

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 2403**

(SENATE AUTHORS: LIMMER)

DATE	D-PG	OFFICIAL STATUS
03/12/2012	4319	Introduction and first reading Referred to Judiciary and Public Safety
03/23/2012	4800	Comm report: To pass as amended
04/16/2012	4906a	Joint rule 2.03, referred to Rules and Administration
	5856	Comm report: Adopt previous comm report
	5857	Second reading
04/24/2012	6336a	Special Order: Amended
	6337	Third reading Passed See SF1143, Sec.9-13, 16-17, 20-23, 37, 58, 63, 69, 72

A bill for an act

1.1 relating to data practices; modifying obligations of government entities;
1.2 classifying data; making other miscellaneous changes; amending Minnesota
1.3 Statutes 2010, sections 13.02, subdivision 16; 13.03, subdivisions 2, 4; 13.072,
1.4 subdivision 2; 13.37, subdivisions 1, 2; 13.39, by adding a subdivision; 13.43,
1.5 subdivision 1, by adding subdivisions; 13.601, subdivision 3; 13.82, by adding
1.6 a subdivision; 13D.015, subdivision 5; 84.0874; proposing coding for new law
1.7 in Minnesota Statutes, chapter 13; repealing Minnesota Statutes 2010, section
1.8 13.05, subdivisions 1, 2, 8.
1.9

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

1.11 Section 1. Minnesota Statutes 2010, section 13.02, subdivision 16, is amended to read:

1.12 Subd. 16. **Responsible authority.** (a) "Responsible authority" in a state agency or
1.13 statewide system means the state official designated by law or by the commissioner as
1.14 the individual responsible for the collection, use and dissemination of any set of data on
1.15 individuals, government data, or summary data.

1.16 (b) "Responsible authority" in any political subdivision means the individual
1.17 designated by the governing body of that political subdivision as the individual responsible
1.18 for the collection, use, and dissemination of any set of data on individuals, government
1.19 data, or summary data, unless otherwise provided by state law. Until an individual is
1.20 designated by the political subdivision's governing body, the responsible authority is:

1.21 (1) for counties, the county coordinator or administrator. If the county does not
1.22 employ a coordinator or administrator, the responsible authority is the county auditor;

1.23 (2) for statutory or home rule charter cities, the elected or appointed city clerk. If the
1.24 home rule charter does not provide for an office of city clerk, the responsible authority is
1.25 the chief clerical officer for filing and record keeping purposes;

1.26 (3) for school districts, the superintendent; and

2.1 (4) for all other political subdivisions, the chief clerical officer for filing and record
2.2 keeping purposes.

2.3 Sec. 2. **[13.025] GOVERNMENT ENTITY OBLIGATION.**

2.4 Subdivision 1. **Data inventory.** The responsible authority shall prepare an inventory
2.5 containing the authority's name, title, address, and a description of each category of record,
2.6 file, or process relating to private or confidential data on individuals maintained by the
2.7 authority's government entity. Forms used to collect private and confidential data may be
2.8 included in the inventory. The responsible authority shall update the inventory annually
2.9 and make any changes necessary to maintain the accuracy of the inventory. The inventory
2.10 must be available from the responsible authority to the public according to the provisions
2.11 of sections 13.03 and 15.17. The commissioner may require responsible authorities to
2.12 submit copies of the inventory and may request additional information relevant to data
2.13 collection practices, policies, and procedures.

2.14 Subd. 2. **Public data access policy.** The responsible authority shall prepare a
2.15 written data access policy and update it no later than August 1 of each year, and at any
2.16 other time as necessary to reflect changes in personnel, procedures, or other circumstances
2.17 that impact the public's ability to access data.

2.18 Subd. 3. **Data subject rights and access policy.** The responsible authority shall
2.19 prepare a written policy of the rights of data subjects under section 13.04 and the specific
2.20 procedures used by the government entity for access by the data subject to public or
2.21 private data on individuals. The written policy must be updated no later than August 1 of
2.22 each year, and at any other time as necessary to reflect changes in personnel, procedures,
2.23 or other circumstances that impact the public's ability to access data.

