

(SENATE AUTHORS: CHAMBERLAIN)

DATE	D-PG	OFFICIAL STATUS
03/01/2012	4077	Introduction and first reading Referred to Judiciary and Public Safety See SF2403, Sec. 2-4, 9, 12-14

1.1

A bill for an act

1.2

relating to state government; changing provisions for data practices; amending

1.3

Minnesota Statutes 2010, sections 13.02, subdivisions 6, 8, 10, 16, 19; 13.03,

1.4

subdivisions 2, 3, 4; 13.04, subdivision 4; 13.05, subdivision 7, by adding

1.5

subdivisions; 13.09; 13.32, subdivision 6; 13.37, subdivision 1; 13.3805,

1.6

subdivision 1; 13.3806, subdivisions 1a, 5; 13.384, subdivision 2; 13.386,

1.7

subdivision 1; 13.39, by adding a subdivision; 13.43, subdivisions 1, 2, 3, 5a, 8,

1.8

9, 11, 14, 15, 16, 17; 13.46, subdivisions 1, 2, 3, 4, 7; 13.587; 13.591, subdivision

1.9

4; 13.601, subdivision 3; 13.69, subdivision 1; 13.719, subdivision 1; 13.7932;

1.10

13.82, subdivisions 2, 7, 17, 26, 27, by adding a subdivision; 13.822, subdivision

1.11

1; 13.89, subdivisions 1, 2; 13D.015, subdivision 5; proposing coding for new

1.12

law in Minnesota Statutes, chapter 13; repealing Minnesota Statutes 2010,

1.13

section 13.05, subdivisions 1, 2, 8; Minnesota Rules, part 1205.0700.

1.14

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

1.15

Section 1. Minnesota Statutes 2010, section 13.02, subdivision 6, is amended to read:

1.16

Subd. 6. **Designee.** "Designee" means any ~~person~~ individual designated by a

1.17

responsible authority to be in charge of individual files or systems containing government

1.18

data and to receive and comply with requests for government data.

1.19

Sec. 2. Minnesota Statutes 2010, section 13.02, subdivision 8, is amended to read:

1.20

Subd. 8. **Individual.** "Individual" means a ~~natural person~~ living human being. In

1.21

the case of a minor or an incapacitated person as defined in section 524.5-102, subdivision

1.22

6, "individual" includes a parent or guardian or an individual acting as a parent or guardian

1.23

in the absence of a parent or guardian, except that the responsible authority shall withhold

1.24

data from parents or guardians, or individuals acting as parents or guardians in the absence

1.25

of parents or guardians, upon request by the minor if the responsible authority determines

1.26

that withholding the data would be in the best interest of the minor.

Sec. 3. Minnesota Statutes 2010, section 13.02, subdivision 10, is amended to read:

Subd. 10. **Person.** "Person" means any individual, partnership, corporation, association, business trust, ~~or a legal representative of an~~ public or private organization, or government entity.

Sec. 4. Minnesota Statutes 2010, section 13.02, subdivision 16, is amended to read:

Subd. 16. **Responsible authority.** "Responsible authority" in a state agency or statewide system means the state official designated by law or by the commissioner as the individual responsible for the collection, use and dissemination of any set of data on individuals, government data, or summary data. "Responsible authority" in any political subdivision means the individual designated by the governing body of that political subdivision as the individual responsible for the collection, use, and dissemination of any set of data on individuals, government data, or summary data, or the chair of the political subdivision's governing body if an individual is not designated, unless otherwise provided by state law.

Sec. 5. Minnesota Statutes 2010, section 13.02, subdivision 19, is amended to read:

Subd. 19. **Summary data.** "Summary data" means statistical records and reports derived from not public data on individuals but in which individuals persons are not identified and from which neither their identities nor any other characteristic characteristics that could uniquely identify an individual is them are ascertainable. Summary data are not data derived solely from public data.

Sec. 6. [13.025] GOVERNMENT ENTITY OBLIGATION.

Subdivision 1. **Data inventory.** The responsible authority shall prepare an inventory containing the authority's name, title, 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 may be included in the inventory. Beginning August 1, 1977, and annually thereafter, the responsible authority shall update the inventory and make any changes necessary to maintain the accuracy of the inventory. The inventory shall be available from the responsible authority to the public according to the provisions of sections 13.03 and 15.17. The commissioner may require responsible authorities to submit copies of the inventory and may request additional information relevant to data collection practices, policies, and procedures.

3.1 Subd. 2. **Public data access policy.** The responsible authority shall prepare a data
3.2 access policy and update it annually. The responsible authority shall make copies of the
3.3 policy easily available to the public by distributing free copies to the public or by posting
3.4 it in a conspicuous place within the government entity that is easily accessible to the
3.5 public or by posting it on the government entity's Web site.

3.6 Subd. 3. **Data subject rights and access policy.** The responsible authority shall
3.7 prepare a written policy of the rights of data subjects under section 13.04, and the specific
3.8 procedures used by the government entity for access by the data subject to public or
3.9 private data on individuals. The responsible authority shall make copies of the policy
3.10 easily available to the public by distributing free copies of it to the public or by posting it
3.11 in a conspicuous place within the government entity that is easily accessible to the public
3.12 or by posting it on the government entity's Web site.

3.13 Sec. 7. Minnesota Statutes 2010, section 13.03, subdivision 2, is amended to read:

3.14 Subd. 2. **Procedures.** (a) The responsible authority in every government entity shall
3.15 establish procedures, consistent with this chapter, to insure that requests for government
3.16 data are received and complied with in an appropriate and prompt manner.

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

3.24 ~~(c)~~ (b) Full convenience and comprehensive accessibility shall be allowed to
3.25 researchers including historians, genealogists and other scholars to carry out extensive
3.26 research and complete copying of all records containing government data except as
3.27 otherwise expressly provided by law.

