

CHAPTER 13

GOVERNMENT DATA PRACTICES

13.03	Access to government data.	13.642	Teachers retirement association data.
13.04	Rights of subjects of data.	13.691	Public employees retirement association data.
13.05	Duties of responsible authority.	13.692	Department of public service data.
13.38	Health data.	13.76	Department of energy and economic development data.
13.39	Investigative data.	13.771	Hazardous substance injury compensation board data.
13.41	Licensing data.	13.83	Medical examiner data.
13.43	Personnel data.	13.89	Dissemination of data to protection and advocacy systems.
13.46	Welfare data.		
13.50	Appraisal data.		
13.531	Farm assistance data.		
13.551	Classification of Saint Paul port authority data.		
13.641	Public employees retirement association data.		

13.03 ACCESS TO GOVERNMENT DATA.

[For text of subds 1 and 2, see M.S.1986]

Subd. 3. **Request for access to data.** Upon request to a responsible authority or designee, a person shall be permitted to inspect and copy public government data at reasonable times and places, and, upon request, shall be informed of the data's meaning. If a person requests access for the purpose of inspection, the responsible authority may not assess a charge or require the requesting person to pay a fee to inspect data. The responsible authority or designee shall provide copies of public government data upon request. If a person requests copies, 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 developed with a significant expenditure of public funds by the agency, the responsible authority may charge a reasonable fee for the information in addition to the costs of making, certifying, and compiling the copies. Any fee charged must be clearly demonstrated by the agency to relate to the actual development costs of the information. The responsible authority, upon the request of any person, shall provide sufficient documentation to explain and justify the fee being charged.

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

[For text of subds 4 to 8, see M.S.1986]

History: 1987 c 351 s 1

13.04 RIGHTS OF SUBJECTS OF DATA.

[For text of subd 1, see M.S.1986]

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.

[For text of subds 3 and 4, see M.S.1986]

History: 1987 c 351 s 2

13.05 DUTIES OF RESPONSIBLE AUTHORITY.

[For text of subds 1 to 3, see M.S.1986]

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 enacted or promulgated after 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.

[For text of subds 5 to 10, see M.S.1986]

History: 1987 c 351 s 3

13.38 HEALTH DATA.

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

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

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

Subd. 2. **Data on individuals.** (a) Health data are private data on individuals. Notwithstanding section 13.05, subdivision 9, health data may not be disclosed except as provided in this subdivision and section 13.04.

(b) The commissioner or a local board of health may disclose health data to the data subject's physician as necessary to locate or identify a case, carrier, or suspect case, to establish a diagnosis, to provide treatment, to identify persons at risk of illness, or to conduct an epidemiologic investigation.

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

Subd. 3. **Health summary data.** Summary data derived from data collected under section 145.413 may be provided under section 13.05, subdivision 7.

History: 1987 c 351 s 4

13.39 INVESTIGATIVE DATA.

[For text of subds 1 and 2, see M.S.1986]

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 this chapter or 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: 1987 c 351 s 5

13.41 LICENSING DATA.

[For text of subds 1 to 3, see M.S.1986]

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. The license numbers, the license status, and continuing education records issued or maintained by the board of peace officer standards and training are classified as public data, pursuant to section 13.02, subdivision 15.

[For text of subd 5, see M.S.1986]

History: 1987 c 351 s 6

13.43 PERSONNEL DATA.

Subdivision 1. Definition. As used in this section, "personnel data" means data on individuals collected because the individual is or was an employee of or an applicant for employment by, performs services on a voluntary basis for, or acts as an independent contractor with a state agency, statewide system or political subdivision or is a member of an advisory board or commission. "Personnel data" includes data on individuals who apply for or are enrolled in employment and training programs funded with federal, state, or local resources unless the data are welfare data under section 13.46.

[For text of subd 2, see M.S.1986]

Subd. 2a. Data disclosure by statewide pension plans. Notwithstanding any law to the contrary, with respect to data collected and maintained on members, survivors, and beneficiaries by statewide retirement systems that is classified as public data in accordance with subdivision 2, those retirement systems may be only required to disclose name, gross pension, and type of benefit awarded, except as required by sections 13.03, subdivisions 4 and 6; and 13.05, subdivisions 4 and 9.

[For text of subds 3 to 5, see M.S.1986]

Subd. 6. Access by labor organizations. Personnel data may be disseminated to labor organizations to the extent that the responsible authority determines that the dissemination is necessary to conduct elections, notify employees of fair share fee assessments, and implement the provisions of chapters 179 and 179A. Personnel data shall be disseminated to labor organizations and to the bureau of mediation services to the extent the dissemination is ordered or authorized by the director of the bureau of mediation services.

[For text of subd 7, see M.S.1986]

History: 1987 c 284 art 1 s 1; 1987 c 351 s 7; 1987 c 384 art 1 s 2

13.46 WELFARE DATA.

Subdivision 1. Definitions. As used in this section:

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

(b) "Program" includes all programs for which authority is vested in a component of the welfare system pursuant to statute or federal law.

(c) "Welfare system" includes the department of human services, county welfare boards, county welfare agencies, human services boards, community mental health center boards, state hospitals, state nursing homes, the ombudsman for mental health and mental retardation, and persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract.

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

[For text of subd 2, see M.S.1986]

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 notices required or permitted by statute.

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. (a) As used in this subdivision:

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

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

(3) "personal and personal financial data" means social security numbers, identity of and letters of reference, insurance information, reports from the bureau of criminal apprehension, health examination reports, and social/home studies.

