

## STATE DEPARTMENTS AND AGENCIES

## Administration

## CHAPTER 13

## GOVERNMENT DATA PRACTICES

GENERAL REQUIREMENTS	
13.01	Government data.
13.02	Collection, security and dissemination of records; definitions.
13.03	Access to government data.
13.04	Rights of subjects of data.
13.05	Duties of responsible authority.
13.06	Temporary classification.
13.07	Duties of the commissioner.
13.08	Civil remedies.
13.09	Penalties.
13.10	Data on decedents.
DATA MAINTAINED BY STATE AGENCIES AND POLITICAL SUBDIVISIONS	
13.30	Attorneys.
13.31	Benefit data.
13.32	Educational data.
13.33	Elected officials; correspondence; private data.
13.34	Examination data.
13.35	Federal contracts data.
13.36	Firearms data.
13.37	General nonpublic data.
13.38	Health data.
13.39	Investigative data.
13.40	Library data.
13.41	Licensing data.
13.42	Medical data.
13.43	Personnel data.
13.44	Property complaint data.
13.45	Salary benefit survey data.
13.46	Welfare data.
DATA MAINTAINED ONLY BY POLITICAL SUBDIVISIONS	
13.50	Appraisal data.
13.51	Assessor's data.
13.52	Deferred assessment data.
13.53	Foster care data.
13.54	Housing agency data.
13.55	St. Paul civic center authority data.
13.56	Sexual assault data.
13.57	Social recreational data.
13.58	Homestead application data.
13.59	Redevelopment data.
13.60	Elected or appointed officials; financial disclosure statements.
13.61	Insurance trust data; private and nonpublic data.
13.62	Economic assistance data.
DATA MAINTAINED ONLY BY STATE AGENCIES	
13.64	Department of administration data.
13.65	Attorney general data.
13.66	Corrections ombudsman data.
13.67	Employee relations data.
13.68	Energy and financial data and statistics.
13.69	Public safety data.
13.70	Revenue department data.
13.71	Department of commerce data.
13.72	Transportation department data.
13.74	Environmental quality data.
13.75	Bureau of mediation services data.
13.76	Department of energy and economic development data.
13.761	Indian affairs council data.
13.77	Agricultural resource loan board data.
13.78	Minnesota export authority data.
13.79	Department of labor and industry data.
13.791	Rehabilitation data.
DATA MAINTAINED BY CRIMINAL JUSTICE AGENCIES	
13.80	Domestic abuse data.
13.82	Comprehensive law enforcement data.
13.83	Medical examiner data.
13.84	Court services data.
13.85	Corrections and detention data.
13.86	Investigative detention data.
13.87	Criminal history data.
13.88	Community dispute resolution center data.
13.89	Dissemination of data to protection and advocacy systems.
13.90	Government data practices.

## GENERAL REQUIREMENTS

## 13.01 GOVERNMENT DATA.

Subdivision 1. **Applicability.** All state agencies, political subdivisions and statewide systems shall be governed by this chapter.

Subd. 2. **Citation.** This chapter may be cited as the "Minnesota government data practices act."

**History:** 1979 c 328 s 1; 1981 c 311 s 1,39; 1Sp1981 c 4 art 1 s 4,5; 1982 c 545 s 24

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

Subdivision 1. **Applicability.** As used in this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of the department of administration.

Subd. 3. **Confidential data on individuals.** "Confidential data on individuals" means data which is made not public by statute or federal law applicable to the data and is inaccessible to the individual subject of that data.

Subd. 4. **Data not on individuals.** "Data not on individuals" means all government data which is not data on individuals.

Subd. 5. **Data on individuals.** "Data on individuals" means all government data in which any individual is or can be identified as the subject of that data, unless the appearance of the name or other identifying data can be clearly demonstrated to be only incidental to the data and the data are not accessed by the name or other identifying data of any individual.

Subd. 6. **Designee.** "Designee" means any person designated by a responsible authority to be in charge of individual files or systems containing government data and to receive and comply with requests for government data.

Subd. 7. **Government data.** "Government data" means all data collected, created, received, maintained or disseminated by any state agency, political subdivision, or statewide system regardless of its physical form, storage media or conditions of use.

Subd. 8. **Individual.** "Individual" means a natural person. In the case of a minor or an individual adjudged mentally incompetent, "individual" includes a parent or guardian or an individual acting as a parent or guardian in the absence of a parent or guardian, except that the responsible authority shall withhold data from parents or guardians, or individuals acting as parents or guardians in the absence of parents or guardians, upon request by the minor if the responsible authority determines that withholding the data would be in the best interest of the minor.

Subd. 8a. **Not public data.** "Not public data" means any government data which is classified by statute, federal law, or temporary classification as confidential, private, nonpublic, or protected nonpublic.

Subd. 9. **Nonpublic data.** "Nonpublic data" means data not on individuals which is made by statute or federal law applicable to the data: (a) not public; and (b) accessible to the subject, if any, of the data.

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

Subd. 11. **Political subdivision.** "Political subdivision" means any county, statutory or home rule charter city, school district, special district and any board, commission, district or authority created pursuant to law, local ordinance or charter provision. It includes any nonprofit corporation which is a community action agency organized pursuant to the economic opportunity act of 1964 (Public Law Number 88-452) as amended, to qualify for public funds, or any nonprofit social service agency which performs services under contract to any political subdivision, statewide system or state agency, to the extent that the nonprofit social service agency or nonprofit corporation collects, stores, disseminates, and uses data on individuals because of a contractual relationship with state agencies, political subdivisions or statewide systems.

Subd. 12. **Private data on individuals.** "Private data on individuals" means data which is made by statute or federal law applicable to the data: (a) not public; and (b) accessible to the individual subject of that data.

Subd. 13. **Protected nonpublic data.** "Protected nonpublic data" means data not on individuals which is made by statute or federal law applicable to the data (a) not public and (b) not accessible to the subject of the data.

Subd. 14. **Public data not on individuals.** "Public data not on individuals" means data which is accessible to the public pursuant to section 13.03.

Subd. 15. **Public data on individuals.** "Public data on individuals" means data which is accessible to the public in accordance with the provisions of section 13.03.

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, unless otherwise provided by state law.

Subd. 17. **State agency.** "State agency" means the state, the university of Minnesota, and any office, officer, department, division, bureau, board, commission, authority, district or agency of the state.

Subd. 18. **Statewide system.** "Statewide system" includes any record keeping system in which government data is collected, stored, disseminated and used by means of a system common to one or more state agencies or more than one of its political subdivisions or any combination of state agencies and political subdivisions.

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

**History:** 1974 c 479 s 1; 1975 c 401 s 1; 1976 c 239 s 2; 1976 c 283 s 1-5; 1977 c 375 s 1-5; 1978 c 790 s 1; 1979 c 328 s 2-6; 1980 c 603 s 1-6; 1980 c 618 s 25; 1981 c 311 s 2-6,39; 1982 c 545 s 1,24; 1984 c 436 s 1

### 13.03 ACCESS TO GOVERNMENT DATA.

Subdivision 1. **Public data.** All government data collected, created, received, maintained or disseminated by a state agency, political subdivision, or statewide system shall be public unless classified by statute, or temporary classification pursuant to section 13.06, or federal law, as nonpublic or protected nonpublic, or with respect to data on individuals, as private or confidential. The responsible authority in every state agency, political subdivision and statewide system shall keep records containing government data in such an arrangement and condition as to make them easily accessible for convenient use. Photographic, photostatic, microphotographic, or microfilmed records shall be considered as accessible for convenient use regardless of the size of such records.

Subd. 2. **Procedures.** The responsible authority in every state agency, political subdivision, and statewide system shall establish procedures, consistent with this chapter, to insure that requests for government data are received and complied with in an appropriate and prompt manner. Full convenience and comprehensive accessibility shall be allowed to researchers including historians, genealogists and other scholars to carry out extensive research and complete copying of all records containing government data except as otherwise expressly provided by law.

A responsible authority may designate one or more designees.

Subd. 3. **Request for access to data.** Upon request to a responsible authority or designee, a person shall be permitted to inspect and copy public government data at reasonable times and places, and, upon request, shall be informed of the data's meaning. The responsible authority may not require the requesting person to pay a fee to inspect data. The responsible authority or designee shall provide copies of public government data upon request. The responsible authority may require the requesting person to pay the actual costs of searching for and retrieving government data and for making, certifying and compiling the copies of the data but may not charge for separating public from not public data. If the responsible authority or designee is not able to provide copies at the time a request is made, copies shall be supplied as soon as reasonably possible.

When a request under this subdivision involves any person's receipt of copies of public government data that has commercial value and is an entire formula, pattern, compilation, program, device, method, technique, process, data base, or system devel-

oped with a significant expenditure of public funds by the agency, the responsible authority may charge a reasonable fee for the information in addition to the costs of making, certifying, and compiling the copies. Any fee charged must be clearly demonstrated by the agency to relate to the actual development costs of the information. The responsible authority, upon the request of any person, shall provide sufficient documentation to explain and justify the fee being charged.

If the responsible authority or designee determines that the requested data is classified so as to deny the requesting person access, the responsible authority or designee shall inform the requesting person of the determination either orally at the time of the request, or in writing as soon after that time as possible, and shall cite the specific statutory section, temporary classification, or specific provision of federal law on which the determination is based. Upon the request of any person denied access to data, the responsible authority or designee shall certify in writing that the request has been denied and cite the specific statutory section, temporary classification, or specific provision of federal law upon which the denial was based.

**Subd. 4. Change in classification of data.** The classification of data in the possession of an agency 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 agency.

If data on individuals is classified as both private and confidential by this chapter, or any other statute or federal law, the data is private.