2.24 Subd. 4. **Availability.** The responsible authority shall make copies of the policies
2.25 required under subdivisions 2 and 3 easily available to the public by distributing free copies
2.26 to the public or by posting the policies in a conspicuous place within the government entity
2.27 that is easily accessible to the public or by posting it on the government entity's Web site.

2.28 Sec. 3. Minnesota Statutes 2010, section 13.03, subdivision 2, is amended to read:

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

2.32 ~~(b) The responsible authority shall prepare public access procedures in written form~~
2.33 ~~and update them no later than August 1 of each year as necessary to reflect any changes~~
2.34 ~~in personnel or circumstances that might affect public access to government data. The~~

3.1 ~~responsible authority shall make copies of the written public access procedures easily~~
3.2 ~~available to the public by distributing free copies of the procedures to the public or by~~
3.3 ~~posting a copy of the procedures in a conspicuous place within the government entity that~~
3.4 ~~is easily accessible to the public.~~

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

3.9 A responsible authority may designate one or more designees.

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

3.11 Subd. 4. **Change in classification of data; effect of dissemination among**
3.12 **agencies.** (a) The classification of a government entity's data ~~in the possession of an entity~~
3.13 shall change if it is required to do so to comply with either judicial or administrative rules
3.14 pertaining to the conduct of legal actions or with a specific statute applicable to the data
3.15 in the possession of the disseminating or receiving entity.

3.16 (b) If data on individuals ~~is~~ are classified as both private and confidential by this
3.17 chapter, or any other statute or federal law, the data ~~is~~ are private.

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

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

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

3.31 Sec. 5. Minnesota Statutes 2010, section 13.072, subdivision 2, is amended to read:

3.32 Subd. 2. **Effect.** Opinions issued by the commissioner under this section are not
3.33 binding on the government entity or members of a body subject to chapter 13D whose
3.34 data or performance of duties is the subject of the opinion, but an opinion described in

4.1 subdivision 1, paragraph (a), must be given deference by a court or other tribunal in a
4.2 proceeding involving the data. The commissioner shall arrange for public dissemination
4.3 of opinions issued under this section, and shall indicate when the principles stated in
4.4 an opinion are not intended to provide guidance to all similarly situated persons or
4.5 government entities. This section does not preclude a person from bringing any other
4.6 action under this chapter or other law in addition to or instead of requesting a written
4.7 opinion. A government entity, members of a body subject to chapter 13D, or person that
4.8 acts in conformity with a written opinion of the commissioner issued to the government
4.9 entity, members, or person or to another party is not liable for compensatory or exemplary
4.10 damages or awards of attorneys fees in actions for violations arising under section 13.08
4.11 or 13.085, or for a penalty under section 13.09 or for fines, awards of attorney fees, or
4.12 any other penalty under chapter 13D. A member of a body subject to chapter 13D is not
4.13 subject to forfeiture of office if the member was acting in reliance on an opinion.

4.14 Sec. 6. Minnesota Statutes 2010, section 13.37, subdivision 1, is amended to read:

4.15 Subdivision 1. **Definitions.** As used in this section, the following terms have the
4.16 meanings given them.

4.17 (a) "Security information" means government data the disclosure of which the
4.18 responsible authority determines would be likely to substantially jeopardize the security of
4.19 information, possessions, individuals or property against theft, tampering, improper use,
4.20 attempted escape, illegal disclosure, trespass, or physical injury. "Security information"
4.21 includes crime prevention block maps and lists of volunteers who participate in community
4.22 crime prevention programs and their home addresses and telephone numbers.

4.23 (b) "Trade secret information" means government data, including a formula, pattern,
4.24 compilation, program, device, method, technique or process (1) that was supplied by the
4.25 affected individual or organization, (2) that is the subject of efforts by the individual or
4.26 organization that are reasonable under the circumstances to maintain its secrecy, and (3)
4.27 that derives independent economic value, actual or potential, from not being generally
4.28 known to, and not being readily ascertainable by proper means by, other persons who can
4.29 obtain economic value from its disclosure or use.

