

## CHAPTER 13

## GOVERNMENT DATA PRACTICES

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**13.01 GOVERNMENT DATA.**

Subdivision 1. **Applicability.** All government entities shall be governed by this chapter.

*[For text of subd 2, see M.S.2004]*

Subd. 3. **Scope.** This chapter regulates the collection, creation, storage, maintenance, dissemination, and access to government data in government entities. 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.

*[For text of subds 4 and 5, see M.S.2004]*

**History:** 2005 c 163 s 3,4

**13.02 COLLECTION, SECURITY, AND DISSEMINATION OF RECORDS; DEFINITIONS.**

*[For text of subds 1 to 6, see M.S.2004]*

Subd. 7. **Government data.** "Government data" means all data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or conditions of use.

*[For text of subds 7a to 19, see M.S.2004]*

**History:** 2005 c 163 s 5

**13.03 ACCESS TO GOVERNMENT DATA.**

Subdivision 1. **Public data.** All government data collected, created, received, maintained or disseminated by a government entity 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 government entity 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.** (a) The responsible authority in every government entity 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.

(b) The responsible authority shall prepare public access procedures in written form and update them no later than August 1 of each year as necessary to reflect any changes in personnel or circumstances that might affect public access to government data. The responsible authority shall make copies of the written public access procedures easily available to the public by distributing free copies of the procedures to the public or by posting a copy of the procedures in a conspicuous place within the government entity that is easily accessible to the public.

(c) 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.** (a) 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.

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

(c) 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. However, if 100 or fewer pages of black and white, letter or legal size paper copies are requested, actual costs shall not be used, and instead, the responsible authority may charge no more than 25 cents for each page copied. 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.

(d) 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, database, or system developed with a significant expenditure of public funds by the government entity, 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 government entity 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.

(e) The responsible authority of a government entity that maintains public government data in a computer storage medium shall provide to any person making a request under this section a copy of any public data contained in that medium, in electronic form, if the government entity can reasonably make the copy or have a copy made. This does not require a government entity to provide the data in an electronic format or program that is different from the format or program in which the data are maintained by the government entity. The entity may require the requesting person to pay the actual cost of providing the copy.

(f) 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; effect of dissemination among agencies.**

(a) The classification of data in the possession of an entity 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 entity.

(b) 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.

(c) To the extent that government data is disseminated to a government entity by another government entity, the data disseminated shall have the same classification in the hands of the entity receiving it as it had in the hands of the entity providing it.

(d) If a government entity disseminates data to another government entity, a classification provided for by law in the hands of the entity receiving the data does not affect the classification of the data in the hands of the entity that disseminates the data.

**Subd. 5. Copyright or patent of government data.** A government entity may enforce a copyright or acquire a patent for a computer software program or components of a program created by that government entity without statutory authority. In the event that a government entity acquires a patent 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 government entity 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.

If the data are discoverable the presiding officer shall decide whether the benefit to the party seeking access to the data outweighs any harm to the confidentiality interests of the entity maintaining the data, or of any person who has provided the data or who is the subject of the data, or to the privacy interest of an individual identified in the data. In making the decision, the presiding officer shall consider whether notice to the subject of the data is warranted and, if warranted, what type of notice must be given. The presiding officer may fashion and issue any protective orders necessary to assure proper handling of the data by the parties. If the data are a videotape of a child victim or alleged victim alleging, explaining, denying, or describing an act of physical or sexual abuse, the presiding officer shall consider the provisions of section 611A.90, subdivision 2, paragraph (b).

*[For text of subd 7, see M.S.2004]*

Subd. 8. **Change to classification of data not on individuals.** Except for security information, nonpublic and protected nonpublic data shall become public either ten years after the creation of the data by the government entity or ten years after the data was received or collected by any governmental entity unless the responsible authority for the originating or custodial entity for the data reasonably determines that, if the data were made available to the public or to the data subject, the harm to the public or to a data subject would outweigh the benefit to the public or to the data subject. If the responsible authority denies access to the data, the person denied access may challenge the denial by bringing an action in district court seeking release of the data. The action shall be brought in the district court located in the county where the data are being maintained, or, in the case of data maintained by a state agency, in any county. The data in dispute shall be examined by the court in camera. In deciding whether or not to release the data, the court shall consider the benefits and harms in the same manner as set forth above. The court shall make a written statement of findings in support of its decision.

*[For text of subs 9 to 12, see M.S.2004]*

**History:** 2005 c 163 s 6-12

#### 13.04 RIGHTS OF SUBJECTS OF DATA.

*[For text of subd 1, see M.S.2004]*

Subd. 2. **Tennessee warning.** An individual asked to supply private or confidential data concerning the individual shall be informed of: (a) the purpose and intended use of the requested data within the collecting government entity; (b) whether the individual may refuse or is legally required to supply the requested data; (c) any known consequence arising from 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, pursuant to section 13.82, subdivision 7, to a law enforcement officer.

*[For text of subd 3, see M.S.2004]*

Subd. 4. **Procedure when data is not accurate or complete.** (a) An individual subject of the data may contest the accuracy or completeness of public or private data. 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: (1) 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 (2) notify the individual that the authority 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. Upon receipt of an appeal by an individual, the commissioner shall, before issuing the order and notice of a contested case hearing required by chapter 14, try to resolve the dispute through education, conference, conciliation, or persuasion. If the parties consent, the commissioner may refer the matter to mediation. Following these efforts, the commissioner shall dismiss the appeal or issue the order and notice of hearing.

(b) Data on individuals that have been successfully challenged by an individual must be completed, corrected, or destroyed by a state agency, political subdivision, or statewide system without regard to the requirements of section 138.17.

After completing, correcting, or destroying successfully challenged data, a government entity may retain a copy of the commissioner of administration's order issued under chapter 14 or, if no order were issued, a summary of the dispute between the parties that does not contain any particulars of the successfully challenged data.

Subd. 5. [Repealed, 2005 c 163 s 89]

**History:** 2005 c 163 s 13,14

### 13.05 DUTIES OF RESPONSIBLE AUTHORITY.

Subdivision 1. **Public document of data categories.** The responsible authority shall prepare a public document containing the authority's name, title and address, and a description of each category of record, file, or process relating to private or confidential data on individuals maintained by the authority's government entity. 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.

*[For text of subs 2 and 3, see M.S.2004]*

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 government entities 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 entities specifically authorized access to that data by state, local, or federal law enacted or promulgated after the collection of the data.