To the extent that government data is disseminated to state agencies, political subdivisions, or statewide systems by another state agency, political subdivision, or statewide system, the data disseminated shall have the same classification in the hands of the agency receiving it as it had in the hands of the entity providing it.

**Subd. 5. Copyright or patent of computer program.** Nothing in this chapter or any other statute shall be construed to prevent a state agency, statewide system, or political subdivision from acquiring a copyright or patent for a computer software program or components of a program created by that government agency. In the event that a government agency does acquire a patent or copyright to a computer software program or component of a program, the data shall be treated as trade secret information pursuant to section 13.37.

**Subd. 6. Discoverability of not public data.** If a state agency, political subdivision, or statewide system opposes discovery of government data or release of data pursuant to court order on the grounds that the data are classified as not public, the party that seeks access to the data may bring before the appropriate presiding judicial officer, arbitrator, or administrative law judge an action to compel discovery or an action in the nature of an action to compel discovery.

The presiding officer shall first decide whether the data are discoverable or releasable pursuant to the rules of evidence and of criminal, civil, or administrative procedure appropriate to the action.

If the data are discoverable the presiding officer shall decide whether the benefit to the party seeking access to the data outweighs any harm to the confidentiality interests of the agency maintaining the data, or of any person who has provided the data or who is the subject of the data, or to the privacy interest of an individual identified in the data. In making the decision, the presiding officer shall consider whether notice to the subject of the data is warranted and, if warranted, what type of notice must be given. The presiding officer may fashion and issue any protective orders necessary to assure proper handling of the data by the parties.

**Subd. 7. Data transferred to archives.** When government data that is classified as not public by this chapter or any other statute, including private data on decedents and confidential data on decedents, is physically transferred to the state archives, the data shall no longer be classified as not public and access to and use of the data shall be governed by section 138.17.

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

**History:** 1979 c 328 s 7; 1980 c 603 s 7; 1981 c 311 s 39; 1Sp1981 c 4 art 1 s 6; 1982 c 545 s 2,24; 1984 c 436 s 2-4; 1985 c 298 s 1-4

### 13.04 RIGHTS OF SUBJECTS OF DATA.

Subdivision 1. **Type of data.** The rights of individuals on whom the data is stored or to be stored shall be as set forth in this section.

Subd. 2. **Information required to be given individual.** An individual asked to supply private or confidential data concerning the individual shall be informed of: (a) the purpose and intended use of the requested data within the collecting state agency, political subdivision, or statewide system; (b) whether the individual may refuse or is legally required to supply the requested data; (c) any known consequence arising from supplying or refusing to supply private or confidential data; and (d) the identity of other persons or entities authorized by state or federal law to receive the data. This requirement shall not apply when an individual is asked to supply investigative data, pursuant to section 13.82, subdivision 5, to a law enforcement officer.

The commissioner of revenue may place the notice required under this subdivision in the individual income tax or property tax refund instructions instead of on those forms.

Subd. 3. **Access to data by individual.** Upon request to a responsible authority, an individual shall be informed whether the individual is the subject of stored data on individuals, and whether it is classified as public, private or confidential. Upon further request, an individual who is the subject of stored private or public data on individuals shall be shown the data without any charge and, if desired, shall be informed of the content and meaning of that data. After an individual has been shown the private data and informed of its meaning, the data need not be disclosed to that individual for six months thereafter unless a dispute or action pursuant to this section is pending or additional data on the individual has been collected or created. The responsible authority shall provide copies of the private or public data upon request by the individual subject of the data. The responsible authority may require the requesting person to pay the actual costs of making, certifying, and compiling the copies.

The responsible authority shall comply immediately, if possible, with any request made pursuant to this subdivision, or within five days of the date of the request, excluding Saturdays, Sundays and legal holidays, if immediate compliance is not possible. If unable to comply with the request within that time, the responsible authority shall so inform the individual, and may have an additional five days within which to comply with the request, excluding Saturdays, Sundays and legal holidays.

Subd. 4. **Procedure when data is not accurate or complete.** An individual subject of the data may contest the accuracy or completeness of public or private data. To exercise this right, an individual shall notify in writing the responsible authority describing the nature of the disagreement. The responsible authority shall within 30 days either: (a) 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 (b) 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.

**History:** 1974 c 479 s 4; 1975 c 401 s 4; 1977 c 375 s 7; 1980 c 603 s 12; 1981 c 311 s 9,39; 1982 c 545 s 4,24; 1984 c 436 s 5; 1Sp1985 c 14 art 1 s 3; 1986 c 444

### 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 state agency, statewide system, or political subdivision. 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. 3. General standards for collection and storage.** Collection and storage of all data on individuals and the use and dissemination of private and confidential data on individuals shall be limited to that necessary for the administration and management of programs specifically authorized by the legislature or local governing body or mandated by the federal government.

**Subd. 4. Limitations on collection and use of data.** Private or confidential data on an individual shall not be collected, stored, used or disseminated by political subdivisions, statewide systems or state agencies for any purposes other than those stated to the individual at the time of collection in accordance with section 13.04, except as provided in this subdivision.

(a) Data collected prior to August 1, 1975, and which have not been treated as public data, may be used, stored, and disseminated for the purposes for which the data was originally collected or for purposes which are specifically approved by the commissioner as necessary to public health, safety, or welfare.

(b) Private or confidential data may be used and disseminated to individuals or agencies specifically authorized access to that data by state, local, or federal law subsequent to the collection of the data.

(c) Private or confidential data may be used and disseminated to individuals or agencies subsequent to the collection of the data when the responsible authority maintaining the data has requested approval for a new or different use or dissemination of the data and that request has been specifically approved by the commissioner as necessary to carry out a function assigned by law.

(d) Private data may be used by and disseminated to any person or agency if the individual subject or subjects of the data have given their informed consent. Whether a data subject has given informed consent shall be determined by rules of the commissioner. Informed consent shall not be deemed to have been given by an individual subject of the data by the signing of any statement authorizing any person or agency to disclose information about the individual to an insurer or its authorized representative, unless the statement is:

- (1) In plain language;
- (2) Dated;

(3) Specific in designating the particular persons or agencies the data subject is authorizing to disclose information about the data subject;

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

(5) Specific as to the persons or agencies to whom the subject is authorizing information to be disclosed;

(6) Specific as to the purpose or purposes for which the information may be used by any of the parties named in clause (5), both at the time of the disclosure and at any time in the future;

(7) Specific as to its expiration date which should be within a reasonable period of time, not to exceed one year except in the case of authorizations given in connection with applications for life insurance or noncancelable or guaranteed renewable health insurance and identified as such, two years after the date of the policy.

**Subd. 5. Data protection.** The responsible authority shall (1) establish procedures to assure that all data on individuals is accurate, complete, and current for the purposes for which it was collected; and (2) establish appropriate security safeguards for all records containing data on individuals.

**Subd. 6. Contracts.** Except as provided in section 13.46, subdivision 5, in any contract between a governmental unit subject to this chapter and any person, when the contract requires that data on individuals be made available to the contracting parties by the governmental unit, that data shall be administered consistent with this chapter. A contracting party shall maintain the data on individuals which it received according to the statutory provisions applicable to the data.

**Subd. 7. Preparation of summary data.** The use of summary data derived from private or confidential data on individuals under the jurisdiction of one or more responsible authorities is permitted. Unless classified pursuant to section 13.06, another statute, or federal law, summary data is public. The responsible authority shall prepare summary data from private or confidential data on individuals upon the request of any person if the request is in writing and the cost of preparing the summary data is borne by the requesting person. The responsible authority may delegate the power to prepare summary data (1) to the administrative officer responsible for any central repository of summary data; or (2) to a person outside of its agency if the person's purpose is set forth, in writing, and the person agrees not to disclose, and the agency reasonably determines that the access will not compromise private or confidential data on individuals.

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

**Subd. 9. Intergovernmental access of data.** A responsible authority shall allow another responsible authority access to data classified as not public only when the access is authorized or required by statute or federal law. An agency that supplies government data under this subdivision may require the requesting agency to pay the actual cost of supplying the data.

**Subd. 10. International dissemination.** No state agency or political subdivision shall transfer or disseminate any private or confidential data on individuals to the private international organization known as Interpol, except through the Interpol-United States National Central Bureau, United States Department of Justice.

**History:** 1974 c 479 s 2; 1975 c 401 s 2; 1976 c 239 s 3; 1976 c 283 s 6, 7; 1978 c 790 s 3; 1979 c 328 s 8; 1981 c 311 s 7, 39; 1Sp1981 c 4 art 1 s 7; 1982 c 545 s 24; 1984 c 436 s 6-9; 1986 c 444

### 13.06 TEMPORARY CLASSIFICATION.

**Subdivision 1. Application to commissioner.** Notwithstanding the provisions of

section 13.03, the responsible authority of a state agency, political subdivision, or statewide system may apply to the commissioner for permission to classify data or types of data on individuals as private or confidential, or data not on individuals as nonpublic or protected nonpublic, for its own use and for the use of other similar agencies, political subdivisions, or statewide systems on a temporary basis until a proposed statute can be acted upon by the legislature. The application for temporary classification is public.

Upon the filing of an application for temporary classification, the data which is the subject of the application shall be deemed to be classified as set forth in the application for a period of 45 days, or until the application is disapproved, rejected, or granted by the commissioner, whichever is earlier.

If the commissioner determines that an application has been submitted for purposes not consistent with this section, the commissioner may immediately reject the application, give notice of that rejection to the applicant, and return the application. When the applicant receives the notice of rejection from the commissioner, the data which was the subject of the application shall have the classification it had before the application was submitted to the commissioner.