4.30 (c) "Labor relations information" means management positions on economic and
4.31 noneconomic items that have not been presented during the collective bargaining process
4.32 or interest arbitration, including information specifically collected or created to prepare
4.33 the management position.

4.34 (d) "Parking space leasing data" means the following government data on an
4.35 applicant for, or lessee of, a parking space: residence address, home telephone number,

5.1 beginning and ending work hours, place of employment, work telephone number, and
5.2 location of the parking space.

5.3 Sec. 7. Minnesota Statutes 2010, section 13.37, subdivision 2, is amended to read:

5.4 Subd. 2. **Classification.** (a) The following government data is classified as nonpublic
5.5 data with regard to data not on individuals, pursuant to section 13.02, subdivision 9, and as
5.6 private data with regard to data on individuals, pursuant to section 13.02, subdivision 12:
5.7 Security information; trade secret information; sealed absentee ballots prior to opening
5.8 by an election judge; sealed bids, including the number of bids received, prior to the
5.9 opening of the bids; parking space leasing data; and labor relations information, provided
5.10 that specific labor relations information which relates to a specific labor organization is
5.11 classified as protected nonpublic data pursuant to section 13.02, subdivision 13.

5.12 (b) If a government entity denies a data request based on a determination that the
5.13 data are security information, upon request, the government entity must provide a short
5.14 description explaining the necessity for the classification.

5.15 Sec. 8. Minnesota Statutes 2010, section 13.39, is amended by adding a subdivision to
5.16 read:

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

5.19 Sec. 9. Minnesota Statutes 2010, section 13.43, subdivision 1, is amended to read:

5.20 Subdivision 1. **Definition.** As used in this section, "personnel data" means
5.21 government data on individuals maintained because the individual is or was an employee
5.22 of or an applicant for employment by, performs services on a voluntary basis for, or acts
5.23 as an independent contractor with a government entity. ~~Personnel data includes data~~
5.24 ~~submitted by an employee to a government entity as part of an organized self-evaluation~~
5.25 ~~effort by the government entity to request suggestions from all employees on ways to cut~~
5.26 ~~costs, make government more efficient, or improve the operation of government. An~~
5.27 ~~employee who is identified in a suggestion shall have access to all data in the suggestion~~
5.28 ~~except the identity of the employee making the suggestion.~~

5.29 Sec. 10. Minnesota Statutes 2010, section 13.43, is amended by adding a subdivision
5.30 to read:

5.31 Subd. 7a. **Employee suggestion data.** Personnel data includes data submitted by
5.32 an employee to a government entity as part of an organized self-evaluation effort by the

6.1 government entity to request suggestions from all employees on ways to cut costs, make
6.2 government more efficient, or improve the operation of government. An employee who
6.3 is identified in a suggestion has access to all data in the suggestion except the identity
6.4 of the employee making the suggestion.

6.5 Sec. 11. Minnesota Statutes 2010, section 13.43, is amended by adding a subdivision to
6.6 read:

6.7 Subd. 19. **Employee of contractor or subcontractor.** The personal telephone
6.8 number, home address, and e-mail address of an employee of a contractor or subcontractor
6.9 doing business with a government entity are private data on individuals.

6.10 Sec. 12. Minnesota Statutes 2010, section 13.601, subdivision 3, is amended to read:

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

6.15 (1) name;

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

6.18 (3) education and training;

6.19 (4) employment history;

6.20 (5) volunteer work;

6.21 (6) awards and honors;

6.22 (7) prior government service; ~~and~~

6.23 (8) any data required to be provided or that ~~is~~ are voluntarily provided in an
6.24 application for appointment to a multimember agency pursuant to section 15.0597-; and

6.25 (9) veteran status.

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

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

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

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

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

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

7.4 (c) Notwithstanding paragraph (b), any electronic mail address or telephone number
7.5 provided by a public body for use by an appointee shall be public. An appointee may
7.6 use an electronic mail address or telephone number provided by the public body as the
7.7 designated electronic mail address or telephone number at which the appointee can be
7.8 reached.