(c) Private or confidential data may be used and disseminated to individuals or entities 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 entity 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. The format for informed consent is as follows, unless otherwise prescribed by the HIPAA, Standards for Privacy of Individually Identifiable Health Information, 65 Fed. Reg. 82, 461 (2000) (to be codified as Code of Federal Regulations, title 45, section 164): 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 entity to disclose information about the individual 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 the data subject;

(4) specific as to the nature of the information the subject is authorizing to be disclosed;

(5) specific as to the persons or entities to whom the subject 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;

(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 (i) life insurance or noncancelable or guaranteed renewable health

insurance and identified as such, two years after the date of the policy or (ii) medical assistance under chapter 256B or MinnesotaCare under chapter 256L, which shall be ongoing during all terms of eligibility, for individual education plan health-related services provided by a school district under section 125A.21, subdivision 2.

The responsible authority may require a person requesting copies of data under this paragraph to pay the actual costs of making, certifying, and compiling the copies.

(e) Private or confidential data on an individual may be discussed at a meeting open to the public to the extent provided in section 13D.05.

*[For text of subd 5, see M.S.2004]*

**Subd. 6. Contracts.** Except as provided in section 13.46, subdivision 5, in any contract between a government entity subject to this chapter and any person, when the contract requires that data on individuals be made available to the contracting parties by the government entity, 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 is permitted. Unless classified pursuant to section 13.06, another statute, or federal law, summary data is public. The responsible authority shall prepare summary data from private or confidential data on individuals upon the request of any person if 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 the entity if the person's purpose is set forth, in writing, and the person agrees not to disclose, and the entity 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 government entity 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 entity that supplies government data under this subdivision may require the requesting entity to pay the actual cost of supplying the data.

*[For text of subds 10 to 13, see M.S.2004]*

**History:** 2005 c 163 s 15-20

### 13.055 STATE AGENCIES; DISCLOSURE OF BREACH IN SECURITY.

**Subdivision 1. Definitions.** For purposes of this section, the following terms have the meanings given to them.

(a) "Breach of the security of the data" means unauthorized acquisition of data maintained by a state agency that compromises the security and classification of the data. Good faith acquisition of government data by an employee, contractor, or agent of a state agency for the purposes of the state agency is not a breach of the security of the data, if the government data is not provided to an unauthorized person.

(b) "Contact information" means either name and mailing address or name and e-mail address for each individual who is the subject of data maintained by the state agency.

(c) "Unauthorized acquisition" means that a person has obtained government data without the informed consent of the individuals who are the subjects of the data or statutory authority and with the intent to use the data for nongovernmental purposes.

(d) "Unauthorized person" means any person who accesses government data without permission or without a work assignment that reasonably requires the person to have access to the data.

Subd. 2. **Notice to individuals.** A state agency that collects, creates, receives, maintains, or disseminates private or confidential data on individuals must disclose any breach of the security of the data following discovery or notification of the breach. Notification must be made to any individual who is the subject of the data and whose private or confidential data was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with (1) the legitimate needs of a law enforcement agency as provided in subdivision 3; or (2) any measures necessary to determine the scope of the breach and restore the reasonable security of the data.

Subd. 3. **Delayed notice.** The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede an active criminal investigation. The notification required by this section must be made after the law enforcement agency determines that it will not compromise the investigation.

Subd. 4. **Method of notice.** Notice under this section may be provided by one of the following methods:

(a) written notice by first class mail to each affected individual;

(b) electronic notice to each affected individual, if the notice provided is consistent with the provisions regarding electronic records and signatures as set forth in United States Code, title 15, section 7001; or

(c) substitute notice, if the state agency demonstrates that the cost of providing the written notice required by paragraph (a) would exceed \$250,000, or that the affected class of individuals to be notified exceeds 500,000, or the state agency does not have sufficient contact information. Substitute notice consists of all of the following:

(i) e-mail notice if the state agency has an e-mail address for the affected individuals;

(ii) conspicuous posting of the notice on the Web site page of the state agency, if the state agency maintains a Web site; and

(iii) notification to major media outlets that reach the general public.

Subd. 5. **Coordination with consumer reporting agencies.** If the state agency discovers circumstances requiring notification under this section of more than 1,000 individuals at one time, the state agency must also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in United States Code, title 15, section 1681a, of the timing, distribution, and content of the notices.

**History:** 2005 c 163 s 21

### 13.06 TEMPORARY CLASSIFICATION.

Subdivision 1. **Application to commissioner.** Notwithstanding the provisions of section 13.03, the responsible authority of a government entity 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 nonpublic or protected nonpublic, for its own use and for the use of other similar government entities 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, rejected, or granted by the commissioner, whichever is earlier.

If the commissioner determines that an application has been submitted for purposes not consistent with this section, the commissioner may immediately reject the application, give notice of that rejection to the applicant, and return the application. When the applicant receives the notice of rejection from the commissioner, the data

which was the subject of the application shall have the classification it had before the application was submitted to the commissioner.

**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 government entities, 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 government entities, 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 government entities 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 government entities similar to the applicant. On deeming this approach advisable, the commissioner shall provide notice of the proposed action by publication in the State Register within ten days of receiving the application. Within 30 days after publication in the State Register an affected government entity or the public 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 government entities 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 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 government entities 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.

*[For text of subds 5 and 7, see M.S.2004]*

**History:** 2005 c 163 s 22-25

### 13.07 DUTIES OF COMMISSIONER.

The commissioner shall promulgate rules, in accordance with the rulemaking procedures in the Administrative Procedure Act which shall apply to government entities 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 to be adopted.

**History:** 2005 c 163 s 26

### 13.072 OPINIONS BY THE COMMISSIONER.

*[For text of subs 1 and 2, see M.S.2004]*

Subd. 4. **Data submitted to commissioner.** A government entity may submit not public data to the commissioner for the purpose of requesting or responding to a person's request for an opinion. Government data submitted to the commissioner by a government entity or copies of government data submitted by other persons have the same classification as the data have when held by the government entity. If the nature of the opinion is such that the release of the opinion would reveal not public data, the commissioner may issue an opinion using pseudonyms for individuals. Data maintained by the commissioner, in the record of an opinion issued using pseudonyms that would reveal the identities of individuals protected by the use of the pseudonyms, are private data on individuals.

**History:** 2005 c 163 s 27

### 13.073 PUBLIC INFORMATION POLICY TRAINING PROGRAM.

*[For text of subs 1 and 2, see M.S.2004]*

Subd. 3. **Basic training.** The basic training component should be designed to meet the basic information policy needs of all government employees and public officials with a focus on key data practices laws and procedures that apply to all government entities. The commissioner should design the basic training component in a manner that minimizes duplication of the effort and cost for government entities to provide basic training. The commissioner may develop general programs and materials for basic training such as video presentations, data practices booklets, and training guides. The commissioner may assist state and local government entities in developing training expertise within their own entities and offer assistance for periodic training sessions for this purpose.

