c 339 s 2

**13.793 NATURAL RESOURCES MINERAL DATA.**

*[For text of subd 1, see M.S.1990]*

**Subd. 2. Data become public.** (a) Data under subdivision 1, clause (1), become public data three years after the date the lease sale was held or, if not held, within three years after the date the lease sale was scheduled to be held. Except as provided in paragraph (b), data under subdivision 1, clause (2), become public data one year after receipt by the commissioner.

(b) If data under subdivision 1, clause (2), relate to private land that is under mineral lease to the person submitting the data, and the mineral lease is in force at the time the data are submitted, the data become public data only after the mineral lease is no longer in force. The person submitting the data that relate to private land that is under mineral lease shall provide to the commissioner at the time the data are submitted and annually thereafter, in a format designated by the commissioner, satisfactory evidence that the mineral lease is in effect. If, in a given year, satisfactory evidence that the mineral lease is still in effect is not provided to the commissioner before the anniversary date of receipt of the data by the commissioner, the data immediately become public data.

**History:** 1991 c 228 s 1

**13.82 COMPREHENSIVE LAW ENFORCEMENT DATA.**

*[For text of subs 1 to 3, see M.S.1990]*

**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; and
- (k) dates of birth of the parties involved in a traffic accident.

*[For text of subs 5 to 9, see M.S.1990]*

**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;
- (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;
- (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.

*[For text of subs 11 to 14, see M.S.1990]*

**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.

*[For text of subs 15 and 16, see M.S.1990]*

**History:** 1991 c 285 s 1,2; 1991 c 319 s 9,10

### 13.83 MEDICAL EXAMINER DATA.

*[For text of subs 1 to 3, see M.S.1990]*

**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, 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 indi-

vidual. 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.

*[For text of subs 5 to 7, see M.S.1990]*

**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.

*[For text of subd 9, see M.S.1990]*

**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.

**History:** 1991 c 319 s 11-13

#### 13.84 COURT SERVICES DATA.

*[For text of subs 1 to 7, see M.S.1990]*

**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.

**History:** 1991 c 319 s 14