(b) Except as provided in paragraph (c), the following data are public: name, address, telephone number of licensees, licensed capacity, type of children preferred, variances granted, type of dwelling, name and relationship of other family members, previous license history, class of license, the nature and content of complaints after resolution when the information is not maintained in anticipation of legal action, record of informal resolutions of licensing violations, orders of hearing, findings of fact, and conclusions of law, and specifications of the final disciplinary action contained in the record of disciplinary action.

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

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

(e) Data classified as private, confidential, or nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning the disciplinary action.

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

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

[For text of subds 5 and 6, see M.S.1986]

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

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

[For text of subds 8 to 10, see M.S.1986]

Subd. 11. Nursing home appraisals. Names, addresses, and other data that could identify nursing homes selected as part of a random sample to be appraised by the department of human services in its rate setting process are classified as protected nonpublic data until the sample has been completed.

History: 1987 c 351 s 8-11; 1987 c 352 s 1

13.50 APPRAISAL DATA.

Subdivision 1. Confidential or protected nonpublic 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 selling or acquiring land through purchase or condemnation are classified as confidential data on individuals or protected nonpublic data.

[For text of subd 2, see M.S.1986]

History: 1987 c 351 s 12

13.531 FARM ASSISTANCE DATA.

The following data collected and maintained by counties that provide assistance to individual farmers who are experiencing economic or emotional distress are classified as private data: financial history, including listings of assets and debts, and personal and emotional status information.

History: 1987 c 351 s 13

13.551 CLASSIFICATION OF SAINT PAUL PORT AUTHORITY DATA.

The following data not on individuals collected and maintained by the Saint Paul port authority are classified as protected nonpublic, until 30 days before the date of a hearing on a proposed sale pursuant to section 458.196: financial studies and reports that are part of appraisers' estimates of value of or concerning projects as defined in chapter 474, prepared by personnel of the port authority or independent accountants, consultants, and appraisers for the purpose of marketing by sale or lease a project which the port authority has acquired or repossessed as the result of the default under and the termination of a revenue agreement as defined in chapter 474.

History: 1987 c 351 s 14

13.641 PUBLIC EMPLOYEES RETIREMENT ASSOCIATION DATA.

The following data on beneficiaries and survivors of public employees retirement association members is considered private data on individuals:

- (1) address;
- (2) birth date;
- (3) direct deposit account number; and
- (4) tax withholding data.

History: 1987 c 284 art 1 s 2

13.642 TEACHERS RETIREMENT ASSOCIATION DATA.

The following data on beneficiaries and survivors of teachers retirement association members is considered private data on individuals:

- (1) address;
- (2) birth date;
- (3) direct deposit account number; and
- (4) tax withholding data.

History: 1987 c 284 art 1 s 3

13.691 PUBLIC EMPLOYEES RETIREMENT ASSOCIATION DATA.

The following data on individual beneficiaries and survivors of public employment retirement association members are classified as private: home address, date of birth, direct deposit account number, and tax withholding data.

History: 1987 c 351 s 15

13.692 DEPARTMENT OF PUBLIC SERVICE DATA.

Data collected by the department of public service that reveals the identity of a tenant who makes a complaint regarding energy efficiency standards for rental housing are private data on individuals.

History: 1987 c 351 s 16

13.76 DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT DATA.

Subdivision 1. Development loan 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.

Subd. 2. Financial incentive data. Data collected by the department of energy and economic development relating to financial incentives offered by private businesses and organizations, other than state government, to companies for locating their proposed business operations in Minnesota are classified as nonpublic data.

History: 1987 c 351 s 17

13.771 HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD DATA.

The following data on individuals filing claims for compensation with the hazardous substance injury compensation board for injury from hazardous substances are classified as confidential while the claim is being investigated and private after a decision is made by the board about the claim: the name, address, and all other information that may identify an individual filing a claim; all medical data provided to the board by the claimant or providers of health care to the claimant, including reports of physical examinations, mental health treatment, hospital care, physical therapy, laboratory testing, X-ray studies, and prescriptions; and all financial data provided to the board by the claimant or the claimant's employer, insurance carrier, or other provider of benefits, including state or federal tax forms, W-2 forms, salary records, records of insurance payments, unemployment or disability benefits.

History: 1987 c 351 s 18

13.83 MEDICAL EXAMINER DATA.*[For text of subd 1, see M.S.1986]*

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 description of the decedent's clothing; marital status; location of death including name of hospital where applicable; name of spouse; whether or not the decedent ever served in the armed forces of the United States; social security number; occupation; business; father's name (also birth name, if different); mother's name (also birth name, if different); birthplace; birthplace of parents; cause of death; causes of cause of death; whether an autopsy was performed and if so, whether it was conclusive; date and place of injury, if applicable, including work place; how injury occurred; whether death was caused by accident, suicide, homicide, or was of undetermined cause; certification of attendance by physician; physician's name and address; certification by coroner or medical examiner; name and signature of coroner or medical examiner; type of disposition of body; burial place name and location, if applicable; date of burial, cremation or removal; funeral home name and address; and name of local register or funeral director.

*[For text of subds 3 to 9, see M.S.1986]***History:** 1987 c 49 s 1**13.89 DISSEMINATION OF DATA TO PROTECTION AND ADVOCACY SYSTEMS.**

Subdivision 1. **Mental retardation.** 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:

- (1) the protection and advocacy system receives a complaint by or on behalf of that person; and
- (2) the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person.

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

- (1) the protection and advocacy system receives a complaint by or on behalf of the person or there is probable cause to believe that the person has been subjected to abuse or neglect, as defined in Public Law Number 99-319;
- (2) the person is by reason of a mental or physical condition unable to authorize the system to have access to data; and
- (3) the person does not have a legal guardian or the state is the legal guardian of the person.

History: 1987 c 236 s 1