7.9 Sec. 13. Minnesota Statutes 2010, section 13.82, is amended by adding a subdivision
7.10 to read:

7.11 Subd. 30. **Inactive financial transaction investigative data.** Investigative data
7.12 that become inactive under subdivision 7 that are a person's financial account number or
7.13 transaction numbers are private data on individuals or nonpublic data.

7.14 Sec. 14. Minnesota Statutes 2010, section 13D.015, subdivision 5, is amended to read:

7.15 Subd. 5. **Notice.** If telephone or another electronic means is used to conduct a
7.16 regular, special, or emergency meeting, the entity shall provide notice of the regular
7.17 meeting location, of the fact that some members may participate by electronic means, and
7.18 of the provisions of subdivision 4. The timing and method of providing notice is governed
7.19 by section 13D.04. In addition, the entity must post the notice on its Web site at least ten
7.20 days before ~~the~~ any regular meeting as defined in section 13D.04, subdivision 1.

7.21 Sec. 15. Minnesota Statutes 2010, section 84.0874, is amended to read:

7.22 **84.0874 ELECTRONIC LICENSING SYSTEM DATA.**

7.23 The following data created, collected, stored, or maintained by the department for
7.24 purposes of obtaining a noncommercial game and fish license, cross-country ski pass,
7.25 horse pass, or snowmobile trail sticker; registering a recreational motor vehicle; or any
7.26 other electronic licensing transaction are private data on individuals as defined in section
7.27 13.02, subdivision 12: name, addresses, driver's license number, and date of birth. The
7.28 data may be disclosed for law enforcement purposes. The data, other than the driver's
7.29 license number, may be disclosed:

7.30 (1) to a government entity and for natural resources management purposes, including
7.31 recruitment, retention, and training certification and verification;

7.32 (2) for use in the normal course of business by a legitimate business or its agents,
7.33 employees, or contractors, in order to verify the accuracy of personal information

8.1 submitted by an individual. If the information as submitted is not correct or is no longer
8.2 correct, correct information may be obtained only for the purpose of preventing fraud
8.3 by, pursuing legal remedies against, or recovering on a debt or security interest against
8.4 the individual. If the person requesting access is acting as the agent of a lienholder, the
8.5 requestor must submit proof of a contract with the lienholder;

8.6 (3) for use in connection with any civil, criminal, administrative, or arbitration
8.7 proceedings in any court or agency or before any self-regulatory body, including service
8.8 of process, investigation in anticipation of litigation, and the execution or enforcement of
8.9 judgments and orders, or pursuant to a court order, provided that the requestor provides a
8.10 copy of the order;

8.11 (4) for use in providing notice to the owners of towed or impounded recreational
8.12 vehicles or watercraft. The person requesting access must provide the name, address, and
8.13 telephone number of the entity that requested that the recreational vehicle or watercraft
8.14 be towed;

8.15 (5) for use by any insurer or insurance support organization, or by a self-insured
8.16 entity, or its agents, employees, or contractors, in connection with claims investigation
8.17 activities, antifraud activities, rating, or underwriting; or

8.18 (6) for use by any licensed private investigative agency or licensed security service.

8.19 Sec. 16. **REPEALER.**

8.20 Minnesota Statutes 2010, section 13.05, subdivisions 1, 2, and 8, are repealed.

13.05 DUTIES OF RESPONSIBLE AUTHORITY.

Subdivision 1. **Public document of data categories.** The responsible authority shall prepare a public document containing the authority's name, title and address, and a description of each category of record, file, or process relating to private or confidential data on individuals maintained by the authority's government entity. Forms used to collect private and confidential data shall be included in the public document. Beginning August 1, 1977 and annually thereafter, the responsible authority shall update the public document and make any changes necessary to maintain the accuracy of the document. The document shall be available from the responsible authority to the public in accordance with the provisions of sections 13.03 and 15.17.

Subd. 2. **Copies to commissioner.** The commissioner may require responsible authorities to submit copies of the public document required in subdivision 1, and may request additional information relevant to data collection practices, policies and procedures.

Subd. 8. **Publication of access procedures.** The responsible authority shall prepare a public document setting forth in writing the rights of the data subject pursuant to section 13.04 and the specific procedures in effect in the government entity for access by the data subject to public or private data on individuals.