**Subd. 2. Contents of application for private or confidential data.** An application for temporary classification of data on individuals shall include and the applicant shall have the burden of clearly establishing that no statute currently exists which either allows or forbids classification as private or confidential; and either

(a) That data similar to that for which the temporary classification is sought has been treated as either private or confidential by other state agencies or political subdivisions, and by the public; or

(b) That a compelling need exists for immediate temporary classification, which if not granted could adversely affect the public interest or the health, safety, well being or reputation of the data subject.

**Subd. 3. Contents of application for nonpublic or nonpublic protected data.** An application for temporary classification of government data not on individuals shall include and the applicant shall have the burden of clearly establishing that no statute currently exists which either allows or forbids classification as nonpublic or protected nonpublic; and either

(a) That data similar to that for which the temporary classification is sought has been treated as nonpublic or protected nonpublic by other state agencies or political subdivisions, and by the public; or

(b) Public access to the data would render unworkable a program authorized by law; or

(c) That a compelling need exists for immediate temporary classification, which if not granted could adversely affect the health, safety or welfare of the public.

**Subd. 4. Procedure when classification affects others.** If the commissioner determines that an application for temporary classification involves data which would reasonably be classified in the same manner by all agencies, political subdivisions, or statewide systems similar to the one which made the application, the commissioner may approve or disapprove the classification for data of the kind which is the subject of the application for the use of all agencies, political subdivisions, or statewide systems similar to the applicant. On deeming this approach advisable, the commissioner shall provide notice of the proposed action by publication in the state register and by notification to the intergovernmental information systems advisory council, within ten days of receiving the application. Within 30 days after publication in the state register and notification to the council, an affected agency, political subdivision, the public, or statewide system may submit comments on the commissioner's proposal. The commissioner shall consider any comments received when granting or denying a classification for data of the kind which is the subject of the application, for the use of all agencies, political subdivisions, or statewide systems similar to the applicant. Within 45 days after the close of the period for submitting comment, the commissioner shall grant or



disapprove the application. Applications processed under this subdivision shall be either approved or disapproved by the commissioner within 90 days of the receipt of the application. For purposes of subdivision 1, the data which is the subject of the classification shall be deemed to be classified as set forth in the application for a period of 90 days, or until the application is disapproved or granted by the commissioner, whichever is earlier. If requested in the application, or determined to be necessary by the commissioner, the data in the application shall be so classified for all agencies, political subdivisions, or statewide systems similar to the applicant until the application is disapproved or granted by the commissioner, whichever is earlier. Proceedings after the grant or disapproval shall be governed by the provisions of subdivision 5.

**Subd. 5. Determination.** The commissioner shall either grant or disapprove the application for temporary classification within 45 days after it is filed. On disapproving an application, the commissioner shall set forth in detail reasons for the disapproval, and shall include a statement of belief as to what classification is appropriate for the data which is the subject of the application. Twenty days after the date of the commissioner's disapproval of an application, the data which is the subject of the application shall become public data, unless the responsible authority submits an amended application for temporary classification which requests the classification deemed appropriate by the commissioner in the statement of disapproval or which sets forth additional information relating to the original proposed classification. Upon the filing of an amended application, the data which is the subject of the amended application shall be deemed to be classified as set forth in the amended application for a period of 20 days or until the amended application is granted or disapproved by the commissioner, whichever is earlier. The commissioner shall either grant or disapprove the amended application within 20 days after it is filed. Five working days after the date of the commissioner's disapproval of the amended application, the data which is the subject of the application shall become public data. No more than one amended application may be submitted for any single file or system.

If the commissioner grants an application for temporary classification, it shall become effective immediately, and the complete record relating to the application shall be submitted to the attorney general, who shall review the classification as to form and legality. Within 25 days, the attorney general shall approve the classification, disapprove a classification as confidential but approve a classification as private, or disapprove the classification. If the attorney general disapproves a classification, the data which is the subject of the classification shall become public data five working days after the date of the attorney general's disapproval.

**Subd. 6. Expiration of temporary classification.** A temporary classification granted under this section shall expire ten days after the end of the second complete regular legislative session that follows the commissioner's granting of the temporary classification.

**Subd. 7. Legislative consideration of temporary classifications.** On or before January 15 of each year, the commissioner shall submit all temporary classifications in effect on January 1 in bill form to the legislature.

**History:** 1976 c 283 s 8; 1977 c 375 s 6; 1978 c 790 s 2; 1979 c 328 s 9-13; 1980 c 603 s 8-11; 1981 c 311 s 8,39; 1982 c 545 s 3,24; 1984 c 436 s 10,11; 1986 c 444

### 13.07 DUTIES OF THE COMMISSIONER.

The commissioner shall with the advice of the intergovernmental information services advisory council promulgate rules, in accordance with the rulemaking procedures in the administrative procedures act which shall apply to state agencies, statewide systems and political subdivisions to implement the enforcement and administration of this chapter. The rules shall not affect section 13.04, relating to rights of subjects of data. Prior to the adoption of rules authorized by this section the commissioner shall give notice to all state agencies and political subdivisions in the same manner and in addition to other parties as required by section 14.06 of the date and place of hearing, enclosing a copy of the rules to be adopted.

**History:** 1975 c 271 s 6; 1975 c 401 s 7; 1981 c 311 s 39; 1Sp1981 c 4 art 1 s 11; 1982 c 424 s 130; 1982 c 545 s 24; 1985 c 248 s 70

**13.08 CIVIL REMEDIES.**

**Subdivision 1. Action for damages.** Notwithstanding section 466.03, a political subdivision, responsible authority, statewide system, or state agency which violates any provision of this chapter is liable to a person or representative of a decedent who suffers any damage as a result of the violation, and the person damaged or a representative in the case of private data on decedents or confidential data on decedents may bring an action against the political subdivision, responsible authority, statewide system or state agency to cover any damages sustained, plus costs and reasonable attorney fees. In the case of a willful violation, the political subdivision, statewide system or state agency shall, in addition, be liable to exemplary damages of not less than \$100, nor more than \$10,000 for each violation. The state is deemed to have waived any immunity to a cause of action brought under this chapter.

**Subd. 2. Injunction.** A political subdivision, responsible authority, statewide system or state agency which violates or proposes to violate this chapter may be enjoined by the district court. The court may make any order or judgment as may be necessary to prevent the use or employment by any person of any practices which violate this chapter.

**Subd. 3. Venue.** An action filed pursuant to this section may be commenced in the county in which the individual alleging damage or seeking relief resides, or in the county wherein the political subdivision exists, or, in the case of the state, any county.

**Subd. 4. Action to compel compliance.** In addition to the remedies provided in subdivisions 1 to 3 or any other law, any aggrieved person may bring an action in district court to compel compliance with this chapter and may recover costs and disbursements, including reasonable attorney's fees, as determined by the court. If the court determines that an action brought under this subdivision is frivolous and without merit and a basis in fact, it may award reasonable costs and attorney fees to the responsible authority. The matter shall be heard as soon as possible. In an action involving a request for government data under section 13.03 or 13.04, the court may inspect in camera the government data in dispute, but shall conduct its hearing in public and in a manner that protects the security of data classified as not public.

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

**History:** 1974 c 479 s 5; 1975 c 401 s 5; 1976 c 239 s 4,5; 1979 c 328 s 14; 1980 c 603 s 13; 1981 c 311 s 39; 1Sp1981 c 4 art 1 s 8-10; 1982 c 545 s 24; 1985 c 298 s 5,6; 1986 c 444

**13.09 PENALTIES.**

Any person 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.

**History:** 1974 c 479 s 6; 1975 c 401 s 6; 1976 c 239 s 6; 1981 c 311 s 39; 1982 c 545 s 24; 1985 c 298 s 7

**13.10 DATA ON DECEDENTS.**

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

(a) "Confidential data on decedents" means data which, prior to the death of the data subject, were classified by statute, federal law, or temporary classification as confidential data.

(b) "Private data on decedents" means data which, prior to the death of the data subject, were classified by statute, federal law, or temporary classification as private data.

(c) "Representative of the decedent" means the personal representative of the estate of the decedent during the period of administration, or if no personal representa-

tive has been appointed or after discharge, the surviving spouse, any child of the decedent, or, if there is no surviving spouse or children, any other of the decedent's living next of kin within one degree on consanguinity as determined in the order of priority established by the rules of civil law.

**Subd. 2. Classification of data on decedents.** Upon the death of the data subject, private data and confidential data shall become, respectively, private data on decedents and confidential data on decedents. Private data on decedents and confidential data on decedents shall become public when ten years have elapsed from the actual or presumed death of the individual and 30 years have elapsed from the creation of the data. For purposes of this subdivision, an individual is presumed to be dead if either 90 years elapsed since the creation of the data or 90 years have elapsed since the individual's birth, whichever is earlier, except that an individual is not presumed to be dead if readily available data indicate that the individual is still living.

**Subd. 3. Rights.** Rights conferred by this chapter on individuals who are the subjects of private or confidential data shall, in the case of private data on decedents or confidential data on decedents, be exercised by the representative of the decedent. Nothing in this section may be construed to prevent access to appropriate data by a trustee appointed in a wrongful death action.

**Subd. 4. Court review.** Any person may bring an action in the district court located in the county where the data is being maintained or, in the case of data maintained by a state agency, in any county, to authorize release of private data on decedents or confidential data on decedents. Individuals clearly identified in the data or the representative of the decedent may be given notice if doing so does not cause an undue delay in hearing the matter and, in any event, shall have standing in the court action. The responsible authority for the data being sought or any interested person may provide information regarding the possible harm or benefit from granting the request. The data in dispute shall be examined by the court in camera. The court may order all or part of the data to be released to the public or to the person bringing the action. In deciding whether or not to release the data, the court shall consider whether the harm to the surviving spouse, children, or next of kin of the decedent, the harm to any other individual identified in the data, or the harm to the public outweighs the benefit to the person bringing the action or the benefit of the public. The court shall make a written statement of findings in support of its decision.