3.28 A responsible authority may designate one or more designees.

3.29 Sec. 8. Minnesota Statutes 2010, section 13.03, subdivision 3, is amended to read:

3.30 Subd. 3. **Request for access to data.** (a) Upon request to a responsible authority
3.31 or designee, a person shall be permitted to inspect and copy public government data at
3.32 reasonable times and places, and, upon request, shall be informed of the data's meaning. If
3.33 a person requests access for the purpose of inspection, the responsible authority may not
3.34 assess a charge or require the requesting person to pay a fee to inspect data. After a person

4.1 has received copies of the public data and has been informed of the meaning, the data need
4.2 not be disclosed to that person for six months thereafter.

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

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

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

4.33 (e) The responsible authority of a government entity that maintains public
4.34 government data in a computer storage medium shall provide to any person making a
4.35 request under this section a copy of any public data contained in that medium, in electronic
4.36 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~~ are 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.

(g) Electronic geospatial government data maintained by a government entity shall be shared at no cost to government entities and federal and tribal government agencies. Request for copies of the data under this section must be made to the government entity that originally developed the data. Any data received by a government entity under this subdivision may only be reproduced or redistributed as permitted by the government entity that developed the data. Government entities are immune from civil liability for any data shared at no cost as provided by this subdivision.

Sec. 9. Minnesota Statutes 2010, section 13.03, subdivision 4, is amended to read:

Subd. 4. **Change in classification of data; effect of dissemination among agencies.** (a) The classification of a government entity's 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~~ are classified as both private and confidential by this chapter, or any other statute or federal law, the data ~~is~~ are private.

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

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

(e) To the extent that judicial branch data ~~is~~ are disseminated to government entities by the judicial branch, the data disseminated shall have the same level of accessibility ~~in the hands of the agency~~ at the government entity receiving it ~~them~~ as it they had in the hands of at the judicial branch entity providing it them. If the data have a specific classification in state statute or federal law, the government entity must maintain the data according to the specific classification.

Sec. 10. Minnesota Statutes 2010, section 13.04, subdivision 4, is amended to read:

Subd. 4. **Procedure when data is not accurate or complete.** (a) An individual subject of the data may ~~contest~~ challenge 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 make a written determination about the data challenge within 30 days and 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. A data subject cannot appeal a data challenge determination if the responsible authority corrects the challenged data. The commissioner shall dismiss the appeal and provide written notice to the individual if the individual challenged a policy, procedure, or process used by the government entity. 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.

Copies of government data submitted to the commissioner by individuals appealing a data challenge determination have the same classification as the data have when held by the government entity.

(b) Data on individuals that have been successfully challenged by an individual must be completed, corrected, or destroyed by a government entity 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.

Sec. 11. Minnesota Statutes 2010, section 13.05, subdivision 7, is amended to read:

Subd. 7. **Preparation of summary data.** The use of summary data derived from ~~private or confidential~~ not public 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~~ are public. The responsible authority shall prepare summary data from ~~private or confidential~~ not public 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~~ not public data ~~on individuals~~.

Sec. 12. Minnesota Statutes 2010, section 13.05, is amended by adding a subdivision to read:

Subd. 7a. **Access to summary data.** The responsible authority shall prepare and implement procedures to ensure that access to summary data is provided pursuant to section 13.05, subdivision 7. Preparation of summary data may be requested by any person. The request must be in writing in a form provided by the responsible authority. Within 30 days of the receipt of a request, the responsible authority must inform the requester of the estimated costs, if any, and provide:

- (1) the summary data requested;
- (2) a written statement to the requester, describing a time schedule for preparing the requested summary data, including reasons for any time delays;
- (3) access to the requester to the not public data for the purpose of the requestor's preparation of summary data; or
- (4) a written statement to the requester stating reasons why the responsible authority has determined that the requester's access would compromise the not public data.

Sec. 13. Minnesota Statutes 2010, section 13.05, is amended by adding a subdivision to read:

Subd. 7b. **Summary data nondisclosure agreement.** A nondisclosure agreement, as required by section 13.05, subdivision 7, must contain at least the following:

(1) a general description of the not public data which is being used to prepare summary data;

(2) the purpose for which the summary data is being prepared; and

(3) a statement that the preparer may be subject to the civil or criminal penalty provisions of section 13.08 or 13.09 in the event that the not public data are disclosed.

Sec. 14. Minnesota Statutes 2010, section 13.05, is amended by adding a subdivision to read:

Subd. 7c. **Paying for preparation of summary data.** Any costs incurred in the preparation of summary data shall be borne by the requesting person. In assessing the costs associated with the preparation of summary data, the responsible authority shall:

(1) provide to the requesting person an estimate of the costs associated with the preparation of the summary data;

(2) collect any funds necessary to reimburse the entity for its costs before preparing or supplying the summary data;

(3) charge no more than reasonable copying costs when the summary data being requested requires only copying and no other preparation; and

(4) take into account the reasonable value to the entity of the summary data prepared and where appropriate reduce the costs assessed to the requesting person.

Sec. 15. Minnesota Statutes 2010, section 13.09, is amended to read:

13.09 PENALTIES.

Any ~~person~~ individual who willfully violates the provisions of this chapter or any rules adopted under this chapter is guilty of a misdemeanor. Willful violation of this chapter by any public employee constitutes just cause for suspension without pay or dismissal of the public employee.

Sec. 16. Minnesota Statutes 2010, section 13.32, subdivision 6, is amended to read:

Subd. 6. **Admissions forms; remedial instruction.** (a) Minnesota postsecondary education institutions, for purposes of reporting and research, may collect on the 1986-1987 admissions form, and disseminate to any public educational agency or institution the following data on individuals: student sex, ethnic background, age, and disabilities. The data shall not be required of any individual and shall not be used for purposes of determining the ~~person's~~ individual's admission to an institution.

(b) A school district that receives information under subdivision 3, paragraph (h) from a postsecondary institution about an identifiable student shall maintain the data as educational data and use that data to conduct studies to improve instruction. Public postsecondary systems annually shall provide summary data to the Department of Education indicating the extent and content of the remedial instruction received in each system during the prior academic year by, and the results of assessment testing and the academic performance of, students who graduated from a Minnesota school district within two years before receiving the remedial instruction. The department shall evaluate the data and annually report its findings to the education committees of the legislature.

(c) This section supersedes any inconsistent provision of law.