*[For text of subs 4 to 6, see M.S.2004]*

**History:** 2005 c 163 s 28

### 13.08 CIVIL REMEDIES.

Subdivision 1. **Action for damages.** Notwithstanding section 466.03, a responsible authority or government entity which violates any provision of this chapter is liable to a person or representative of a decedent who suffers any damage as a result of the violation, and the person damaged or a representative in the case of private data on decedents or confidential data on decedents may bring an action against the responsible authority or government entity to cover any damages sustained, plus costs and reasonable attorney fees. In the case of a willful violation, the government entity 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 responsible authority or government entity 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.

*[For text of subds 3 and 4, see M.S.2004]*

Subd. 5. **Immunity from liability.** A government entity or person that releases not public data pursuant to an order under section 13.03, subdivision 6 is immune from civil and criminal liability.

*[For text of subd 6, see M.S.2004]*

**History:** 2005 c 163 s 29-31

### 13.319 EDUCATION DATA CODED ELSEWHERE.

*[For text of subds 1 and 2, see M.S.2004]*

Subd. 3. **Program services.** Data on individuals receiving services under certain programs administered by the Department of Education are classified under section 119A.50, subdivision 2.

Subd. 4. **Energy programs.** Treatment of data on individuals applying for benefits or services under energy programs is governed by section 216C.266.

Subd. 5. [Renumbered 13.461, subd 30]

Subd. 6. **Lead abatement program; testing and evaluation.** Treatment of data relating to testing under the lead abatement program is governed by section 144.9512, subdivision 8.

**History:** 2005 c 97 art 4 s 6; 2005 c 98 art 1 s 1,2,4; 1Sp2005 c 5 art 8 s 7

### 13.32 EDUCATIONAL DATA.

*[For text of subds 1 and 2, see M.S.2004]*

Subd. 3. **Private data; when disclosure is permitted.** 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 United States Code, title 20, section 1232g(b)(1)(I) and Code of Federal Regulations, title 34, section 99.36;

(e) pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3) and Code of Federal Regulations, title 34, sections 99.31, 99.32, 99.33, 99.34, and 99.35;

(f) to appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted;

(g) when disclosure is required for institutions that participate in a program under title IV of the Higher Education Act, United States Code, title 20, section 1092;

(h) to the appropriate school district officials to the extent necessary under subdivision 6, annually to indicate the extent and content of remedial instruction, including the results of assessment testing and academic performance at a postsecondary institution during the previous academic year by a student who graduated from a Minnesota school district within two years before receiving the remedial instruction;

(i) to appropriate authorities as provided in United States Code, title 20, section 1232g(b)(1)(E)(ii), if the data concern the juvenile justice system and the ability of the system to effectively serve, prior to adjudication, the student whose records are released; provided that the authorities to whom the data are released submit a written request for the data that certifies that the data will not be disclosed to any other person except as authorized by law without the written consent of the parent of the student and the request and a record of the release are maintained in the student's file;

(j) to volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students;

(k) to provide student recruiting information, from educational data held by colleges and universities, as required by and subject to Code of Federal Regulations, title 32, section 216;

(l) to the juvenile justice system if information about the behavior of a student who poses a risk of harm is reasonably necessary to protect the health or safety of the student or other individuals;

(m) with respect to Social Security numbers of students in the adult basic education system, to Minnesota State Colleges and Universities and the Department of Employment and Economic Development for the purpose and in the manner described in section 124D.52, subdivision 7; or

(n) to the commissioner of education for purposes of an assessment or investigation of a report of alleged maltreatment of a student as mandated by section 626.556. Upon request by the commissioner of education, data that are relevant to a report of maltreatment and are from charter school and school district investigations of alleged maltreatment of a student must be disclosed to the commissioner, including, but not limited to, the following:

- (1) information regarding the student alleged to have been maltreated;
- (2) information regarding student and employee witnesses;
- (3) information regarding the alleged perpetrator; and
- (4) what corrective or protective action was taken, if any, by the school facility in response to a report of maltreatment by an employee or agent of the school or school district.

*[For text of subs 4 to 7, see M.S.2004]*

Subd. 8. **Access by juvenile justice system.** (a) Upon request, the following education data shall be disclosed under subdivision 3, clause (i), to the juvenile justice system: a student's full name, home address, telephone number, date of birth; a student's school schedule, daily attendance record, and photographs, if any; and parents' names, home addresses, and telephone numbers.

(b) In addition, the existence of the following data about a student may be disclosed under subdivision 3, clause (i):

- (1) use of a controlled substance, alcohol, or tobacco;
- (2) assaultive or threatening conduct that could result in dismissal from school under section 121A.45, subdivision 2, clause (b) or (c);
- (3) possession or use of weapons or look-alike weapons;
- (4) theft; or
- (5) vandalism or other damage to property.

Any request for access to data under this paragraph must contain an explanation of why access to the data is necessary to serve the student.

(c) A principal or chief administrative officer of a school who receives a request to disclose information about a student to the juvenile justice system under paragraph (b) shall, to the extent permitted by federal law, notify the student's parent or guardian by certified mail of the request to disclose information before disclosing the information. If the student's parent or guardian notifies the principal or chief administrative officer within ten days of receiving the certified notice that the parent or guardian objects to the disclosure, the principal or chief administrative officer must not disclose the information. The principal or chief administrative officer must inform the requesting member of the juvenile justice system of the objection.

(d) A principal or chief administrative officer is not required to create data under this subdivision. Information provided in response to a data request under paragraph (b) shall indicate only whether the data described in paragraph (b) exist. The principal

or chief administrative officer is not authorized under paragraph (b) to disclose the actual data or other information contained in the student's education record. A principal or chief administrative officer is not required to provide data that are protected by court order. A principal or chief administrative officer must respond to a data request within 14 days if no objection is received from the parent or guardian.

(e) Nothing in this subdivision shall limit the disclosure of educational data pursuant to court order.

(f) A school district, its agents, and employees who provide data in good faith under this subdivision are not liable for compensatory or exemplary damages or an award of attorney fees in an action under section 13.08, or other law, or for a penalty under section 13.09.

(g) Section 13.03, subdivision 4, applies to data that are shared under this subdivision with a government entity. If data are shared with a member of the juvenile justice system who is not a government entity, the person receiving the shared data must treat the data consistent with the requirements of this chapter applicable to a government entity.

(h) A member of the juvenile justice system who falsely certifies a request for data under this section is subject to the penalties under section 13.09.