**Subd. 5. Adoption records.** Notwithstanding any provision of this chapter, adoption records shall be treated as provided in sections 259.21 to 259.49.

**Subd. 6. Retention of data.** Nothing in this section may be construed to require retention of government data, including private data on decedents or confidential data on decedents, for periods of time other than those established by the procedures provided in section 138.17, or any other statute.

**History:** 1985 c 298 s 8; 1986 c 444

## DATA MAINTAINED BY STATE AGENCIES AND POLITICAL SUBDIVISIONS

### 13.30 ATTORNEYS.

Notwithstanding the provisions of this chapter and section 15.17, the use, collection, storage, and dissemination of data by an attorney acting in a professional capacity for the state, a state agency or a political subdivision shall be governed by statutes, rules, and professional standards concerning discovery, production of documents, introduction of evidence, and professional responsibility; provided that this section shall not be construed to affect the applicability of any statute, other than this chapter and section 15.17, which specifically requires or prohibits disclosure of specific information by the attorney, nor shall this section be construed to relieve any responsible authority, other than the attorney, from duties and responsibilities pursuant to this chapter and section 15.17.

**History:** 1979 c 328 s 19; 1981 c 311 s 39; 1982 c 545 s 24; 1986 c 444

**13.31 BENEFIT DATA.**

Subdivision 1. **Definition.** As used in this section, "benefit data" means data on individuals collected or created because an individual seeks information about becoming, is, or was an applicant for or a recipient of benefits or services provided under various housing, home ownership, and rehabilitation and community action agency programs administered by state agencies, political subdivisions, or statewide systems. Benefit data does not include welfare data which shall be administered in accordance with section 13.46.

Subd. 2. **Public data.** The names and addresses of applicants for and recipients of benefits, aid, or assistance through programs administered by any political subdivision, state agency, or statewide system that are intended to assist with the purchase of housing or other real property are classified as public data on individuals.

Subd. 3. **Private data.** Unless otherwise provided by law, all other benefit data is private data on individuals, and shall not be disclosed except pursuant to court order or to an agent of the state agency, political subdivision, or statewide system, including appropriate law enforcement personnel, who are acting in an investigation or prosecution of a criminal or civil proceeding relating to the administration of a program described in subdivision 1.

**History:** 1981 c 311 s 29,39; 1982 c 545 s 24; 1984 c 436 s 12,13

**13.32 EDUCATIONAL DATA.**

Subdivision 1. As used in this section:

(a) "Educational data" means data on individuals maintained by a public educational agency or institution or by a person acting for the agency or institution which relates to a student.

Records of instructional personnel which are in the sole possession of the maker thereof and are not accessible or revealed to any other individual except a substitute teacher, and are destroyed at the end of the school year, shall not be deemed to be government data.

Records of a law enforcement unit of a public educational agency or institution which are maintained apart from education data and are maintained solely for law enforcement purposes, and are not disclosed to individuals other than law enforcement officials of the jurisdiction are confidential; provided, that education records maintained by the educational agency or institution are not disclosed to the personnel of the law enforcement unit.

Records relating to a student who is employed by a public educational agency or institution which are made and maintained in the normal course of business, relate exclusively to the individual in that individual's capacity as an employee, and are not available for use for any other purpose are classified pursuant to section 13.43.

(b) "Student" means an individual currently or formerly enrolled or registered, applicants for enrollment or registration at a public educational agency or institution, or individuals who receive shared time educational services from a public agency or institution.

(c) "Substitute teacher" means an individual who performs on a temporary basis the duties of the individual who made the record, but does not include an individual who permanently succeeds to the position of the maker of the record.

Subd. 2. **Student health data.** Health data concerning students, including but not limited to, data concerning immunizations, notations of special physical or mental problems and records of school nurses; and pupil census data, including but not limited to, emergency information, family information and data concerning parents shall be considered educational data. Access by parents to student health data shall be pursuant to section 13.02, subdivision 8.

Subd. 3. Except as provided in subdivision 5, educational data is private data on individuals and shall not be disclosed except as follows:

- (a) Pursuant to section 13.05;
- (b) Pursuant to a valid court order;
- (c) Pursuant to a statute specifically authorizing access to the private data;
- (d) To disclose information in health and safety emergencies pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code of Federal Regulations, title 45, section 99.36 which are in effect on July 1, 1979;
- (e) Pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3) and Code of Federal Regulations, title 45, sections 99.31, 99.32, 99.33, 99.34 and 99.35 which are in effect on July 1, 1979; or
- (f) To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted.

Subd. 4. A student shall not have the right of access to private data provided in section 13.04, subdivision 3, as to financial records and statements of the student's parents or any information contained therein.

Subd. 5. Information designated as directory information pursuant to the provisions of United States Code, title 20, section 1232g and regulations adopted pursuant thereto which are in effect on July 1, 1979 is public data on individuals.

Subd. 6. Minnesota post-secondary 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 admission to an institution. This section supersedes any inconsistent provision of law.

**History:** 1979 c 328 s 18; 1980 c 603 s 26; 1981 c 311 s 14,39; 1982 c 545 s 24; 1984 c 436 s 14; 1985 c 298 s 9,10; 1986 c 444

### 13.33 ELECTED OFFICIALS; CORRESPONDENCE; PRIVATE DATA.

Correspondence between individuals and elected officials is private data on individuals, but may be made public by either the sender or the recipient.

**History:** 1979 c 328 s 22; 1981 c 311 s 39; 1982 c 545 s 24

### 13.34 EXAMINATION DATA.

Data consisting solely of testing or examination materials, or scoring keys used solely to determine individual qualifications for appointment or promotion in public service, or used to administer a licensing examination, or academic examination, the disclosure of which would compromise the objectivity or fairness of the testing or examination process are classified as nonpublic, except pursuant to court order. Completed versions of personnel, licensing, or academic examinations shall be accessible to the individual who completed the examination, unless the responsible authority determines that access would compromise the objectivity, fairness, or integrity of the examination process. Notwithstanding section 13.04, the responsible authority shall not be required to provide copies of completed examinations or answer keys to any individual who has completed an examination.

**History:** 1980 c 603 s 14; 1981 c 311 s 10,39; 1982 c 545 s 24

### 13.35 FEDERAL CONTRACTS DATA.

To the extent that a federal agency requires it as a condition for contracting with a state agency or political subdivision, all government data collected and maintained by the state agency or political subdivision because that agency contracts with the federal agency are classified as either private or nonpublic depending on whether the data are data on individuals or data not on individuals.

**History:** 1980 c 603 s 19; 1981 c 311 s 39; 1982 c 545 s 24

**13.36 FIREARMS DATA.**

All data pertaining to the purchase or transfer of firearms and applications for permits to carry firearms which are collected by state agencies, political subdivisions or statewide systems pursuant to sections 624.712 to 624.718 are classified as private, pursuant to section 13.02, subdivision 12.

**History:** 1981 c 311 s 20,39; 1982 c 545 s 24

**13.37 GENERAL NONPUBLIC DATA.**

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

(a) "Security information" means government data the disclosure of which would be likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury.

(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.

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

**History:** 1980 c 603 s 15; 1981 c 311 s 11,39; 1982 c 545 s 24; 1984 c 436 s 15; 1985 c 248 s 4

**13.38 HEALTH DATA.**

Subdivision 1. **Private data.** The following data created, collected and maintained by the department of health, political subdivisions, or statewide systems are classified as private, pursuant to section 13.02, subdivision 12: data on individual patients pertaining to the investigation and study of nonsexually transmitted diseases, except that the data may be made public to diminish a threat to the public health.

Subd. 2. **Confidential data.** The following data created, collected and maintained by a department of health operated by the state or a political subdivision are classified as confidential, pursuant to section 13.02, subdivision 3: investigative files on individuals maintained by the department in connection with the epidemiologic investigation of sexually transmitted diseases, provided that information may be released to the individual's personal physician and to a health officer, as defined in section 145.01, for the purposes of treatment, continued medical evaluation and control of the disease.

**History:** 1981 c 311 s 31,39; 1982 c 545 s 24

**13.39 INVESTIGATIVE DATA.**

Subdivision 1. **Definitions.** A "pending civil legal action" includes but is not limited to judicial, administrative or arbitration proceedings. Whether a civil legal

action is pending shall be determined by the chief attorney acting for the state agency, political subdivision or statewide system.

**Subd. 2. Civil actions.** Data collected by state agencies, political subdivisions or statewide systems as part of an active investigation undertaken for the purpose of the commencement or defense of a pending civil legal action, or which are retained in anticipation of a pending civil legal action, are classified as protected nonpublic data pursuant to section 13.02, subdivision 13 in the case of data not on individuals and confidential pursuant to section 13.02, subdivision 3 in the case of data on individuals. Any agency, political subdivision or statewide system may make any data classified as confidential or protected nonpublic pursuant to this subdivision accessible to any person, agency or the public if the agency, political subdivision or statewide system determines that the access will aid the law enforcement process, promote public health or safety or dispel widespread rumor or unrest.

**Subd. 3. Inactive investigative data.** Inactive civil investigative data are public, unless the release of the data would jeopardize another pending civil legal action, and except for those portions of a civil investigative file that are classified as not public data by other law. Any civil investigative data presented as evidence in court or made part of a court record shall be public. Civil investigative data become inactive upon the occurrence of any of the following events:

- (1) a decision by the state agency, political subdivision, or statewide system or by the chief attorney acting for the state agency, political subdivision, or statewide system not to pursue the civil action;
- (2) expiration of the time to file a complaint under the statute of limitations or agreement applicable to the civil action; or
- (3) exhaustion of or expiration of rights of appeal by either party to the civil action.