Sec. 17. Minnesota Statutes 2010, section 13.37, subdivision 1, is amended to read:

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 the responsible authority determines 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.

(e) When denying a data request made under section 13.03, a government entity, upon request must provide a short description explaining the necessity for why the government data are classified as security information.

Sec. 18. Minnesota Statutes 2010, section 13.3805, subdivision 1, is amended to read:

Subdivision 1. **Health data generally.** (a) **Definitions.** As used in this subdivision:

(1) "Commissioner" means the commissioner of health.

(2) "Health data" means data on individuals created, collected, received, or maintained by the Department of Health, political subdivisions, or statewide systems relating to the identification, description, prevention, and control of disease or as part of an epidemiologic investigation the commissioner designates as necessary to analyze, describe, or protect the public health.

(b) **Data on individuals.** (1) Health data are private data on individuals.

Notwithstanding section 13.05, subdivision 9, health data may not be disclosed except as provided in this subdivision and section 13.04.

(2) The commissioner or a local board of health as defined in section 145A.02, subdivision 2, may disclose health data to the data subject's physician as necessary to locate or identify a case, carrier, or suspect case, to establish a diagnosis, to provide treatment, to identify ~~persons~~ individuals at risk of illness, or to conduct an epidemiologic investigation.

(3) With the approval of the commissioner, health data may be disclosed to the extent necessary to assist the commissioner to locate or identify a case, carrier, or suspect case, to alert persons who may be threatened by illness as evidenced by epidemiologic data, to control or prevent the spread of serious disease, or to diminish an imminent threat to the public health.

(c) **Health summary data.** Summary data derived from data collected under section 145.413 may be provided under section 13.05, subdivision 7.

Sec. 19. Minnesota Statutes 2010, section 13.3806, subdivision 1a, is amended to read:

Subd. 1a. **Death investigation data.** Data gathered by the commissioner of health to identify the body of ~~a person~~ an individual 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.

Sec. 20. Minnesota Statutes 2010, section 13.3806, subdivision 5, is amended to read:

11.1 Subd. 5. **School health records.** (a) **Student health data.** Data collected for the
11.2 health record of a school child are governed by section 144.29.

11.3 (b) **Tuberculosis screening.** Access to health records of ~~persons~~ individuals
11.4 enrolled in or employed by a school or school district for tuberculosis screening purposes
11.5 is governed by section 144.441, subdivision 8.

11.6 Sec. 21. Minnesota Statutes 2010, section 13.384, subdivision 2, is amended to read:

11.7 Subd. 2. **Public hospitals; directory information.** (a) During the time that a
11.8 ~~person~~ an individual is a patient in a hospital operated by a government entity under legal
11.9 commitment, directory information is public data. After the ~~person~~ individual is released
11.10 by termination of the ~~person's~~ individual's legal commitment, the directory information is
11.11 private data on individuals.

11.12 (b) If a ~~person~~ an individual is a patient other than pursuant to commitment in a
11.13 hospital controlled by a government entity, directory information is public data unless the
11.14 patient requests otherwise, in which case it is private data on individuals.

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

11.20 Sec. 22. Minnesota Statutes 2010, section 13.386, subdivision 1, is amended to read:

11.21 Subdivision 1. **Definition.** (a) "Genetic information" means information about an
11.22 identifiable individual derived from the presence, absence, alteration, or mutation of
11.23 a gene, or the presence or absence of a specific DNA or RNA marker, which has been
11.24 obtained from an analysis of:

11.25 (1) the individual's biological information or specimen; or

11.26 (2) the biological information or specimen of a ~~person~~ an individual to whom the
11.27 individual is related.

11.28 (b) "Genetic information" also means medical or biological information collected
11.29 from an individual about a particular genetic condition that is or might be used to provide
11.30 medical care to that individual or the individual's family members.

11.31 Sec. 23. Minnesota Statutes 2010, section 13.39, is amended by adding a subdivision
11.32 to read:

12.1 Subd. 4. **Exclusion.** This section does not apply when the sole issue or dispute is a
12.2 government entity's timeliness in responding to a data request.

12.3 Sec. 24. Minnesota Statutes 2010, section 13.43, subdivision 1, is amended to read:

12.4 Subdivision 1. **Definition.** As used in this section, "personnel data" means
12.5 government data on individuals maintained because the individual is ~~or was an~~ a current
12.6 or former employee of or an applicant for employment by, ~~performs services on a~~
12.7 ~~voluntary basis~~ a volunteer performing services for, or ~~acts as~~ an independent contractor
12.8 with a government entity. ~~Personnel data includes data submitted by an employee to a~~
12.9 ~~government entity as part of an organized self-evaluation effort by the government entity~~
12.10 ~~to request suggestions from all employees on ways to cut costs, make government more~~
12.11 ~~efficient, or improve the operation of government. An employee who is identified in~~
12.12 ~~a suggestion shall have access to all data in the suggestion except the identity of the~~
12.13 ~~employee making the suggestion.~~ Except for constitutional officers, elected officials are
12.14 not employees for purposes of this section.

12.15 Sec. 25. Minnesota Statutes 2010, section 13.43, subdivision 2, is amended to read:

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

12.20 (1) name; ~~employee~~ an identification number of an individual subject to this section,
12.21 ~~which must not be the employee's~~ a Social Security number; actual gross salary; salary
12.22 range; terms and conditions of employment relationship; contract fees; actual gross
12.23 pension; the value and nature of employer paid fringe benefits; and the basis for and
12.24 the amount of any added remuneration, including expense reimbursement, in addition
12.25 to salary;

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

12.28 (3) date of first and last employment or service;

12.29 (4) the existence and status of any complaints or charges against ~~the employee~~ an
12.30 individual subject to this section, regardless of whether the complaint or charge resulted
12.31 in a disciplinary action;

12.32 (5) the final disposition of any disciplinary action together with the specific reasons
12.33 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, excluding private personnel data about other individuals subject to this section and any other not public data;~~

(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; work-related continuing education; and honors and awards received; and

(8) payroll time sheets or other comparable data that are only used to account for a current or former employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the ~~employee's~~ individual'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 government entity makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the government entity, or arbitrator. 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. A disciplinary action does not become public data if an arbitrator sustains a grievance and reverses all aspects of any disciplinary action.