*[For text of subd 9, see M.S.2004]*

**Subd. 10. Education records; child with disability.** Nothing in this chapter shall be construed as limiting the frequency of inspection of the educational records of a child with a disability by the child's parent or guardian or by the child upon the child reaching the age of majority. An agency or institution may not charge a fee to search for or to retrieve the educational records. An agency or institution that receives a request for copies of the educational records of a child with a disability may charge a fee that reflects the costs of reproducing the records except when to do so would impair the ability of the child's parent or guardian, or the child who has reached the age of majority, to exercise their right to inspect and review those records.

**History:** 2005 c 10 art 1 s 3; 2005 c 163 s 32; 1Sp2005 c 5 art 2 s 1

### **13.321 PREKINDERGARTEN-GRADE 12 EDUCATIONAL DATA CODED ELSEWHERE.**

*[For text of subds 1 and 2, see M.S.2004]*

**Subd. 2a. School accountability.** Certain school accountability data are governed by section 120B.36, subdivisions 1, paragraph (e), and 2.

*[For text of subds 3 to 6, see M.S.2004]*

**Subd. 7. Education programs. (a) School readiness program.** Data on a child participating in a school readiness program are classified under section 124D.15, subdivision 9.

(b) (Renumbered 13.461, subd 31)

(c) **Performance tracking system.** Data sharing related to the performance tracking system is governed by section 124D.52.

*[For text of subds 8 and 9, see M.S.2004]*

**Subd. 10. Teacher data from value-added assessment model.** Data on individual teachers generated from a value-added assessment model are governed under section 120B.362.

**History:** 2005 c 10 art 1 s 4; 2005 c 98 art 1 s 24; 1Sp2005 c 5 art 2 s 2

### **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. "Security information" includes crime prevention block maps and lists of volunteers who participate in community crime prevention programs and their home addresses and telephone numbers.

(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 noneconomic 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.

(d) "Parking space leasing data" means the following government data on an applicant for, or lessee of, a parking space: residence address, home telephone number, beginning and ending work hours, place of employment, work telephone number, and location of the parking space.

**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, including the number of bids received, prior to the opening of the bids; parking space leasing data; 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.

**Subd. 3. Data dissemination.** (a) Crime prevention block maps and names, home addresses, and telephone numbers of volunteers who participate in community crime prevention programs may be disseminated to volunteers participating in crime prevention programs. The location of a National Night Out event is public data.

(b) The responsible authority of a government entity in consultation with the appropriate chief law enforcement officer, emergency manager, or public health official, may make security information accessible to any person, entity, or the public if the government entity determines that the access will aid public health, promote public safety, or assist law enforcement.

**History:** 2005 c 163 s 33-35

### 13.3805 PUBLIC HEALTH DATA.

*[For text of subs 1 and 2, see M.S.2004]*

**Subd. 3. Office of Health Facility Complaints; investigative data.** Except for investigative data under section 626.556, all investigative data maintained by the Department of Health's Office of Health Facility Complaints are subject to provisions of and classified pursuant to section 626.557, subdivision 12b, paragraphs (b) to (d). Notwithstanding sections 626.556, subdivision 11, and 626.557, subdivision 12b, paragraph (b), data identifying an individual substantiated as the perpetrator are public data. For purposes of this subdivision, an individual is substantiated as the perpetrator if the commissioner of health determines that the individual is the perpetrator and the determination of the commissioner is upheld after the individual either exercises applicable administrative appeal rights or fails to exercise these rights within the time allowed by law.

**History:** 2005 c 163 s 36

**13.3806 PUBLIC HEALTH DATA CODED ELSEWHERE.**

*[For text of subd 1, see M.S.2004]*

Subd. 1a. **Death investigation data.** Data gathered by the commissioner of health to identify the body of a person believed to have died due to a declared emergency as defined in section 12.03, subdivision 1e, the circumstances of death, and disposition of the body are classified in and may be released according to section 12.381, subdivision 2.

*[For text of subs 2 to 20, see M.S.2004]*

**History:** 2005 c 150 s 13

**13.381 HEALTH REGULATORY DATA CODED ELSEWHERE.**

*[For text of subs 1 to 7, see M.S.2004]*

Subd. 7a. **Facility requirements.** Data provided to, filed with, or created or obtained by the commissioner of health under section 144.7065 are classified as provided in section 144.7065, subdivision 10.

*[For text of subs 8 to 17, see M.S.2004]*

**History:** 2005 c 10 art 1 s 5

**13.383 HEALTH OCCUPATIONS INVESTIGATIVE DATA CODED ELSEWHERE.**

*[For text of subs 1 to 9, see M.S.2004]*

Subd. 10. **Social workers. (a) Disciplinary data generally.** Data held by the Board of Social Work in connection with disciplinary matters are classified under sections 148D.255 to 148D.270.

(b) **Reports of violations.** Certain reports of violations submitted to the Board of Social Work are classified under sections 148D.240 to 148D.250.

(c) **Client records.** Client records of a patient cared for by a social worker who is under review by the Board of Social Work are classified under section 148D.230.

*[For text of subs 11 to 16, see M.S.2004]*

**History:** 2005 c 147 art 1 s 1

**13.411 LICENSING DATA CODED ELSEWHERE.**

*[For text of subs 1 to 4, see M.S.2004]*

Subd. 5. **Social workers.** Residence addresses and telephone numbers of social worker licensees are classified under chapter 148D.

*[For text of subs 6 to 8, see M.S.2004]*

**History:** 2005 c 147 art 1 s 2

**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 government entity. Personnel data includes data submitted by an employee to a government entity as part of an organized self-evaluation effort by the government entity to request suggestions from all employees on ways to cut costs, make government more efficient, or improve the operation of government. An employee who is identified in a suggestion shall have access to all data in the suggestion except the identity of the employee making the suggestion.

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

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

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

(3) date of first and last employment;

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

(5) 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;

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

(7) work location; a work telephone number; badge number; and honors and awards received; and

(8) 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.

(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, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. 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.

(d) A complainant has access to a statement provided by the complainant to a state agency, statewide system, or political subdivision in connection with a complaint or charge against an employee.

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

(1) the head of a state agency and deputy and assistant state agency heads;

(2) members of boards or commissions required by law to be appointed by the governor or other elective officers; and

(3) executive or administrative heads of departments, bureaus, divisions, or institutions.

*[For text of subd 2a, see M.S.2004]*

Subd. 3. **Applicant data.** Except for applicants described in subdivision 5, the following personnel data on current and former applicants for employment by a government entity 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.

*[For text of subs 4 to 16, see M.S.2004]*

**History:** 2005 c 163 s 37-39

#### 13.44 PROPERTY DATA.

*[For text of subs 1 and 2, see M.S.2004]*

Subd. 3. **Real property; appraisal data.** (a) **Confidential or protected nonpublic data.** Estimated or appraised values of individual parcels of real property that are made by personnel of the state or a political subdivision or by independent appraisers acting for the state or a political subdivision for the purpose of selling or acquiring land through purchase or condemnation are classified as confidential data on individuals or protected nonpublic data.