Data determined to be inactive under clause (1) may become active if the state agency, political subdivision, statewide system, or its attorney decides to renew the civil action.

**History:** 1981 c 311 s 22,39; 1982 c 545 s 11,24; 1985 c 298 s 11

### 13.40 LIBRARY DATA.

**Subdivision 1.** All records collected, maintained, used or disseminated by a library operated by any state agency, political subdivision or statewide system shall be administered in accordance with the provisions of this chapter.

**Subd. 2.** That portion of records maintained by a library which links a library patron's name with materials requested or borrowed by the patron or which links a patron's name with a specific subject about which the patron has requested information or materials is classified as private, pursuant to section 13.02, subdivision 12, and shall not be disclosed except pursuant to a valid court order.

**History:** 1980 c 603 s 21; 1981 c 311 s 39; 1982 c 545 s 6,24

### 13.41 LICENSING DATA.

**Subdivision 1. Definition.** As used in this section "licensing agency" means any board, department or agency of this state which is given the statutory authority to issue professional or other types of licenses, except the various agencies primarily administered by the commissioner of human services. Data pertaining to persons or agencies licensed or registered under authority of the commissioner of human services shall be administered pursuant to section 13.46, subdivision 4.

**Subd. 2. Private data.** The following data collected, created or maintained by any licensing agency are classified as private, pursuant to section 13.02, subdivision 12: data, other than their names and addresses, submitted by applicants for licenses; the identity of complainants who have made reports concerning licensees or applicants which appear in inactive complaint data unless the complainant consents to the disclosure; the nature or content of unsubstantiated complaints when the information is not maintained in anticipation of legal action; the identity of patients whose medical

records are received by any health licensing agency for purposes of review or in anticipation of a contested matter; inactive investigative data relating to violations of statutes or rules; and the record of any disciplinary proceeding except as limited by subdivision 4.

**Subd. 3. Confidential data.** The following data collected, created or maintained by any licensing agency are classified as confidential, pursuant to section 13.02, subdivision 3: active investigative data relating to the investigation of complaints against any licensee.

**Subd. 4. Public data.** Licensing agency minutes, application data on licensees, orders for hearing, findings of fact, conclusions of law and specification of the final disciplinary action contained in the record of the disciplinary action are classified as public, pursuant to section 13.02, subdivision 15. The entire record concerning the disciplinary proceeding is public data pursuant to section 13.02, subdivision 15, in those instances where there is a public hearing concerning the disciplinary action.

**Subd. 5. Releasing data.** Any licensing agency may make any data classified as private or confidential pursuant to this section accessible to an appropriate person or agency if the licensing agency determines that failure to make the data accessible is likely to create a clear and present danger to public health or safety.

**History:** 1981 c 311 s 27,39; 1982 c 545 s 12-14,24; 1984 c 436 s 16; 1984 c 654 art 5 s 58

### 13.42 MEDICAL DATA.

**Subdivision 1. Definition.** As used in this section: (a) "Directory information" means name of the patient, date admitted, general condition, and date released.

(b) "Medical data" means data collected because an individual was or is a patient or client of a hospital, nursing home, medical center, clinic, health or nursing agency operated by a state agency or political subdivision including business and financial records, data provided by private health care facilities, and data provided by or about relatives of the individual.

**Subd. 2. Public hospitals; directory information.** If a person is a patient in a hospital operated by a state agency or political subdivision pursuant to legal commitment, directory information is public data. If a person is a patient other than pursuant to commitment in a hospital controlled by a state agency or political subdivision, directory information is public data unless the patient requests otherwise, in which case it is private data on individuals.

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

**Subd. 3. Classification of medical data.** Unless the data is summary data or a statute specifically provides a different classification, medical data are private but are available only to the subject of the data as provided in section 144.335, and shall not be disclosed to others except:

- (a) Pursuant to section 13.05;
- (b) Pursuant to a valid court order;
- (c) To administer federal funds or programs;
- (d) To the surviving spouse or next of kin of a deceased patient or client;
- (e) To communicate a patient's or client's condition to a family member or other appropriate person in accordance with acceptable medical practice, unless the patient or client directs otherwise; or
- (f) As otherwise required by law.

**History:** 1979 c 328 s 16; 1980 c 603 s 27,28; 1981 c 311 s 16,39; 1982 c 545 s 24



a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person.

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

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

- (a) pursuant to section 13.05;
- (b) pursuant to statute or valid court order;
- (c) to a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense; or
- (d) to provide the notices required and permitted by sections 626.556, subdivisions 10b and 10d, and 626.557, subdivision 10a.

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

**Subd. 4. Licensing data.** All data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered under the authority of the commissioner of human services, except for personal and personal financial data about applicants and licensees under the family day care program and the family foster care program and data generated in the course of licensing investigations that are in response to a complaint of a rule or statutory violation, are public data. Personal and personal financial data on family day care program and family foster care program applicants and licensees are private data pursuant to section 13.02, subdivision 12. Data generated in the course of licensing investigations that are in response to a complaint of a rule or statutory violation are investigative data pursuant to subdivision 3.

**Subd. 5. Medical data; contracts.** Data relating to the medical, psychiatric, or mental health of any individual, including diagnosis, progress charts, treatment received, case histories, and opinions of health care providers, that is collected, maintained, used, or disseminated by any agency to the welfare system is private data on individuals and will be available to the data subject, unless the private health care provider has clearly requested in writing that the data be withheld pursuant to section 144.335. Data on individuals that is collected, maintained, used, or disseminated by a private health care provider under contract to any agency of the welfare system is private data on individuals, and is subject to the provisions of sections 13.02 to 13.07 and this section, except that the provisions of section 13.04, subdivision 3, shall not apply. Access to medical data referred to in this subdivision by the individual who is the subject of the data is subject to the provisions of section 144.335.

**Subd. 6. Other data.** Data collected, used, maintained, or disseminated by the welfare system that is not data on individuals is public pursuant to section 13.03, except the following data:

- (a) investigative data classified by section 13.39;
- (b) welfare investigative data classified by section 13.46, subdivision 3; and
- (c) security information classified by section 13.37, subdivision 2.

**Subd. 7. Mental health center data.** (a) Mental health data 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;
- (2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to or disclosure of mental health data; or

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

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

**Subd. 8. Access for auditing.** To the extent required by state or federal law, representatives of federal, state, or local agencies shall have access to data maintained by public or private community mental health centers, mental health divisions of counties, and other providers under contract to deliver mental health services which is necessary to achieve the purpose of auditing. Public or private community mental health centers, mental health divisions of counties, and other providers under contract to deliver mental health services shall not permit this data to identify any particular patient or client by name or contain any other unique personal identifier.

**Subd. 9. Fraud.** In cases of suspected fraud, in which access to mental health data maintained by public or private community mental health centers or mental health divisions of counties and other providers under contract to deliver mental health services is necessary to a proper investigation, the county board or the appropriate prosecutorial authority shall refer the matter to the commissioner of human services. The commissioner and agents of the commissioner, while maintaining the privacy rights of individuals and families, shall have access to mental health data to conduct an investigation. Upon deeming it appropriate as a result of the investigation, the commissioner shall refer the matter to the appropriate legal authorities and may disseminate to those authorities whatever mental health data are necessary to properly prosecute the case.

**Subd. 10. Responsible authority.** (a) Notwithstanding any other provision of this chapter to the contrary, the responsible authority for each component of the welfare system listed in subdivision 1, clause (c), shall be as follows:

(1) the responsible authority for the department of human services, state hospitals, and nursing homes is the commissioner of the department of human services;

(2) the responsible authority of a county welfare agency is the director of the county welfare agency;

(3) the responsible authority for a county welfare board, human services board, or community mental health center board is the chair of the board; and

(4) the responsible authority of any person, agency, institution, organization, or other entity under contract to any of the components of the welfare system listed in subdivision 1, clause (c), is the person specified in the contract.

(b) A responsible authority shall allow another responsible authority in the welfare system access to data classified as not public data when access is necessary for the administration and management of programs, or as authorized or required by statute or federal law.

**History:** 1979 c 328 s 15; 1980 c 603 s 23; 1980 c 615 s 34; 1981 c 311 s 39; 1982 c 545 s 8,24; 1983 c 15 s 1; 1983 c 312 art 8 s 1; 1984 c 436 s 19-24; 1984 c 579 s 1-5; 1984 c 640 s 32; 1984 c 654 art 5 s 58; 1985 c 293 s 1,2; 1985 c 298 s 13-17; 1986 c 337 s 1; 1986 c 444

## DATA MAINTAINED ONLY BY POLITICAL SUBDIVISIONS

### 13.50 APPRAISAL DATA.

**Subdivision 1. Confidential data.** Estimated or appraised values of individual parcels of real property which are made by personnel of the state, its agencies and departments, or a political subdivision or by independent appraisers acting for the state, its agencies and departments, or a political subdivision for the purpose of

acquiring land through purchase or condemnation are classified as confidential data on individuals pursuant to section 13.02, subdivision 3.

Subd. 2. **Public data.** The data made confidential by the provisions of subdivision 1 shall become public upon the occurrence of any of the following:

- (a) The negotiating parties exchange appraisals;
- (b) The data are submitted to a court appointed condemnation commissioner;
- (c) The data are presented in court in condemnation proceedings; or
- (d) The negotiating parties enter into an agreement for the purchase and sale of the property.

