

MAINE STATE LEGISLATURE

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**CONFIDENTIALITY
OF
PUBLIC RECORDS**

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by

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EXECUTIVE SUMMARY

There are over 200 statutes in Maine declaring various public records confidential or governing the use of confidential records. They are scattered throughout the Maine statutes, and they are anything but uniform. The Joint Standing Committee on Judiciary requested a staff study to examine the differences and similarities among the statutes and to explore options for bringing greater uniformity to Maine's public records confidentiality laws.

The study reviews the history of records confidentiality in Maine, beginning with the enactment of the Freedom of Access law in 1959. That law created the impetus for confidentiality laws, exempting certain records from the Access law's requirement that all records be disclosed to the public. The development of computers and the expanding amounts of information collected by government agencies in the 1960's and 1970's increased public concern about the use and disclosure of personal records, and lead to further legislation on the state and federal level to limit record disclosure.

Confidentiality laws in Maine protect three types of records: 1) trade secrets and other confidential commercial information; 2) personal information such as criminal history, tax, and medical records; and 3) information collected or created in the course of criminal or other investigations. The study report discusses the common issues raised by records within each category, and then discusses specific government programs and the unique issues raised with regard to records of each of those programs. As the report indicates, there is wide variation among the laws. Several factors contribute to the lack of uniformity of Maine's confidentiality laws. Some laws are drafted to comply with the requirements of federal law relating to federally-funded programs (e.g., student records laws and the laws relating to child protective programs); some simply lack uniformity because they were drafted at different times by different committees without reference to each other. Other laws reflect a difference of opinion among various committees on the extent of protection certain types of records should receive, or reflect the fact that different types of records give rise to different needs for protection and disclosure.

The report suggests two options for clarifying and unifying Maine confidentiality laws. Existing laws could be consolidated without change in one location, to make it easier to find relevant law and to detect conflicts among laws. Several issues that should be addressed in existing laws and laws enacted in the future are discussed in the report. Or, a comprehensive law, establishing uniform record management policies for the state could be enacted. This option would require further study and decision-making by policy-makers, departmental representatives and the public, since it involves a weighing of the conflicting societal interests in privacy and open government.



I. Introduction

During the Second Regular Session of the 115th Legislature, the Joint Standing Committee on Judiciary considered a number of bills relating to confidentiality of public records. Among them was LD 2018, governing disclosure of records relating to the investigation of use of force by law enforcement officers. The committee found that disclosure of such records was already regulated by a number of laws, including 30-A MRSA §2702 (municipal employee records), 5 MRSA §7070 (state employee records) and 5 MRSA §200-D (investigative records of the Attorney General). The committee questioned why public records were governed by so many different laws, and why the laws seem often to be duplicative or conflicting. The committee expressed concern that the system of confidentiality laws is confusing for the agencies that administer the laws and for members of the public seeking access to records or seeking protection from disclosure of records about themselves.

The Judiciary Committee asked the Legislative Council to approve a staff study of the similarities and differences among confidentiality statutes, the need for different standards and the possibilities for standardization of existing laws.

In its instinct that there are numerous confidentiality statutes in the laws of Maine, the Judiciary Committee was correct -- there are over 200 statutes in Maine declaring records confidential or governing the use of records declared confidential elsewhere. They are scattered throughout the Maine statutes, and they are anything but uniform.

Several factors contribute to the lack of uniformity among Maine's confidentiality laws. Some laws are drafted to comply with the requirements of federal law relating to federally-funded programs (e.g., student records laws and laws relating to child protective programs); some simply lack uniformity because they were drafted at different times by different committees without reference to each other. Other laws reflect a difference of opinion among various committees on the extent of protection certain type of records should receive, or reflect the fact that different types of records give rise to different needs for protection and disclosure.

This report will summarize the history of the records confidentiality issue in Maine, discuss the societal interests at stake in formulating records confidentiality laws, and provide an overview of the content of Maine confidentiality laws. The report focuses on laws limiting the use or disclosure of public records, although use and disclosure limits are part of a broader issue of records management known as "fair information practices." Fair information practices and laws imposing those practices are briefly discussed.

The last section of the report discusses options for standardizing Maine's records confidentiality laws, including enactment of a comprehensive law. No recommendation on enactment of a law is made, since, as the report shows, there is a wide disparity among records laws and no clearly "correct" way to manage records. Adoption of general rules relating to confidentiality requires the Legislature to balance the important and conflicting societal interests involved in each of the many types of records collected and used by government.

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The report attempts to provide a framework for such a discussion by categorizing records, talking about the interests involved, summarizing the questions that should be answered in drafting confidentiality laws, and summarizing current practice with regard to a number of different types of records. The report also suggests ways to standardize and clarify the laws without enacting comprehensive legislation.

II. Background

A. History of Public Records Confidentiality Law

Before 1959, Maine statutes included only a handful of laws declaring records "confidential."¹ Concern about disclosure was fairly minimal, since there was no general right of the public to access records held by government agencies, and intergovernmental sharing was apparently not as widespread as it is today.