(b) **Private or nonpublic data.** Appraised values of individual parcels of real property that are made by appraisers working for fee owners or contract purchasers who have received an offer to purchase their property from the state or a political subdivision are classified as private data on individuals or nonpublic data.

(c) **Public data.** The data made confidential or protected nonpublic under paragraph (a) or made private or nonpublic under paragraph (b) become public upon the occurrence of any of the following:

- (1) the data are submitted to a court-appointed condemnation commissioner;
- (2) the data are presented in court in condemnation proceedings; or
- (3) the negotiating parties enter into an agreement for the purchase and sale of the property.

*[For text of subd 4, see M.S.2004]*

**History:** 1Sp2005 c 6 art 3 s 1

#### 13.46 WELFARE DATA.

*[For text of subd 1, see M.S.2004]*

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) according to section 13.05;
- (2) according to court order;
- (3) according to a statute specifically authorizing access to the private data;
- (4) to an agent of the welfare system, including a law enforcement person, attorney, 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 verify an individual's identity; determine eligibility, amount of assistance, and the need to provide services to an individual or family across programs; evaluate the effectiveness of programs; and investigate suspected fraud;
- (6) to administer federal funds or programs;



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

(8) to the Department of Revenue to administer and evaluate tax refund or tax credit programs and to identify individuals who may benefit from these programs. The following information may be disclosed under this paragraph: an individual's and their dependent's names, dates of birth, Social Security numbers, income, addresses, and other data as required, upon request by the Department of Revenue. Disclosures by the commissioner of revenue to the commissioner of human services for the purposes described in this clause are governed by section 270B.14, subdivision 1. Tax refund or tax credit programs include, but are not limited to, the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund and rental credit under section 290A.04, and the Minnesota education credit under section 290.0674;

(9) between the Department of Human Services, the Department of Education, and the Department of Employment and Economic Development for the purpose of monitoring the eligibility of the data subject for unemployment benefits, for any employment or training program administered, supervised, or certified by that agency, for the purpose of administering any rehabilitation program or child care assistance program, whether alone or in conjunction with the welfare system, or to monitor and evaluate the Minnesota family investment program by exchanging data on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(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 programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law 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;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the Higher Education Services Office to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant Social Security numbers and names collected by the telephone assistance program may be disclosed to the Department of Revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a Minnesota family investment program participant may be disclosed to law enforcement officers who provide the name of the participant and notify the agency that:

(i) the participant:

(A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony under the laws of the jurisdiction from which the individual is fleeing; or

(B) is violating a condition of probation or parole imposed under state or federal law;

(ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and

(iii) the request is made in writing and in the proper exercise of those duties;

(16) the current address of a recipient of general assistance or general assistance medical care may be disclosed to probation officers and corrections agents who are

supervising the recipient and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food support applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act, according to Code of Federal Regulations, title 7, section 272.1(c);

(18) the address, Social Security number, and, if available, photograph of any member of a household receiving food support shall be made available, on request, to a local, state, or federal law enforcement officer if the officer furnishes the agency with the name of the member and notifies the agency that:

(i) the member:

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

(B) is violating a condition of probation or parole imposed under state or federal law; or

(C) has information that is necessary for the officer to conduct an official duty related to conduct described in subitem (A) or (B);

(ii) locating or apprehending the member is within the officer's official duties; and

(iii) the request is made in writing and in the proper exercise of the officer's official duty;

(19) the current address of a recipient of Minnesota family investment program, general assistance, general assistance medical care, or food support may be disclosed to law enforcement officers who, in writing, provide the name of the recipient and notify the agency that the recipient is a person required to register under section 243.166, but is not residing at the address at which the recipient is registered under section 243.166;

(20) certain information regarding child support obligors who are in arrears may be made public according to section 518.575;

(21) data on child support payments made by a child support obligor and data on the distribution of those payments excluding identifying information on obligees may be disclosed to all obligees to whom the obligor owes support, and data on the enforcement actions undertaken by the public authority, the status of those actions, and data on the income of the obligor or obligee may be disclosed to the other party;

(22) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(23) to the Department of Education for the purpose of matching Department of Education student data with public assistance data to determine students eligible for free and reduced price meals, meal supplements, and free milk according to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and state funds that are distributed based on income of the student's family; and to verify receipt of energy assistance for the telephone assistance plan;

(24) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person;

(25) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

(26) to personnel of public assistance programs as defined in section 256.741, for access to the child support system database for the purpose of administration, including monitoring and evaluation of those public assistance programs;

(27) to monitor and evaluate the Minnesota family investment program by exchanging data between the Departments of Human Services and Education, on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(28) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the Department of Human Services, Department of Revenue under section 270B.14, subdivision 1, paragraphs (a) and (b), without regard to the limitation of use in paragraph (c), Department of Health, Department of Employment and Economic Development, and other state agencies as is reasonably necessary to perform these functions; or

(29) counties operating child care assistance programs under chapter 119B may disseminate data on program participants, applicants, and providers to the commissioner of education.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed according to the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) 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 the purposes of this subdivision, a request will be deemed to be made in writing if made through a computer interface system.

*[For text of subd 3, see M.S.2004]*

**Subd. 4. Licensing data.** (a) As used in this subdivision:

(1) "licensing data" means all data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered or who apply for licensure or registration or who formerly were licensed or registered under the authority of the commissioner of human services;

(2) "client" means a person who is receiving services from a licensee or from an applicant for licensure; and

(3) "personal and personal financial data" means Social Security numbers, identity of and letters of reference, insurance information, reports from the Bureau of Criminal Apprehension, health examination reports, and social/home studies.

(b)(1) Except as provided in paragraph (c), the following data on current and former licensees are public: name, address, telephone number of licensees, date of receipt of a completed application, dates of licensure, licensed capacity, type of client preferred, variances granted, record of training and education in child care and child development, type of dwelling, name and relationship of other family members, previous license history, class of license, the existence and status of complaints, and the number of serious injuries to or deaths of individuals in the licensed program as reported to the commissioner of human services, the local social services agency, or any other county welfare agency. For purposes of this clause, a serious injury is one that is treated by a physician. When a correction order or fine has been issued, a license is suspended, immediately suspended, revoked, denied, or made conditional, or a complaint is resolved, the following data on current and former licensees are public: the substance and investigative findings of the licensing or maltreatment complaint, licensing violation, or substantiated maltreatment; the record of informal resolution of a licensing violation; orders of hearing; findings of fact; conclusions of law; specifications of the final correction order, fine, suspension, immediate suspension, revocation, denial, or conditional license contained in the record of licensing action; and the status of any appeal of these actions.