**History:** 1981 c 311 s 39; 1982 c 545 s 21,24; 1983 c 143 s 1

### 13.51 ASSESSOR'S DATA.

Subdivision 1. **Generally.** The following data collected, created and maintained by political subdivisions are classified as private, pursuant to section 13.02, subdivision 12, or nonpublic depending on the content of the specific data:

Data contained on sales sheets received from private multiple listing service organizations where the contract with the organizations requires the political subdivision to refrain from making the data available to the public.

Subd. 2. **Income property assessment data.** The following data collected by political subdivisions from individuals or business entities concerning income properties are classified as private or nonpublic data pursuant to section 13.02, subdivisions 9 and 12:

- (a) Detailed income and expense figures for the current year plus the previous three years;
- (b) Average vacancy factors for the previous three years;
- (c) Verified net rentable areas or net usable areas, whichever is appropriate;
- (d) Anticipated income and expenses for the current year; and
- (e) Projected vacancy factor for the current year.

**History:** 1981 c 311 s 30,39; 1982 c 545 s 15,24

### 13.52 DEFERRED ASSESSMENT DATA.

Any data, collected by political subdivisions pursuant to section 435.193, which indicate the amount or location of cash or other valuables kept in the homes of applicants for deferred assessment, are private data pursuant to section 13.02, subdivision 12.

**History:** 1980 c 603 s 16; 1981 c 311 s 39; 1982 c 545 s 24

### 13.53 FOSTER CARE DATA.

The following data collected, created and maintained by a community action agency in a study of the impact of foster care policies on families are classified as confidential data, pursuant to section 13.02, subdivision 3: names of persons interviewed; foster care placement plans obtained from other public and private agencies; and all information gathered during interviews with study participants.

**History:** 1981 c 311 s 28,39; 1982 c 545 s 24

### 13.54 HOUSING AGENCY DATA.

Subdivision 1. **Definition.** For purposes of this section "housing agency" means the public housing agency or housing and redevelopment authority of a political subdivision.

Subd. 2. **Confidential data.** The following data on individuals maintained by the housing agency are classified as confidential data, pursuant to section 13.02, subdivision 3: correspondence between the agency and the agency's attorney containing data collected as part of an active investigation undertaken for the purpose of the com-

mencement or defense of potential or actual litigation, including but not limited to: referrals to the office of the inspector general or other prosecuting agencies for possible prosecution for fraud; initiation of lease terminations and unlawful detainer actions; admission denial hearings concerning prospective tenants; commencement of actions against independent contractors of the agency; and tenant grievance hearings.

Subd. 3. **Protected nonpublic data.** The following data not on individuals maintained by the housing agency are classified as protected nonpublic data, pursuant to section 13.02, subdivision 13: correspondence between the agency and the agency's attorney containing data collected as part of an active investigation undertaken for the purpose of the commencement or defense of potential or actual litigation, including but not limited to, referrals to the office of the inspector general or other prosecuting bodies or agencies for possible prosecution for fraud and commencement of actions against independent contractors of the agency.

Subd. 4. **Nonpublic data.** The following data not on individuals maintained by the housing agency are classified as nonpublic data, pursuant to section 13.02, subdivision 9: all data pertaining to negotiations with property owners regarding the purchase of property. With the exception of the housing agency's evaluation of properties not purchased, all other negotiation data shall be public at the time of the closing of the property sale.

**History:** 1981 c 311 s 32,39; 1982 c 545 s 24

### 13.55 ST. PAUL CIVIC CENTER AUTHORITY DATA.

Subdivision 1. **Nonpublic classification.** The following data received, created or maintained by the St. Paul civic center authority are classified as nonpublic data pursuant to section 13.02, subdivision 9:

- (a) A letter or other documentation from any person who makes inquiry to the authority as to the availability of authority facilities for staging events;
- (b) Identity of firms and corporations which contact the authority;
- (c) Type of event which they wish to stage in authority facilities;
- (d) Suggested terms of rentals; and
- (e) Responses of authority staff to these inquiries.

Subd. 2. **Public data.** The data made nonpublic by the provisions of subdivision 1 shall become public upon the occurrence of any of the following:

- (a) A lease or contract is entered into between the authority and the inquiring party or parties;
- (b) The event which was the subject of inquiry does not occur; or
- (c) The event which was the subject of inquiry occurs elsewhere.

**History:** 1981 c 311 s 39; 1982 c 545 s 19,24

### 13.56 SEXUAL ASSAULT DATA.

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

Subd. 2. **Classification.** All sexual assault communication data is classified as private data on individuals.

**History:** 1981 c 311 s 39; 1982 c 545 s 24; 1982 c 558 s 2

### 13.57 SOCIAL RECREATIONAL DATA.

The following data collected and maintained by political subdivisions for the purpose of enrolling individuals in recreational and other social programs are classified as private, pursuant to section 13.02, subdivision 12: data which describes the health or medical condition of the individual, family relationships and living arrangements of an individual or which are opinions as to the emotional makeup or behavior of an individual.

**History:** 1981 c 311 s 21,39; 1982 c 545 s 24

### 13.58 HOMESTEAD APPLICATION DATA.

The following data collected and maintained by political subdivisions are classified as private data pursuant to section 13.02, subdivision 12: the social security account numbers and detailed financial data submitted by individuals who are applying for class 1b homestead classifications pursuant to section 273.13.

**History:** 1984 c 436 s 25; 1Sp1985 c 14 art 4 s 1

### 13.59 REDEVELOPMENT DATA.

Subdivision 1. **Private data.** The following data collected in surveys of individuals conducted by cities and housing and redevelopment authorities for the purposes of planning, development, and redevelopment, are classified as private data pursuant to section 13.02, subdivision 12: the names and addresses of individuals and the legal descriptions of property owned by individuals.

Subd. 2. **Nonpublic data.** The following data collected in surveys of businesses conducted by cities and housing and redevelopment authorities, for the purposes of planning, development, and redevelopment, are classified as nonpublic data pursuant to section 13.02, subdivision 9: the names, addresses, and legal descriptions of business properties and the commercial use of the property to the extent disclosure of the use would identify a particular business.

**History:** 1984 c 436 s 26

### 13.60 ELECTED OR APPOINTED OFFICIALS; FINANCIAL DISCLOSURE STATEMENTS.

Financial disclosure statements of elected or appointed officials which, by requirement of the political subdivision, are filed with the political subdivision, are public data on individuals.

**History:** 1984 c 436 s 27

### 13.61 INSURANCE TRUST DATA; PRIVATE AND NONPUBLIC DATA.

The following data collected or created by the league of Minnesota cities insurance trust, association of Minnesota counties insurance trust, or by the Minnesota school board association insurance trust in order to process claims for workers' compensation are classified as either private data in regard to claims when the insured worker is living, or nonpublic data in regard to claims when the insured worker is deceased: name, address, phone number, and social security account number of the claimant if the claimant is not a public employee; claim number, date of claimed injury, employee's social security number, home phone number, home address, date of birth, sex, and marital status; whether claimed injury caused loss of time from work; whether the

employee lost time from work on the day of the claimed injury and the number of hours lost; whether the employee has returned to work; whether full or partial wages were paid for the first day of lost time and the amount paid, time of day, and location where injury occurred; whether the injury occurred on employer's premises; the name, address, and phone number of the treating physician or practitioner; identification of the hospital where treated; nature of the claimed injury or occupational illness; part of body affected; name or type of object involved in causing the injury; nature of injury; type of accident; description of actions taken to prevent reoccurrence; names of coworker witnesses; and all data collected or created as a result of the investigation of the claim including, but not limited to, physicians' reports; other data on the medical condition of the claimant; data collected from the claimant's physicians; and data collected in interviews of the claimant's employer, coworkers, family members, and neighbors.

**History:** 1985 c 298 s 18

### 13.62 ECONOMIC ASSISTANCE DATA.

The following data collected by cities in their administration of the city economic development assistance program are classified as nonpublic data:

- (1) application data, except company names, addresses, and other data that identify the applicant, until the application is approved by the city;
- (2) application data, except company names, addresses, and other data that identify the applicant, that pertain to companies whose applications have been disapproved;
- (3) attachments to applications including but, not limited to, business and personal financial records, until the application is approved;
- (4) income tax returns, either personal or corporate, that are filed by applicants; and
- (5) correspondence between the program administrators and the applicant until the application has been approved or disapproved.

**History:** 1985 c 298 s 19

## DATA MAINTAINED ONLY BY STATE AGENCIES

### 13.64 DEPARTMENT OF ADMINISTRATION DATA.

Notes and preliminary drafts of reports created, collected, or maintained by the management analysis division, department of administration, and prepared during audits or investigations of state departments and agencies are classified as confidential or protected nonpublic data until the final report has been published or preparation of the report is no longer being actively pursued. Data that support the conclusions of the report and that the commissioner of administration reasonably believes will result in litigation are confidential or protected nonpublic until the litigation has been completed or until the litigation is no longer being actively pursued. Data on individuals that could reasonably be used to determine the identity of an individual supplying data for a report are private if (a) the data supplied by the individual were needed for an audit and (b) the data would not have been provided to the management analysis division without an assurance to the individual that the individual's identity would remain private.

**History:** 1984 c 436 s 28; 1986 c 444

### 13.65 ATTORNEY GENERAL DATA.

Subdivision 1. **Private data.** The following data created, collected and maintained by the office of the attorney general are classified as private data on individuals:

- (a) the record, including but not limited to, the transcript and exhibits of all disciplinary proceedings held by a state agency, board or commission, except in those instances where there is a public hearing;
- (b) communications and noninvestigative files regarding administrative or policy matters which do not, evidence final public actions;

line insurance policies collected by the department of commerce pursuant to section 60A.20 are classified as private data.