(c) The government entity may display a photograph of ~~a current or former employee~~ an individual subject to this section to a prospective witness as part of the government entity's investigation of any complaint or charge against the ~~employee~~ individual.

(d) A complainant has access to a statement provided by the complainant to a government entity in connection with a complaint or charge against an employee. Identities of individuals who complain about individuals subject to this section are private data.

(e) Notwithstanding paragraph (a), clause (5), upon completion of an investigation of a complaint or charge against a current public official or a former public official for acts which occurred while an individual was 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; and

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

~~(3)~~ (2) executive or administrative heads of departments, bureaus, divisions, or institutions within state government.

(f) 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.

Sec. 26. Minnesota Statutes 2010, section 13.43, subdivision 3, is amended to read:

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~~ are 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. A candidate for elected office is not an applicant for employment under this section.

Sec. 27. Minnesota Statutes 2010, section 13.43, subdivision 5a, is amended to read:

Subd. 5a. **Limitation on disclosure of certain personnel data.** Notwithstanding any other provision of this section, the following data relating to employees, volunteers, and independent contractors of a secure treatment facility defined in section 253B.02, subdivision 18a, employees, volunteers, and independent contractors of a state correctional facility, or employees, volunteers, and independent contractors of the Department of Corrections directly involved in supervision of offenders in the community, shall not be disclosed to facility patients, corrections inmates, or other individuals who facility or correction administrators reasonably believe will use the information to harass, intimidate, or assault any of these employees: place where previous education or training occurred; place of prior employment; and payroll timesheets or other comparable data, to the extent that disclosure of payroll timesheets or other comparable data may disclose future work assignments, home address or telephone number, the location of an employee during nonwork hours, or the location of an employee's immediate family members.

Sec. 28. Minnesota Statutes 2010, section 13.43, subdivision 8, is amended to read:

Subd. 8. **Harassment data.** ~~When allegations of sexual or other types of harassment are made against an employee, the employee~~ An individual subject to this section does not have access to data related to allegations of sexual or other types of harassment that ~~would~~ identify the complainant or other witnesses if the responsible authority determines that the ~~employee's~~ individual's access to that data would:

(1) threaten the personal safety of the complainant or a witness; or

(2) subject the complainant or witness to harassment.

If a disciplinary proceeding is initiated against the employee, data on the complainant or witness shall be available to the employee as may be necessary for the employee to prepare for the proceeding.

Sec. 29. Minnesota Statutes 2010, section 13.43, subdivision 9, is amended to read:

Subd. 9. **Peer counseling debriefing data.** (a) Data acquired by a peer group member in a public safety peer counseling debriefing ~~is~~ are private data on the ~~person~~ individual being debriefed.

(b) For purposes of this subdivision, "public safety peer counseling debriefing" means a group process oriented debriefing session held for peace officers, firefighters, medical emergency persons, dispatchers, or other persons involved with public safety emergency services, that is established by any government entity providing public safety emergency services and is designed to help ~~a person~~ an individual who has suffered an occupation-related traumatic event begin the process of healing and effectively dealing with posttraumatic stress.

Sec. 30. Minnesota Statutes 2010, section 13.43, subdivision 11, is amended to read:

Subd. 11. **Protection of employee or others.** (a) If the responsible authority or designee of a government entity reasonably determines that the release of personnel data is necessary to protect an ~~employee~~ individual subject to this section from harm to self or to protect another person who may be harmed by the ~~employee~~ individual, data that are relevant to the concerns for safety may be released as provided in this subdivision.

(b) The data may be released:

(1) to the ~~person~~ individual who may be harmed and to an attorney representing the ~~person~~ individual when the data are relevant to obtaining a restraining order;

(2) to a petition screening team conducting an investigation of the ~~employee~~ individual under section 253B.07, subdivision 1; or

(3) to a court, law enforcement agency, or prosecuting authority.

(c) Section 13.03, subdivision 4, paragraph (c), applies to data released under this subdivision, except to the extent that the data have a more restrictive classification in the possession of the agency or authority that receives the data. If the person who may be harmed or the ~~person's~~ individual's attorney receives data under this subdivision, the data may be used or released further only to the extent necessary to protect the person from harm.

Sec. 31. Minnesota Statutes 2010, section 13.43, subdivision 14, is amended to read:

Subd. 14. **Maltreatment data.** When a report of alleged maltreatment of a student in a school facility, as defined in section 626.556, subdivision 2, paragraph (f), is made to the commissioner of education under section 626.556, data that are relevant to a report of maltreatment and are collected by the school facility about the ~~person~~ individual alleged to have committed maltreatment must be provided to the commissioner of education upon request for purposes of an assessment or investigation of the maltreatment report. Data received by the commissioner of education pursuant to these assessments or investigations are classified under section 626.556.

Sec. 32. Minnesota Statutes 2010, section 13.43, subdivision 15, is amended to read:

Subd. 15. **Dissemination of data to law enforcement.** Private personnel data, or data ~~on employees~~ that are confidential data under section 13.39, may be disseminated to a law enforcement agency for the purpose of reporting a crime or alleged crime committed by an ~~employee~~ individual subject to this section, or for the purpose of assisting law enforcement in the investigation of a crime committed or allegedly committed by an ~~employee~~ individual subject to this section.

Sec. 33. Minnesota Statutes 2010, section 13.43, subdivision 16, is amended to read:

Subd. 16. **School district or charter school disclosure of violence or inappropriate sexual contact.** The superintendent of a school district or the superintendent's designee, or ~~a person~~ an individual having administrative control of a charter school, must release to a requesting school district or charter school private personnel data ~~on a current or former employee~~ related to acts of violence toward or sexual contact with a student, if an investigation conducted by or on behalf of the school district or law enforcement affirmed the allegations in writing prior to release and the investigation resulted in the resignation of the subject of the data.