(2) Notwithstanding sections 626.556, subdivision 11, and 626.557, subdivision 12b, when any person subject to disqualification under section 245C.14 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home is a substantiated perpetrator of maltreatment, and the substantiated maltreatment is a reason for a licensing action, the identity of the substantiated perpetrator of maltreatment is public data. For purposes of this clause, a person is a substantiated perpetrator if the maltreatment determination has been upheld under section 256.045; 626.556, subdivision 10i; 626.557, subdivision 9d; or chapter 14, or if an individual or facility has not timely exercised appeal rights under these sections.

(3) For applicants who withdraw their application prior to licensure or denial of a license, the following data are public: the name of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, and the date of withdrawal of the application.

(4) For applicants who are denied a license, the following data are public: the name of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, the date of denial of the application, the nature of the basis for the denial, and the status of any appeal of the denial.

(5) The following data on persons subject to disqualification under section 245C.14 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home, are public: the nature of any disqualification set aside under section 245C.22, subdivisions 2 and 4, and the reasons for setting aside the disqualification; the nature of any disqualification for which a variance was granted under sections 245A.04, subdivision 9; and 245C.30, and the reasons for granting any variance under section 245A.04, subdivision 9; and, if applicable, the disclosure that any person subject to a background study under section 245C.03, subdivision 1, has successfully passed a background study.

(6) When maltreatment is substantiated under section 626.556 or 626.557 and the victim and the substantiated perpetrator are affiliated with a program licensed under chapter 245A, the commissioner of human services, local social services agency, or county welfare agency may inform the license holder where the maltreatment occurred of the identity of the substantiated perpetrator and the victim.

(c) The following are private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial data on family day care program and family foster care program applicants and licensees and their family members who provide services under the license.

(d) The following are private data on individuals: the identity of persons who have made reports concerning licensees or applicants that appear in inactive investigative data, and the records of clients or employees of the licensee or applicant for licensure whose records are received by the licensing agency for purposes of review or in anticipation of a contested matter. The names of reporters under sections 626.556 and 626.557 may be disclosed only as provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

(e) Data classified as private, confidential, nonpublic, or protected nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning a license which has been suspended, immediately suspended, revoked, or denied.

(f) Data generated in the course of licensing investigations that relate to an alleged violation of law are investigative data under subdivision 3.

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in section 626.556, subdivision 2, or 626.5572, subdivision 18, are subject to the destruction provisions of sections 626.556, subdivision 11c, and 626.557, subdivision 12b.

(h) Upon request, not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report of substantiated maltreatment as defined in section 626.556 or 626.557 may be exchanged with the Department of Health for purposes of completing background studies pursuant to section 144.057 and with the Department of Corrections for purposes of completing background studies pursuant to section 241.021.

(i) Data on individuals collected according to licensing activities under chapters 245A and 245C, and data on individuals collected by the commissioner of human services according to maltreatment investigations under sections 626.556 and 626.557, may be shared with the Department of Human Rights, the Department of Health, the Department of Corrections, the Ombudsman for Mental Health and Retardation, and the individual's professional regulatory board when there is reason to believe that laws or standards under the jurisdiction of those agencies may have been violated.

(j) In addition to the notice of determinations required under section 626.556, subdivision 10f, if the commissioner or the local social services agency has determined that an individual is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in section 626.556, subdivision 2, and the commissioner or local social services agency knows that the individual is a person responsible for a child's care in another facility, the commissioner or local social services agency shall notify the head of that facility of this determination. The notification must include an explanation of the individual's available appeal rights and the status of any appeal. If a notice is given under this paragraph, the government entity making the notification shall provide a copy of the notice to the individual who is the subject of the notice.

(k) All not public data collected, maintained, used, or disseminated under this subdivision and subdivision 3 may be exchanged between the Department of Human Services, Licensing Division, and the Department of Corrections for purposes of regulating services for which the Department of Human Services and the Department of Corrections have regulatory authority.

*[For text of subs 5 to 11, see M.S.2004]*

**History:** 2005 c 10 art 1 s 6; 2005 c 163 s 40; 1Sp2005 c 4 art 1 s 1

### 13.461 HUMAN SERVICES DATA CODED ELSEWHERE.

*[For text of subs 1 to 28, see M.S.2004]*

**Subd. 29. Program services.** Data on individuals receiving services under certain programs administered by the Department of Human Services are classified under sections 256E.32, subdivision 4, and 256E.34, subdivision 7.

**Subd. 30. Transitional housing data.** Certain data collected, used, or maintained by the recipient of a grant to provide transitional housing are classified under section 256E.33, subdivision 9.

**Subd. 31. Family services collaborative.** Data sharing involving family services collaboratives is governed by section 124D.23, subdivision 5.

**History:** 1991 c 106 s 6; 1992 c 511 art 7 s 1; 1992 c 569 s 4; 1993 c 13 art 1 s 12; 1993 c 65 s 1; 1993 c 177 s 1; 1993 c 240 s 1; 1993 c 326 art 2 s 1; 1993 c 345 art 3 s 18; 1993 c 351 s 20-22; 1994 c 483 s 1; 1994 c 589 s 1; 1994 c 616 s 1; 1994 c 618 art 1 s 17; art 2 s 9-64; 1994 c 632 art 2 s 10; art 3 s 17; 1994 c 636 art 4 s 4; 1995 c 142 s 1; 1995 c 155 s 1,2; 1995 c 186 s 8; 1995 c 212 art 3 s 59; 1995 c 229 art 4 s 3; 1995 c 234 art 5 s 1; 1995 c 259 art 1 s 27; art 4 s 4; art 5 s 1-51; 1996 c 305 art 1 s 3-5; 1996 c 334 s 1; 1996 c 408 art 9 s 1; 1996 c 415 s 1; 1996 c 440 art 1 s 18; art 2 s 1-14; 1996 c 471 art 7 s 1; 1997 c 7 art 1 s 3; 1997 c 22 art 2 s 1,8; 1997 c 66 s 79; 1997 c 129 art 2 s 15; 1997 c 193 s 1; 1997 c 199 s 14; 1997 c 202 art 2 s 63; 1997 c 203 art 6 s 2; 1997 c 215 s 1; 1997 c 218 s 1; 1997 c 239 art 8 s 1; 1Sp1997 c 3 s 8-18; 1998 c 273 s 1; 1998 c 361 s 1; 1998 c 367 art 11 s 2; 1998 c 371 s 6,7; 1998 c 373 s 1; 1998 c 382 art 2 s 1; 1998 c 397 art 11 s 3; 1998 c 407 art 2 s 1; 1999 c 99 s 23; 1999 c 139 art 4 s 2; 1999 c 205 art 1 s 70; 1999 c 227 s 22; 1999 c 245 art 9 s 1,2; 2000 c 451 s 2; 2000 c 468 s 17; 2001 c 178 art 2 s 1; 2003 c 130 s 12; 2004 c 294 art 2 s 1; 2005 c 98 art 1 s 2,24

**13.47 EMPLOYMENT AND TRAINING DATA.**

Subdivision 1. **Definition.** (a) "Employment and training data" means data on individuals collected, maintained, used, or disseminated because an individual applies for, is currently enrolled in, or has been enrolled in employment and training programs funded with federal, state, or local resources, including those provided under the Workforce Investment Act of 1998, United States Code, title 29, section 2801.