Subd. 2. **Group workers' compensation self-insurance data.** Financial data relating to nonpublic companies that are submitted to the commissioner of commerce for the purpose of obtaining approval to self-insure workers' compensation liability as a group are classified as nonpublic data.

Subd. 3. **Workers' compensation self-insurance data.** Financial documents, including income statements, balance sheets, statements of changes in financial positions, and supporting financial information, submitted by nonpublic companies seeking to self-insure their workers' compensation liability or to be licensed as self-insurance plan administrators are classified as nonpublic data.

Subd. 4. **Pollution liability insurance survey data.** Data that could identify a company that responded to a pollution liability insurance survey taken by the department of commerce are classified as nonpublic data.

Subd. 5. **Data on insurance companies and township mutual companies.** The following data collected and maintained by the department of commerce are classified as nonpublic data:

(a) that portion of any of the following data which would identify the affected insurance company or township mutual company: (1) any order issued pursuant to section 60A.031, subdivision 5, or 67A.241, subdivision 4, and based in whole or in part upon a determination or allegation by the commerce department or commissioner that an insurance company or township mutual company is in an unsound, impaired, or potentially unsound or impaired condition; or (2) any stipulation, consent agreement, letter agreement, or similar document evidencing the settlement of any proceeding commenced pursuant to an order of a type described in clause (1), or an agreement between the department and an insurance company or township mutual company entered in lieu of the issuance of an order of the type described in clause (1);

(b) any correspondence or attachments relating to the data listed in this subdivision.

**History:** 1980 c 603 s 18; 1981 c 311 s 39; 1982 c 545 s 24; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1985 c 298 s 21; 1986 c 313 s 1

### 13.72 TRANSPORTATION DEPARTMENT DATA.

Subdivision 1. **Estimates for construction projects.** Estimates of the cost of construction projects of the Minnesota department of transportation prepared by department employees are nonpublic data and are not available to the public from the time of final design until the bids are opened for the project.

Subd. 2. **Rideshare data.** The following data on participants, collected by the department of transportation for the purpose of administering the rideshare program, are classified as private pursuant to section 13.02, subdivision 12: residential address and phone number; beginning and ending work hours; current mode of commuting to and from work; and type of rideshare service information requested.

Subd. 3. **Motor vehicle carrier investigative data.** Data collected by the department of transportation as part of an active investigation undertaken for the purpose of pursuing law enforcement action against a person, other than an individual, for a violation of chapter 221, or a rule or order issued pursuant to that chapter, are classified as protected nonpublic data.

Subd. 4. **Motor carrier accident data.** All data submitted to the department of transportation in the form of motor vehicle carrier accident reports, except the portions of the report forms in which the carrier and the driver provide their version of the accident, are classified as nonpublic data with regard to data not on individuals, and private data with regard to data on individuals.

Subd. 5. **Motor carrier accident version data.** Those portions of the motor vehicle carrier accident report forms, that motor vehicle carriers are required to submit to the department of transportation, that contain the carrier's and driver's version of the

accident are classified as protected nonpublic data with regard to data not on individuals, and confidential data with regard to data on individuals.

**History:** 1981 c 209 s 1; 1981 c 311 s 39; 1982 c 545 s 20,24; 1985 c 298 s 22-24

**13.73** [Repealed, 1985 c 298 s 45]

**13.74 ENVIRONMENTAL QUALITY DATA.**

The following data collected and maintained by the environmental quality board are classified as private data pursuant to section 13.02, subdivision 12: the names and addresses of individuals who submitted information and letters concerning personal health problems associated with transmission lines.

**History:** 1984 c 436 s 30

**13.75 BUREAU OF MEDIATION SERVICES DATA.**

Subdivision 1. **Representation data.** Authorization signatures or cards furnished in support of a petition filed or election conducted under sections 179.16, 179.18 to 179.25, and 179.67, and all ballots, prior to the time of tabulation, are classified as protected nonpublic data with regard to data not on individuals pursuant to section 13.02, subdivision 13, and as confidential data on individuals with regard to data on individuals pursuant to section 13.02, subdivision 3.

Subd. 2. **Mediation data.** All data received or maintained by the director or staff of the bureau of mediation services during the course of providing mediation services to the parties to a labor dispute under the provisions of chapter 179 are classified as protected nonpublic data with regard to data not on individuals, pursuant to section 13.02, subdivision 13, and as confidential data on individuals pursuant to section 13.02, subdivision 3, except to the extent the director of the bureau of mediation services determines such data are necessary to fulfill the requirements of section 179.71, subdivisions 5 and 6, or to identify the general nature of or parties to a labor dispute.

**History:** 1984 c 436 s 31; 1986 c 444

**13.76 DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT DATA.**

All financial information on individuals and business entities including, but not limited to, credit reports, financial statements, and net worth calculations, that are contained in applications received by the department of energy and economic development in its administration of the certified state development loan program are classified as private data with regard to data on individuals, and as nonpublic data with regard to data not on individuals.

**History:** 1985 c 298 s 25

**13.761 INDIAN AFFAIRS COUNCIL DATA.**

All financial information on individuals and business entities including, but not limited to, credit reports, financial statements, and net worth calculations, that are contained in applications received by the Indian affairs council in its administration of the Indian business development loan program are classified as private data with regard to data on individuals and as nonpublic data with regard to data not on individuals.

**History:** 1985 c 298 s 26

**13.77 AGRICULTURAL RESOURCE LOAN BOARD DATA.**

Subdivision 1. **Nonpublic data.** Financial information concerning business persons received or prepared by the agriculture resource loan guaranty board in connection with applications for loan guarantees pursuant to Laws 1984, chapter 502, article 10, sections 1 to 12, including, but not limited to, credit reports, financial statements, and net worth calculations, is classified as nonpublic data.



Subd. 2. **Private data.** Financial information concerning individuals received or prepared by the agriculture resource loan guaranty board in connection with applications for loan guarantees pursuant to Laws 1984, chapter 502, article 10, sections 1 to 12, including, but not limited to, credit reports, financial statements, and net worth calculations is classified as private data.

**History:** 1985 c 298 s 27

### 13.78 MINNESOTA EXPORT AUTHORITY DATA.

Financial information concerning business persons received or prepared by the export authority in connection with applications for financial assistance pursuant to section 17.105, including, but not limited to, credit reports, financial statements, net worth calculations, income and expense projections, and proposed terms of trade and foreign risk coverage, is classified as nonpublic data if it is data not on an individual and as private data if it is data on an individual.

**History:** 1985 c 298 s 28

### 13.79 DEPARTMENT OF LABOR AND INDUSTRY DATA.

Data that identify complaining employees and that appear on complaint forms received by the department of labor and industry concerning alleged violations of the fair labor standards act or section 181.75 are classified as private data.

**History:** 1985 c 298 s 29

### 13.791 REHABILITATION DATA.

Subdivision 1. **General.** Unless the data is summary data or is otherwise classified by statute or federal law, all data collected and maintained by the department of jobs and training that pertain to individuals applying for or receiving rehabilitation services is private data on individuals.

Subd. 2. **Harmful data.** Medical, psychological, or other rehabilitation data that the commissioner of jobs and training determines may be harmful to the individual shall not be released directly to the individual but must be provided through the individual's legal representative, a physician, or a licensed psychologist.

**History:** 1986 c 337 s 2

## DATA MAINTAINED BY CRIMINAL JUSTICE AGENCIES

### 13.80 DOMESTIC ABUSE DATA.

All government data on individuals which is collected, created, received or maintained by police departments, sheriffs' offices or clerks of court pursuant to the domestic abuse act, section 518B.01, are classified as confidential data, pursuant to section 13.02, subdivision 3, until a temporary court order made pursuant to subdivision 5 or 7 of section 518B.01 is executed or served upon the data subject who is the respondent to the action.

**History:** 1981 c 311 s 23,39; 1982 c 545 s 24

### 13.81 [Repealed, 1985 c 298 s 45]

### 13.82 COMPREHENSIVE LAW ENFORCEMENT DATA.

Subdivision 1. **Application.** This section shall apply to agencies which carry on a law enforcement function, including but not limited to municipal police departments, county sheriff departments, fire departments, the bureau of criminal apprehension, the Minnesota state patrol, the board of peace officer standards and training, and the department of commerce.

Subd. 2. **Arrest data.** The following data created or collected by law enforcement agencies which documents any actions taken by them to cite, arrest, incarcerate or

otherwise substantially deprive an adult individual of liberty shall be public at all times in the originating agency:

- (a) Time, date and place of the action;
- (b) Any resistance encountered by the agency;
- (c) Any pursuit engaged in by the agency;
- (d) Whether any weapons were used by the agency or other individual;
- (e) The charge, arrest or search warrants, or other legal basis for the action;
- (f) The identities of the agencies, units within the agencies and individual persons taking the action;
- (g) Whether and where the individual is being held in custody or is being incarcerated by the agency;
- (h) The date, time and legal basis for any transfer of custody and the identity of the agency or person who received custody;
- (i) The date, time and legal basis for any release from custody or incarceration;
- (j) The name, age, sex and last known address of an adult person or the age and sex of any juvenile person cited, arrested, incarcerated or otherwise substantially deprived of liberty;
- (k) Whether the agency employed wiretaps or other eavesdropping techniques, unless 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 10; and
- (m) Response or incident report number.

**Subd. 3. Request for service data.** The following data created or collected by law enforcement agencies which documents requests by the public for law enforcement services shall be public government data:

- (a) The nature of the request or the activity complained of;
- (b) The name and address of the individual making the request unless the identity of the individual qualifies for protection under subdivision 10;
- (c) The time and date of the request or complaint; and
- (d) The response initiated and the response or incident report number.