Sec. 34. Minnesota Statutes 2010, section 13.43, subdivision 17, is amended to read:

Subd. 17. **Continuity of operations.** Personal home contact information may be used to ensure that an ~~employee~~ individual subject to this section can be reached in the event of an emergency or other disruption affecting continuity of operation of a government entity. An ~~employee's~~ individual's personal home contact information may be shared with another government entity in the event of an emergency or other disruption to ensure continuity of operation of either government entity.

Sec. 35. Minnesota Statutes 2010, section 13.46, subdivision 1, is amended to read:

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

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

(b) "Program" includes all programs for which authority is vested in a component of the welfare system according to statute or federal law, including, but not limited to, the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, Minnesota family investment program, temporary assistance for needy families program, medical assistance, general assistance, general assistance medical care, child care assistance program, and child support collections.

(c) "Welfare system" includes the Department of Human Services, local social services agencies, county welfare agencies, private licensing agencies, the public authority responsible for child support enforcement, human services boards, community mental health center boards, state hospitals, state nursing homes, the ombudsman for mental health and developmental disabilities, and persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract.

(d) "Mental health data" means data on individual clients and patients of community mental health centers, established under section 245.62, mental health divisions of counties and other providers under contract to deliver mental health services, or the ombudsman for mental health and developmental disabilities.

(e) "Fugitive felon" means ~~a person~~ an individual who has been convicted of a felony and who has escaped from confinement or violated the terms of probation or parole for that offense.

(f) "Private licensing agency" means an agency licensed by the commissioner of human services under chapter 245A to perform the duties under section 245A.16.

Sec. 36. Minnesota Statutes 2010, section 13.46, subdivision 2, is amended to read:

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; assess parental contribution amounts; 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 assess parental contribution amounts for purposes of section 252.27, subdivision 2a, 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 Employment and Economic Development, and when applicable, the Department of Education, for the following purposes:

(i) to monitor the eligibility of the data subject for unemployment benefits, for any employment or training program administered, supervised, or certified by that agency;

(ii) to administer any rehabilitation program or child care assistance program, whether alone or in conjunction with the welfare system;

(iii) to monitor and evaluate the Minnesota family investment program or the child care assistance 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; and

(iv) to analyze public assistance employment services and program utilization, cost, effectiveness, and outcomes as implemented under the authority established in Title II, Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of 1999. Health records governed by sections 144.291 to 144.298 and "protected health information" as defined in Code of Federal Regulations, title 45, section 160.103, and governed by Code of Federal Regulations, title 45, parts 160-164, including health care claims utilization information, must not be exchanged under this clause;

(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~~ individuals with developmental disabilities or other related conditions who live in residential facilities for these ~~persons~~ individuals if the protection and advocacy system receives a complaint by or on behalf of that ~~person~~ individual and the ~~person~~ individual does not have a legal guardian or the state or a designee of the state is the legal guardian of the ~~person~~ individual;

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

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the Minnesota Office of Higher Education 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 518A.74;

(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

21.1 actions undertaken by the public authority, the status of those actions, and data on the
21.2 income of the obligor or obligee may be disclosed to the other party;

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

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

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

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

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

21.23 (27) to monitor and evaluate the Minnesota family investment program by
21.24 exchanging data between the Departments of Human Services and Education, on
21.25 recipients and former recipients of food support, cash assistance under chapter 256, 256D,
21.26 256J, or 256K, child care assistance under chapter 119B, or medical programs under
21.27 chapter 256B, 256D, or 256L;

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

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

22.1 (30) child support data on the parents and the child may be disclosed to agencies
22.2 administering programs under titles IV-B and IV-E of the Social Security Act, as provided
22.3 by federal law. Data may be disclosed only to the extent necessary for the purpose of
22.4 establishing parentage or for determining who has or may have parental rights with respect
22.5 to a child, which could be related to permanency planning.

22.6 (b) Information on persons who have been treated for drug or alcohol abuse may
22.7 only be disclosed according to the requirements of Code of Federal Regulations, title
22.8 42, sections 2.1 to 2.67.

22.9 (c) Data provided to law enforcement agencies under paragraph (a), clause (15),
22.10 (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected
22.11 nonpublic while the investigation is active. The data are private after the investigation
22.12 becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

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

22.15 For the purposes of this subdivision, a request will be deemed to be made in writing
22.16 if made through a computer interface system.

22.17 Sec. 37. Minnesota Statutes 2010, section 13.46, subdivision 3, is amended to read:

22.18 Subd. 3. **Investigative data.** (a) Data on persons, including data on vendors of
22.19 services, licensees, and applicants that is collected, maintained, used, or disseminated
22.20 by the welfare system in an investigation, authorized by statute, and relating to the
22.21 enforcement of rules or law is confidential data on individuals pursuant to section 13.02,
22.22 subdivision 3, or protected nonpublic data not on individuals pursuant to section 13.02,
22.23 subdivision 13, and shall not be disclosed except:

22.24 (1) pursuant to section 13.05;

22.25 (2) pursuant to statute or valid court order;

22.26 (3) to a party named in a civil or criminal proceeding, administrative or judicial, for
22.27 preparation of defense through the rules of discovery; or

22.28 (4) to provide notices required or permitted by statute.

22.29 The data referred to in this subdivision shall be classified as public data upon
22.30 its submission to an administrative law judge or court in an administrative or judicial
22.31 proceeding. Inactive welfare investigative data shall be treated as provided in section
22.32 13.39, subdivision 3.

22.33 (b) Notwithstanding any other provision in law, the commissioner of human services
22.34 shall provide all active and inactive investigative data, including the name of the reporter

23.1 of alleged maltreatment under section 626.556 or 626.557, to the ombudsman for mental
23.2 health and developmental disabilities upon the request of the ombudsman.