(b) "Employment and training service provider" means an entity certified, or seeking to be certified, by the commissioner of employment and economic development to deliver employment and training services under section 116J.401, subdivision 2, or an organization that contracts with a certified entity or the Department of Employment and Economic Development to deliver employment and training services.

(c) "Provider of training services" means an organization or entity that provides training under the Workforce Investment Act of 1998, United States Code, title 29, section 2801.

*[For text of subs 2 to 5, see M.S.2004]*

**History:** 2005 c 10 art 1 s 7

**13.4961 GENERAL TAX DATA CODED ELSEWHERE.**

*[For text of subd 1, see M.S.2004]*

Subd. 2. **Revenue Department.** (a) **Revenue Department access to criminal justice data communications network.** Access to the criminal justice data communications network by designated employees of the Revenue Department is governed under section 270C.05.

(b) **Criminal tax investigations.** Disclosure of Revenue Department information to prosecuting attorneys in criminal tax investigations is governed under section 270C.055, subdivision 1.

(c) **Equalization real property tax hearing.** Access to commissioner of revenue data, records, and files regarding real property, which is the subject of a hearing, by municipalities participating in the hearing, is governed under section 270C.923.

*[For text of subd 3, see M.S.2004]*

**History:** 2005 c 151 art 2 s 17

**13.4963 CLASSIFICATION AND DISCLOSURE TAX DATA CODED ELSEWHERE.**

*[For text of subd 1, see M.S.2004]*

Subd. 2. **Generally.** Classification and disclosure of tax data created, collected, or maintained by the Department of Revenue under section 273.1315, chapter 115B, 289A (except for taxes imposed under sections 298.01, 298.015, and 298.24), 290, 290A, 291, 295, 297A, or 297H, or any similar Indian tribal tax administered by the commissioner according to a tax agreement between the state and an Indian tribal government are governed by chapter 270B.

*[For text of subs 3 to 18, see M.S.2004]*

**History:** 2005 c 10 art 1 s 8

**13.55 CONVENTION CENTER DATA.**

*[For text of subs 1 to 3, see M.S.2004]*

Subd. 4. **City of St. Paul data.** (a) For purposes of this subdivision, "nonprofit organization" means the nonprofit organization with which the city of St. Paul contracts to market and promote the city as a tourist or convention center.

(b) Data collected, received, created, or maintained by the nonprofit organization in the course of preparing or submitting any responses to requests for proposals or

requests for bids relating to events hosted, conducted, or sponsored by the nonprofit organization is classified as nonpublic data under section 13.02, subdivision 9, or private data under section 13.02, subdivision 12, until the time provided in subdivision 2, paragraph (a) or (b). The nonprofit organization is a "civic center authority" for purposes of this section.

**History:** 2005 c 152 art 1 s 1

**NOTE:** Subdivision 4, as added by Laws 2005, chapter 152, article 1, section 1, is effective the day after the city council and the chief clerical officer of the city of St. Paul have timely completed their compliance with Minnesota Statutes, section 645.023, subdivisions 2 and 3. Laws 2005, chapter 152, article 1, section 44.

### 13.591 BUSINESS DATA.

*[For text of subs 1 to 3, see M.S.2004]*

**Subd. 4. Classification of evaluative data; data sharing.** (a) Data created or maintained by a government entity as part of the selection or evaluation process referred to in this section are protected nonpublic data until completion of the selection process or completion of the evaluation process at which time the data are public with the exception of trade secret data as defined and classified in section 13.37.

(b) If a state agency asks employees of other state agencies to assist with the selection of the responses to a request for bid or the evaluation of responses to a request for proposal, the state agency may share not public data in the responses with those employees. The employees participating in the selection or evaluation may not further disseminate the not public data they review.

**Subd. 5. Internal competitive response.** (a) For purposes of this subdivision, "internal competitive response" means a bid or proposal to provide government goods or services that is prepared by the staff of a government entity in competition with bids or proposals solicited by (1) the same government entity from the private sector or (2) a different government entity from the private sector.

(b) Data in an internal competitive response is classified as private or nonpublic until completion of the selection process or completion of the evaluation process at which time the data are public with the exception of trade secret data as defined and classified in section 13.37.

**History:** 2005 c 163 s 41, 42

### 13.601 ELECTED AND APPOINTED OFFICIALS.

*[For text of subs 1 and 2, see M.S.2004]*

**Subd. 3. Applicants for election or appointment.** The following data on all applicants for election or appointment to a public body, including those subject to chapter 13D, are public: name, city of residence, education and training, employment history, volunteer work, awards and honors, and prior government service or experience.

**History:** 2005 c 163 s 43

### 13.635 GENERAL STATE AGENCY DATA CODED ELSEWHERE.

*[For text of subd 1, see M.S.2004]*

**Subd. 1a. State Board of Investment.** Certain government data of the State Board of Investment related to investments are classified under section 11A.24, subdivision 6.

*[For text of subs 2 to 4, see M.S.2004]*

**History:** 2005 c 156 art 2 s 8; 2005 c 163 s 44

### 13.6401 ADMINISTRATION AND FINANCE DATA CODED ELSEWHERE.

*[For text of subs 1 to 5, see M.S.2004]*

**Subd. 6. Office of Enterprise Technology.** (a) **Business data.** Data submitted to the Office of Enterprise Technology by businesses are governed by section 16E.06.

(b) **North Star.** Data sharing involving North Star, the state's comprehensive government on-line information service, is governed by section 16E.07, subdivisions 2 and 3.

**History:** 2005 c 156 art 5 s 23

### 13.643 AGRICULTURAL DATA.

*[For text of subs 1 to 5, see M.S.2004]*

Subd. 6. **Animal trace-back data.** (a) The following data collected and maintained by the Board of Animal Health related to registration and identification of premises and animals under chapter 35, are classified as private or nonpublic:

- (1) the names and addresses;
- (2) the location of the premises where animals are kept; and
- (3) the identification number of the premises or the animal.