**Subd. 4. Response or incident data.** The following data created or collected by law enforcement agencies which documents the agency's response to a request for service or which describes actions taken by the agency on its own initiative shall be public government data:

- (a) Date, time and place of the action;
- (b) Agencies, units of agencies and individual agency personnel participating in the action unless the identities of agency personnel qualify for protection under subdivision 10;
- (c) Any resistance encountered by the agency;
- (d) Any pursuit engaged in by the agency;
- (e) Whether any weapons were used by the agency or other individuals;
- (f) A brief factual reconstruction of events associated with the action;
- (g) Names and addresses of witnesses to the agency action or the incident unless the identity of any witness qualifies for protection under subdivision 10;
- (h) Names and addresses of any victims or casualties unless the identities of those individuals qualify for protection under subdivision 10;
- (i) The name and location of the health care facility to which victims or casualties were taken; and
- (j) Response or incident report number.

**Subd. 5. Data collection.** Except for the data defined in subdivisions 2, 3 and 4,

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 civil wrong 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 10. 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 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.

**Subd. 6. Access to data for crime victims.** The prosecuting authority shall release investigative data collected by a law enforcement agency to the victim of a criminal act or the victim's legal representative upon written request unless the prosecuting authority reasonably believes:

- (a) That the release of that data will interfere with the investigation; or
- (b) That the request is prompted by a desire on the part of the requester to engage in unlawful activities.

**Subd. 7. Withholding public data.** A law enforcement agency may temporarily withhold response or incident data from public access if the agency reasonably believes that public access would be likely to endanger the physical safety of an individual or cause a perpetrator to flee, evade detection or destroy evidence. In such instances, the agency shall, upon the request of any person, provide a statement which explains the necessity for its action. Any person may apply to a district court for an order requiring the agency to release the data being withheld. If the court determines that the agency's action is not reasonable, it shall order the release of the data and may award costs and attorney's fees to the person who sought the order. The data in dispute shall be examined by the court in camera.

**Subd. 8. Public benefit data.** Any law enforcement agency may make any data classified as confidential pursuant to subdivision 5 accessible to any person, agency or the public if the agency determines that the access will aid the law enforcement process, promote public safety or dispel widespread rumor or unrest.

**Subd. 9. Public access.** When data is classified as public under this section, a law enforcement agency shall not be required to make the actual physical data available to the public if it is not administratively feasible to segregate the public data from the confidential. However, the agency must make the information described as public data available to the public in a reasonable manner. When investigative data becomes inactive, as described in subdivision 5, the actual physical data associated with that investigation, including the public data, shall be available for public access.

Subd. 10. **Protection of identities.** A law enforcement agency may withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

(a) When access to the data would reveal the identity of an undercover law enforcement officer;

(b) When access to the data would reveal the identity of a victim of criminal sexual conduct or intrafamilial sexual abuse or of a violation of section 617.246, subdivision 2;

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

(d) When access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, and the agency reasonably determines that revealing the identity of the victim or witness would threaten the personal safety or property of the individual.

Subd. 11. **Data retention.** Nothing in this section shall require law enforcement agencies to create, collect or maintain data which is not required to be created, collected or maintained by any other applicable rule or statute.

Subd. 12. **Data in arrest warrant indices.** Data in arrest warrant indices are classified as confidential data until the defendant has been taken into custody, served with a warrant, or appears before the court, except when the law enforcement agency determines that the public purpose is served by making the information public.

Subd. 13. **Property data.** Data that uniquely describe stolen, lost, confiscated, or recovered property or property described in pawn shop transaction records are classified as either private data on individuals or nonpublic data depending on the content of the not public data.

Subd. 14. **Reward program data.** To the extent that the release of program data would reveal the identity of an informant or adversely affect the integrity of the fund, financial records of a program that pays rewards to informants are protected nonpublic data in the case of data not on individuals or confidential data in the case of data on individuals.

Subd. 15. **Exchanges of information.** Nothing in this chapter prohibits the exchange of information by law enforcement agencies provided the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation, except not public personnel data.

Subd. 16. **Deliberative processes.** Data that reflect deliberative processes or investigative techniques of law enforcement agencies are confidential data on individuals or protected nonpublic data; provided that information, reports, or memoranda that have been adopted as the final opinion or justification for a decision of a law enforcement agency are public data.

**History:** 1979 c 328 s 21; 1981 c 311 s 36.39; 1982 c 545 s 24; 1982 c 558 s 1; 1984 c 552 s 2; 1985 c 298 s 30-36; 1986 c 444

### 13.83 MEDICAL EXAMINER DATA.

Subdivision 1. **Definition.** As used in this section, "medical examiner data" means data relating to deceased individuals and the manner and circumstances of their death which is created, collected, used or maintained by a county coroner or medical examiner in the fulfillment of official duties pursuant to chapter 390, or any other general or local law on county coroners or medical examiners.

Subd. 2. **Public data.** Unless specifically classified otherwise by state statute or federal law, the following data created or collected by a medical examiner or coroner on a deceased individual is public: name of the deceased; date of birth; date of death; address; sex; race; citizenship; height; weight; hair color; eye color; build; complexion; age, if known, or approximate age; identifying marks, scars and amputations; a descrip-

(h) the legal basis for any change in supervision and the date, time and locations associated with the change.

Subd. 7. **Limitation.** Nothing in this section shall limit public access to data made public by section 13.82.

**History:** 1981 c 311 s 39; 1982 c 545 s 18,24; 1985 c 298 s 38,39

### 13.85 CORRECTIONS AND DETENTION DATA.

Subdivision 1. **Definition.** As used in this section, "corrections and detention data" means data on individuals created, collected, used or maintained because of their lawful confinement or detainment in state reformatories, prisons and correctional facilities, municipal or county jails, lockups, work houses, work farms and all other correctional and detention facilities.

Subd. 2. **Private data.** Unless the data are summary data or arrest data, or a statute specifically provides a different classification, corrections and detention data on individuals are classified as private pursuant to section 13.02, subdivision 12, to the extent that the release of the data would either (a) disclose personal, medical, psychological, or financial information or (b) endanger an individual's life.

Subd. 3. **Confidential data.** Corrections and detention data are confidential, pursuant to section 13.02, subdivision 3, to the extent that release of the data would: (a) endanger an individual's life, (b) endanger the effectiveness of an investigation authorized by statute and relating to the enforcement of rules or law, (c) identify a confidential informant, or (d) clearly endanger the security of any institution or its population.

Subd. 4. **Public data.** After any presentation to a court, any data made private or confidential by this section shall be public to the extent reflected in court records.

**History:** 1981 c 311 s 39; 1982 c 545 s 17,24

### 13.86 INVESTIGATIVE DETENTION DATA.

Subdivision 1. **Definition.** As used in this section, "investigative detention data" means government data created, collected, used or maintained by the state correctional facilities, municipal or county jails, lockups, work houses, work farms and other correctional and detention facilities which: (a) if revealed, would disclose the identity of an informant who provided information about suspected illegal activities, and (b) if revealed, is likely to subject the informant to physical reprisals by others.

Subd. 2. **General.** Investigative detention data is confidential and shall not be disclosed except:

(a) Pursuant to section 13.05 or any other statute;

(b) Pursuant to a valid court order; or

(c) To a party named in a civil or criminal proceeding, whether administrative or judicial, to the extent required by the relevant rules of civil or criminal procedure.

**History:** 1979 c 102 s 13; 1980 c 603 s 22; 1981 c 311 s 39; 1982 c 545 s 24

### 13.87 CRIMINAL HISTORY DATA.

Subdivision 1. **Definition.** For purposes of this section, "criminal history data" means all data maintained in criminal history records compiled by the bureau of criminal apprehension and disseminated through the criminal justice information system, including, but not limited to fingerprints, photographs, identification data, arrest data, prosecution data, criminal court data, custody and supervision data.

Subd. 2. **Classification.** Criminal history data maintained by agencies, political subdivisions and statewide systems are classified as private, pursuant to section 13.02, subdivision 12.

Subd. 3. **Limitation.** Nothing in this section shall limit public access to data made public by section 13.82.

**History:** 1981 c 311 s 39; 1982 c 545 s 16,24

**13.88 COMMUNITY DISPUTE RESOLUTION CENTER DATA.**

The guidelines shall provide that all files relating to a case in a community dispute resolution program are to be classified as private data on individuals, pursuant to section 13.02, subdivision 12, with the following exceptions:

(1) When a party to the case has been formally charged with a criminal offense, the data are to be classified as public data on individuals, pursuant to section 13.02, subdivision 15.

(2) Data relating to suspected neglect or physical or sexual abuse of children or vulnerable adults are to be subject to the reporting requirements of sections 626.556 and 626.557.

**History:** 1984 c 654 art 2 s 39

**13.89 DISSEMINATION OF DATA TO PROTECTION AND ADVOCACY SYSTEMS.**

Data on clients and residents of facilities licensed pursuant to sections 144.50 to 144.58, 245.781 to 245.812, and 252.28, subdivision 2, may be disseminated to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person.

**History:** 1985 c 298 s 42

**13.90 GOVERNMENT DATA PRACTICES.**

Subdivision 1. **Definition.** For purposes of this section, "judiciary" means any office, officer, department, division, board, commission, committee, or agency of the courts of this state, whether or not of record, including but not limited to the board of law examiners, the lawyer's professional responsibility board, the board of judicial standards, the lawyer's trust account board, the state law library, the state court administrator's office, the district court administrator's office, and the office of the court administrator.

Subd. 2. **Application.** The judiciary shall be governed by this chapter until August 1, 1987, or until the implementation of rules adopted by the supreme court regarding access to data, whichever comes first. Any data made a part of a criminal or civil case shall not be governed by this chapter at any time.

**History:** 1985 c 298 s 44; 1Sp1986 c 3 art 1 s 82