23.3 Sec. 38. Minnesota Statutes 2010, section 13.46, subdivision 4, is amended to read:

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

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

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

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

23.14 (b)(1) Except as provided in paragraph (c), the following data on applicants, license
23.15 holders, and former licensees are public: name, address, telephone number of licensees,
23.16 date of receipt of a completed application, dates of licensure, licensed capacity, type of
23.17 client preferred, variances granted, record of training and education in child care and
23.18 child development, type of dwelling, name and relationship of other family members,
23.19 previous license history, class of license, the existence and status of complaints, and
23.20 the number of serious injuries to or deaths of individuals in the licensed program as
23.21 reported to the commissioner of human services, the local social services agency, or
23.22 any other county welfare agency. For purposes of this clause, a serious injury is one
23.23 that is treated by a physician. When a correction order, an order to forfeit a fine, an
23.24 order of license suspension, an order of temporary immediate suspension, an order of
23.25 license revocation, an order of license denial, or an order of conditional license has been
23.26 issued, or a complaint is resolved, the following data on current and former licensees
23.27 and applicants are public: the substance and investigative findings of the licensing or
23.28 maltreatment complaint, licensing violation, or substantiated maltreatment; the record
23.29 of informal resolution of a licensing violation; orders of hearing; findings of fact;
23.30 conclusions of law; specifications of the final correction order, fine, suspension, temporary
23.31 immediate suspension, revocation, denial, or conditional license contained in the record
23.32 of licensing action; whether a fine has been paid; and the status of any appeal of these
23.33 actions. If a licensing sanction under section 245A.07, or a license denial under section
23.34 245A.05, is based on a determination that the license holder or applicant is responsible for
23.35 maltreatment or is disqualified under chapter 245C, the identity of the license holder or

applicant as the individual responsible for maltreatment or as the disqualified individual is public data at the time of the issuance of the licensing sanction or denial.

(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, except as provided under clause (1).

(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 and address 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, the record of informal resolution of a denial, orders of hearings, findings of fact, conclusions of law, specifications of the final order of 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. If a licensing sanction under section 245A.07, or a license denial under section 245A.05, is based on a determination that an individual subject to

disqualification under chapter 245C is disqualified, the disqualification as a basis for the licensing sanction or denial is public data. As specified in clause (1), if the disqualified individual is the license holder or applicant, the identity of the license holder or applicant is public data. If the disqualified individual is an individual other than the license holder or applicant, the identity of the disqualified individual shall remain private data.

(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.

(7) Notwithstanding clause (1), for child foster care, only the name of the license holder and the status of the license are public if the county attorney has requested that data otherwise classified as public data under clause (1) be considered private data based on the best interests of a child in placement in a licensed program.

(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 of complaints or alleged violations of licensing standards under chapters 245A, 245B, 245C, and applicable rules and alleged maltreatment under sections 626.556 and 626.557, are confidential data and 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 developmental disabilities, 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. Unless otherwise specified in this chapter, the identity of a reporter of alleged maltreatment or licensing violations may not be disclosed.

(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.

Sec. 39. Minnesota Statutes 2010, section 13.46, subdivision 7, is amended to read:

Subd. 7. Mental health data. (a) Mental health data are private data on individuals and shall not be disclosed, except:

(1) pursuant to section 13.05, as determined by the responsible authority for the community mental health center, mental health division, or provider;

27.1 (2) pursuant to court order;

27.2 (3) pursuant to a statute specifically authorizing access to or disclosure of mental
27.3 health data or as otherwise provided by this subdivision; or

27.4 (4) with the consent of the client or patient.

27.5 (b) An agency of the welfare system may not require an individual to consent to the
27.6 release of mental health data as a condition for receiving services or for reimbursing a
27.7 community mental health center, mental health division of a county, or provider under
27.8 contract to deliver mental health services.

27.9 (c) Notwithstanding section 245.69, subdivision 2, paragraph (f), or any other law
27.10 to the contrary, the responsible authority for a community mental health center, mental
27.11 health division of a county, or a mental health provider must disclose mental health data to
27.12 a law enforcement agency if the law enforcement agency provides the name of a client or
27.13 patient and communicates that the:

27.14 (1) client or patient is currently involved in an emergency interaction with the law
27.15 enforcement agency; and

27.16 (2) data is necessary to protect the health or safety of the client or patient or of
27.17 another ~~person~~ individual.

27.18 The scope of disclosure under this paragraph is limited to the minimum necessary
27.19 for law enforcement to respond to the emergency. Disclosure under this paragraph
27.20 may include, but is not limited to, the name and telephone number of the psychiatrist,
27.21 psychologist, therapist, mental health professional, practitioner, or case manager of the
27.22 client or patient. A law enforcement agency that obtains mental health data under this
27.23 paragraph shall maintain a record of the requestor, the provider of the information, and
27.24 the client or patient name. Mental health data obtained by a law enforcement agency
27.25 under this paragraph are private data on individuals and must not be used by the law
27.26 enforcement agency for any other purpose. A law enforcement agency that obtains mental
27.27 health data under this paragraph shall inform the subject of the data that mental health
27.28 data was obtained.

27.29 (d) In the event of a request under paragraph (a), clause (4), a community mental
27.30 health center, county mental health division, or provider must release mental health data to
27.31 Criminal Mental Health Court personnel in advance of receiving a copy of a consent if the
27.32 Criminal Mental Health Court personnel communicate that the:

27.33 (1) client or patient is a defendant in a criminal case pending in the district court;

27.34 (2) data being requested is limited to information that is necessary to assess whether
27.35 the defendant is eligible for participation in the Criminal Mental Health Court; and

(3) client or patient has consented to the release of the mental health data and a copy of the consent will be provided to the community mental health center, county mental health division, or provider within 72 hours of the release of the data.

For purposes of this paragraph, "Criminal Mental Health Court" refers to a specialty criminal calendar of the Hennepin County District Court for defendants with mental illness and brain injury where a primary goal of the calendar is to assess the treatment needs of the defendants and to incorporate those treatment needs into voluntary case disposition plans. The data released pursuant to this paragraph may be used for the sole purpose of determining whether the person is eligible for participation in mental health court. This paragraph does not in any way limit or otherwise extend the rights of the court to obtain the release of mental health data pursuant to court order or any other means allowed by law.

Sec. 40. Minnesota Statutes 2010, section 13.587, is amended to read:

13.587 EMERGENCY SERVICES FOR HOMELESS PERSONS; PRIVATE DATA.

(a) "Grant recipient" includes a local government unit or nonprofit organization that receives grants from a state agency to provide emergency services for homeless ~~persons~~ individuals.