(b) The Board of Animal Health may disclose data collected under paragraph (a) to any person, agency, or to the public if the board determines that the access will aid in the law enforcement process or the protection of public or animal health or safety.

**History:** 2005 c 163 s 45

### 13.681 ENERGY AND UTILITIES DATA CODED ELSEWHERE.

*[For text of subs 1 to 4, see M.S.2004]*

Subd. 5. **Energy programs.** Treatment of data on individuals applying for benefits or services under energy programs is governed by section 216C.266.

**History:** 2005 c 97 art 4 s 1

### 13.6905 PUBLIC SAFETY DATA CODED ELSEWHERE.

*[For text of subs 1 and 2, see M.S.2004]*

Subd. 3. **Motor vehicle registration.** Various data on motor vehicle registrations are classified under sections 168.327, subdivision 3, and 168.346.

*[For text of subs 4 to 16, see M.S.2004]*

Subd. 17. **DNA evidence.** DNA identification data maintained by the Bureau of Criminal Apprehension are governed by sections 299C.11 and 299C.155.

*[For text of subs 18 to 32, see M.S.2004]*

**History:** 2005 c 136 art 12 s 1; 1Sp2005 c 6 art 2 s 47

### 13.72 TRANSPORTATION DEPARTMENT DATA.

*[For text of subs 1 to 10, see M.S.2004]*

Subd. 11. **Design-build transportation project.** When the Department of Transportation undertakes a design-build transportation project as defined in section 161.3410, subdivision 6, the statement of qualification evaluation criteria and scoring methodology, statement of qualification evaluations, technical proposal evaluation criteria and scoring methodology, and technical proposal evaluations are classified as protected nonpublic data with regard to data not on individuals and as confidential data on individuals. The statement of qualification evaluation criteria and scoring methodology and statement of qualification evaluations are public when the Department of Transportation announces the short list of qualified contractors. The technical proposal evaluation criteria, scoring methodology, and technical proposal evaluations are public when the project is awarded.

Subd. 12. **Transportation Department data.** When the commissioner of transportation determines that the design-build best value method of project delivery is appropriate for a project under sections 161.3410 to 161.3428, relocation reports, planimetric



files, digital terrain models, preliminary design drawings, commissioner's orders, requests for proposals, and requests for qualifications are classified as protected nonpublic data with regard to data not on individuals and confidential data on individuals until the department publishes the data as part of the request for proposal process. The commissioner may release design-build data to land owners, counties, cities, and other parties under contract to a government entity as necessary to facilitate project development. The released data retain their classification as protected nonpublic data with regard to data not on individuals and confidential data on individuals as provided by section 13.03, subdivision 4, paragraph (c), until the department publishes the data as part of the request for proposal process.

**Subd. 13. Account data.** The following data pertaining to applicants for or users of toll facilities, and high-occupancy vehicle lanes for which a user fee is charged under section 160.93, are classified as nonpublic data with regard to data not on individuals and as private data with regard to data on individuals: data contained in applications for the purchase, lease, or rental of a device such as an electronic vehicle transponder which automatically assesses charges for a vehicle's use of toll roads; personal and vehicle identification data; financial and credit data; and toll road usage data. Nothing in this subdivision prohibits the production of summary data as defined in section 13.02, subdivision 19.

**History:** 2005 c 163 s 46-48; 1Sp2005 c 7 s 16

### 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 program integrity section of, and county human service agency client and provider fraud prevention and control units operated or supervised by the Department of Human Services.

*[For text of subs 2 to 15, see M.S.2004]*

**Subd. 16. 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 not public. 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 7, the actual physical data associated with that investigation, including the public data, shall be available for public access.

*[For text of subs 17 to 27, see M.S.2004]*

**Subd. 28. Disclosure of predatory offender registrant status.** Law enforcement agency disclosure to health facilities of the registrant status of a registered predatory offender is governed by section 244.052.

**History:** 2005 c 136 art 3 s 1; 2005 c 163 s 49,50

### 13.851 CORRECTIONS AND DETENTION DATA CODED ELSEWHERE.

*[For text of subs 1 to 7, see M.S.2004]*

**Subd. 8. Release of predatory offenders.** Release of information about persons convicted of an offense which requires registration as a predatory offender under section 243.166 and who are released on probation is governed by section 244.10, subdivision 8.

**History:** 2005 c 136 art 16 s 13

**13.871 CRIMINAL JUSTICE DATA CODED ELSEWHERE.**

*[For text of subds 1 to 2, see M.S.2004]*

Subd. 3. **Criminal code.** (a) **Sources of presentence investigation reports.** Disclosure of confidential sources in presentence investigation reports is governed by section 609.115, subdivision 4.

(b) **Domestic abuse investigation report.** Data contained in domestic abuse investigation reports are classified under section 609.2244.

(c) **Use of motor vehicle to patronize prostitutes.** Use of a motor vehicle in the commission of an offense under section 609.324 is noted on the offender's driving records and the notation is classified pursuant to section 609.324, subdivision 5.

(d) **Sex offender assessment.** Assessor access to data relevant to sex offender assessments is governed under section 609.3457.

(e) **Sexual assault crime victims.** Data on sexual assault victims are governed by section 609.3471.

(f) **Data for assessment of offenders.** Access to data for the purpose of a mental health assessment of a convicted harassment offender is governed by section 609.749, subdivision 6.

*[For text of subd 4, see M.S.2004]*

Subd. 5. **Crime victims.** (a) **Crime victim notice of release.** Data on crime victims who request notice of an offender's release are classified under section 611A.06.

(b) **Sex offender HIV tests.** Results of HIV tests of sex offenders under section 611A.19, subdivision 2, are classified under that section.

(c) **Battered women.** Data on battered women maintained by grantees for emergency shelter and support services for battered women are governed by section 611A.32, subdivision 5.

(d) **Victims of domestic abuse.** Data on battered women and victims of domestic abuse maintained by grantees and recipients of per diem payments for emergency shelter for battered women and support services for battered women and victims of domestic abuse are governed by sections 611A.32, subdivision 5, and 611A.371, subdivision 3.

(e) **Personal history; internal auditing.** Certain personal history and internal auditing data is classified by section 611A.46.

(f) **Crime victim claims for reparations.** Claims and supporting documents filed by crime victims seeking reparations are classified under section 611A.57, subdivision 6.

(g) **Crime victim oversight act.** Data maintained by the commissioner of public safety under the Crime Victim Oversight Act are classified under section 611A.74, subdivision 2.

(h) **Victim identity data.** Data relating to the identity of the victims of certain criminal sexual conduct is governed by section 609.3471.

*[For text of subds 6 to 9, see M.S.2004]*

**History:** 2005 c 83 s 1; 2005 c 136 art 4 s 1,11