(b) Data on individuals maintained by a grant recipient from which the identity of any individual receiving emergency services may be determined are private data on individuals and the grant recipient shall maintain the data in accordance with this chapter.

Sec. 41. Minnesota Statutes 2010, section 13.591, subdivision 4, is amended to read:

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 government entity asks ~~employees of other government entities~~ individuals to assist with the selection of the responses to a request for bid or the evaluation of responses to a request for proposal, the government entity may share not public data in the responses with those ~~employees~~ individuals. The ~~employees~~ individuals participating in the selection or evaluation may not further disseminate the not public data they review.

Sec. 42. Minnesota Statutes 2010, section 13.601, subdivision 3, is amended to read:

29.1 Subd. 3. **Applicants for appointment.** (a) Data about applicants for appointment to
29.2 a public body collected by a government entity as a result of the applicant's application for
29.3 appointment to the public body are private data on individuals except that the following
29.4 are public:

29.5 (1) name;

29.6 (2) city of residence, except when the appointment has a residency requirement that
29.7 requires the entire address to be public;

29.8 (3) education and training;

29.9 (4) employment history;

29.10 (5) volunteer work;

29.11 (6) awards and honors;

29.12 (7) prior government service; and

29.13 (8) any data required to be provided or that is voluntarily provided in an application
29.14 for appointment to a multimember agency pursuant to section 15.0597.

29.15 (b) Once an individual is appointed to a public body, the following additional items
29.16 of data are public:

29.17 (1) residential address; ~~and~~

29.18 (2) either a telephone number or electronic mail address where the appointee can be
29.19 reached, or both at the request of the appointee;

29.20 (3) first and last dates of service on the public body;

29.21 (4) the existence and status of any complaints or charges against an appointee; and

29.22 (5) upon completion of an investigation of a complaint or charge against an
29.23 appointee, the final investigative report is public, unless access to the data would
29.24 jeopardize an active investigation.

29.25 (c) Notwithstanding paragraph (b), any electronic mail address or telephone number
29.26 provided by a public body for use by an appointee shall be public. An appointee may
29.27 use an electronic mail address or telephone number provided by the public body as the
29.28 designated electronic mail address or telephone number at which the appointee can be
29.29 reached.

29.30 Sec. 43. Minnesota Statutes 2010, section 13.69, subdivision 1, is amended to read:

29.31 Subdivision 1. **Classifications.** (a) The following government data of the
29.32 Department of Public Safety are private data:

29.33 (1) medical data on driving instructors, licensed drivers, and applicants for parking
29.34 certificates and special license plates issued to physically disabled ~~persons~~ individuals;

(2) other data on holders of a disability certificate under section 169.345, except that data that are not medical data may be released to law enforcement agencies;

(3) Social Security numbers in driver's license and motor vehicle registration records, except that Social Security numbers must be provided to the Department of Revenue for purposes of tax administration, the Department of Labor and Industry for purposes of workers' compensation administration and enforcement, and the Department of Natural Resources for purposes of license application administration; and

(4) data on persons listed as standby or temporary custodians under section 171.07, subdivision 11, except that the data must be released to:

(i) law enforcement agencies for the purpose of verifying that an individual is a designated caregiver; or

(ii) law enforcement agencies who state that the license holder is unable to communicate at that time and that the information is necessary for notifying the designated caregiver of the need to care for a child of the license holder.

The department may release the Social Security number only as provided in clause (3) and must not sell or otherwise provide individual Social Security numbers or lists of Social Security numbers for any other purpose.

(b) The following government data of the Department of Public Safety are confidential data: data concerning an individual's driving ability when that data is received from a member of the individual's family.

Sec. 44. Minnesota Statutes 2010, section 13.719, subdivision 1, is amended to read:

Subdivision 1. **Comprehensive health insurance data.** (a) The following data on ~~eligible persons~~ individuals, as defined in section 62E.02, subdivision 13, paragraph (a), and enrollees of the state comprehensive health insurance plan are classified as private: all data collected or maintained by the Minnesota Comprehensive Health Association, the writing carrier, and the Department of Commerce.

(b) The Minnesota Comprehensive Health Association is considered a state agency for purposes of this chapter.

(c) The Minnesota Comprehensive Health Association may disclose data on eligible persons and enrollees of the state comprehensive health insurance plan to conduct actuarial and research studies, notwithstanding the classification of this data, if:

(1) the board authorizes the disclosure;

(2) no individual may be identified in the actuarial or research report;

(3) materials allowing an individual to be identified are returned or destroyed as soon as they are no longer needed; and

31.1 (4) the actuarial or research organization agrees not to disclose the information
31.2 unless the disclosure would be permitted under this chapter is made by the association.

31.3 Sec. 45. Minnesota Statutes 2010, section 13.7932, is amended to read:

31.4 **13.7932 LOGGER SAFETY AND EDUCATION PROGRAM DATA.**

31.5 The following data collected from ~~persons~~ individuals who attend safety and
31.6 education programs or seminars for loggers established or approved by the commissioner
31.7 under section 176.130, subdivision 11, is public data:

- 31.8 (1) the names of the individuals attending the program or seminar;
31.9 (2) the names of each attendee's employer;
31.10 (3) the city where the employer is located;
31.11 (4) the date the program or seminar was held; and
31.12 (5) a description of the seminar or program.

31.13 Sec. 46. Minnesota Statutes 2010, section 13.82, subdivision 2, is amended to read:

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

- 31.18 (a) time, date and place of the action;
31.19 (b) any resistance encountered by the agency;
31.20 (c) any pursuit engaged in by the agency;
31.21 (d) whether any weapons were used by the agency or other individual;
31.22 (e) the charge, arrest or search warrants, or other legal basis for the action;
31.23 (f) the identities of the agencies, units within the agencies and ~~individual persons~~
31.24 individuals taking the action;
31.25 (g) whether and where the individual is being held in custody or is being incarcerated
31.26 by the agency;
31.27 (h) the date, time and legal basis for any transfer of custody and the identity of the
31.28 agency or ~~person~~ individual who received custody;
31.29 (i) the date, time and legal basis for any release from custody or incarceration;
31.30 (j) the name, age, sex and last known address of an adult ~~person~~ individual or the
31.31 age and sex of any juvenile ~~person~~ individual cited, arrested, incarcerated or otherwise
31.32 substantially deprived of liberty;
31.33 (k) whether the agency employed wiretaps or other eavesdropping techniques, unless
31.34 the release of this specific data would jeopardize an ongoing investigation;

(l) the manner in which the agencies received the information that led to the arrest and the names of individuals who supplied the information unless the identities of those individuals qualify for protection under subdivision 17; and

(m) response or incident report number.

Sec. 47. Minnesota Statutes 2010, section 13.82, subdivision 7, is amended to read:

Subd. 7. **Criminal investigative data.** Except for the data defined in subdivisions 2, 3, and 6, investigative data collected or created by a law enforcement agency in order to prepare a case against a person, whether known or unknown, for the commission of a crime or other offense for which the agency has primary investigative responsibility is confidential or protected nonpublic while the investigation is active. Inactive investigative data is public unless the release of the data would jeopardize another ongoing investigation or would reveal the identity of individuals protected under subdivision 17. Photographs which are part of inactive investigative files and which are clearly offensive to common sensibilities are classified as private or nonpublic data, provided that the existence of the photographs shall be disclosed to any person requesting access to the inactive investigative file. An investigation becomes inactive upon the occurrence of any of the following events:

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

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

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

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

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

33.1 Sec. 48. Minnesota Statutes 2010, section 13.82, subdivision 17, is amended to read:

33.2 Subd. 17. **Protection of identities.** A law enforcement agency or a law enforcement
33.3 dispatching agency working under direction of a law enforcement agency shall withhold
33.4 public access to data on individuals to protect the identity of individuals in the following
33.5 circumstances:

33.6 (a) when access to the data would reveal the identity of an undercover law
33.7 enforcement officer, as provided in section 13.43, subdivision 5;

33.8 (b) when access to the data would reveal the identity of a victim or alleged victim of
33.9 criminal sexual conduct or of a violation of section 617.246, subdivision 2;

33.10 (c) when access to the data would reveal the identity of a paid or unpaid informant
33.11 being used by the agency if the agency reasonably determines that revealing the identity of
33.12 the informant would threaten the personal safety of the informant;

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

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

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

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

33.29 (h) when access to the data would reveal the identity of a mandated reporter under
33.30 section 609.456, 626.556, or 626.557.

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

33.35 Sec. 49. Minnesota Statutes 2010, section 13.82, subdivision 26, is amended to read:

Subd. 26. **Booking photographs.** (a) For purposes of this subdivision, "booking photograph" means a photograph or electronically produced image taken by law enforcement for identification purposes in connection with the arrest of ~~a person~~ an individual.

(b) Except as otherwise provided in this subdivision, a booking photograph is public data. A law enforcement agency may temporarily withhold access to a booking photograph if the agency determines that access will adversely affect an active investigation.

Sec. 50. Minnesota Statutes 2010, section 13.82, subdivision 27, is amended to read:

Subd. 27. **Pawnshop and scrap metal dealer data.** Data that would reveal the identity of ~~persons~~ individuals who are customers of a licensed pawnbroker, secondhand goods dealer, or a scrap metal dealer are private data on individuals. Data describing the property in a regulated transaction with a licensed pawnbroker, secondhand goods dealer, or a scrap metal dealer are public.

Sec. 51. Minnesota Statutes 2010, section 13.82, is amended by adding a subdivision to read:

Subd. 30. **Inactive financial transaction investigative data.** Investigative data that become inactive under subdivision 7 that relate to a person's financial accounts or transaction numbers are private or nonpublic data.

Sec. 52. Minnesota Statutes 2010, section 13.822, subdivision 1, is amended to read:

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

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

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

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

35.1 to the victim. The victim shall be deemed the subject of sexual assault communication
35.2 data.

35.3 Sec. 53. Minnesota Statutes 2010, section 13.89, subdivision 1, is amended to read:

35.4 Subdivision 1. **Developmental disabilities.** Data on clients and residents of
35.5 facilities or programs licensed pursuant to sections 144.50 to 144.58, 245A.01 to 245A.16,
35.6 245C.01 to 245C.32, and 252.28, subdivision 2, may be disseminated to the protection
35.7 and advocacy system established in this state pursuant to Part C of Public Law 98-527 to
35.8 protect the legal and human rights of ~~persons~~ individuals with developmental disabilities
35.9 or other related conditions who live in residential facilities or programs for these ~~persons~~
35.10 individuals if:

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

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

35.15 Sec. 54. Minnesota Statutes 2010, section 13.89, subdivision 2, is amended to read:

35.16 Subd. 2. **Mental illness or emotional impairment.** Data on an individual who has
35.17 significant mental illness or emotional impairment and who is an inpatient or resident in a
35.18 facility rendering care or treatment may be disseminated to the protection and advocacy
35.19 system established in this state pursuant to Public Law 99-319 to protect the rights of
35.20 ~~persons~~ individuals who are mentally ill if:

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

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

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

35.28 Sec. 55. Minnesota Statutes 2010, section 13D.015, subdivision 5, is amended to read:

35.29 Subd. 5. **Notice.** If telephone or another electronic means is used to conduct a
35.30 regular, special, or emergency meeting, the entity shall provide notice of the regular
35.31 meeting location, of the fact that some members may participate by electronic means, and
35.32 of the provisions of subdivision 4. The timing and method of providing notice is governed

S.F. No. 2190, as introduced - 87th Legislative Session (2011-2012) [12-4446]

36.1 by section 13D.04. In addition, the entity must post the notice on its Web site at least ten
36.2 days before ~~the~~ any regular meeting as defined in section 13D.04, subdivision 1.

36.3 Sec. 56. **REPEALER.**

36.4 (a) Minnesota Statutes 2010, section 13.05, subdivisions 1, 2, and 8, are repealed.

36.5 (b) Minnesota Rules, part 1205.0700, is repealed.