In 1959, however, the Maine Legislature enacted the Freedom of Access Act,² providing the impetus for the initial flood of confidentiality laws. The Freedom of Access Act opened the workings of government, including deliberations and proceedings of governmental entities and their records, to public view. The Act, also called the "Right to Know" law, required governmental entities to open their records to the public, except as otherwise specifically provided by statute. Although the major goal of the law was to open public - not private - business to public scrutiny, the law made no distinction among records on the basis of whether the records contained information of public interest.

Several laws were enacted in 1959, in response to the Freedom of Access law. Exempted from the mandatory disclosure provisions of the Freedom of Access Act in that year were records of the State Police, the Insurance Department, the Liquor Enforcement Division, Mental Health and Corrections, and Labor and Industry. Some merely exempted the records from the disclosure requirement of the Act; others set forth extensive rules prohibiting or limiting disclosure. In 1975, the Freedom of Access law was amended to exempt certain records, thus creating two sources of non-disclosure law: the Access law and the many substantive laws governing disclosure of specific types of records.

Exempting a record from the Freedom of Access Act permits an agency to withhold the record from the public, but it does not prohibit the agency from disclosing the record to the public or to other governmental entities.³ Protection from disclosure and from uncontrolled use of personal information held in public records became a focus of state and federal activity in the 1970's, for a variety of reasons. The Watergate scandal raised concerns about the use of

¹ Pre-1959 laws made the following records confidential: adoption records, juvenile criminal proceeding records, veterans benefit claims, sales and use tax records, and records of the Department of Health and Welfare.

² Public Law 1959, ch. 219, enacting former R.S., c. 1, §40, now codified as 1 MRSA §401 et. seq.

³ Op. Me. Att'y Gen. (Sept. 2, 1976), Op. Me. Att'y Gen. 82-42.

information by government. Computer technology and the expansion of government activity brought into government files an ever increasing amount of information about individuals, and an ability to quickly access and share that information.

In 1973, the U.S. Secretary of Health, Education and Welfare formed a task force to study the collection, use and storage of data by government and its effects on individual privacy rights. The committee's final report⁴ set forth five record-keeping principles, which provided the basis for most privacy and information practices legislation, enacted since 1973, including the federal Privacy Act of 1974. Those principles are:

- There must be no personal-data record-keeping systems whose very existence is secret;
- There must be a way for an individual to find out what information about him is in a record and how it is used;
- There must be a way for an individual to prevent information about him obtained for one purpose from being used or made available for other purposes without his consent;
- There must be a way for an individual to correct or amend a record of identifiable information about him; and
- Any organization creating, maintaining, using or disseminating records of identifiable personal data must assure the reliability of the data for their intended use and must take reasonable precautions to prevent misuse of the data.

Soon after release of this report, the Federal Privacy Act was enacted.⁵ The Act limits the collection, maintenance, use and dissemination of information about individuals by federal agencies.

Concern about privacy and record-keeping practices in the 1970's did not bypass the State of Maine. In 1976, the Legislature directed the Joint Standing Committee on Legal Affairs to study record-keeping practices by government agencies and to recommend safeguards to protect individual privacy and give individuals more control over information about themselves. The Joint Order authorizing the study cited the same concerns that had motivated enactment of the Federal Privacy Act: the increased extent of record-keeping, spurred on by computer technology, the potential danger in excessive information-gathering and unfair information practices, and the potential for unfair deprivation of rights due to the use of incorrect or

⁴ Records, Computers and the Rights of Citizens (Washington, D.C., 1973)

⁵ 5 U.S.C. §552a

incomplete information. The committee surveyed a number of state agencies, and found that the agencies were aware of, and made efforts to protect, the privacy rights of individuals. The committee concluded therefore that Maine did not need comprehensive legislation similar to the Federal Privacy Act to govern record-keeping in Maine. Instead, the committee endorsed the fair information practices principles established by the HEW study cited above and suggested that the Legislature keep those principles in mind when considering legislation in the future.⁶

Records confidentiality laws in Maine continue to be considered by a variety of legislative committees, with no uniform structure or unifying principles.

B. Societal Interests at Stake

Confidentiality laws and right-to-know laws involve a balancing of two societal interests that are implicit in our notion of a free and democratic society -- the right to individual privacy and the right to know "what government is up to." This section discusses the common law and Constitutional roots of these rights, and how the common law and the Constitution affect public records.

1. The Right to Privacy

The right to privacy seems so obvious that it is difficult to put into words. In a law review article published over a hundred years ago, the right to privacy was called "the right to be let alone," a right that protects "nothing less than the right to one's personality."⁸

It is also difficult to realize how recently the right was recognized by the law. An 1890 law review article by Louis D. Brandeis and Samuel D. Warren, The Right to Privacy, 4 Harv. L. Rev. 193 (1890), is often called the source of the common law right to privacy. In that article, Brandeis and Warren note that the law has always provided a remedy, through a tort action, for damage to tangible property and interests. It is time, they argued, to recognize injuries to "man's spiritual nature, ... his feelings, and his intellect." One of those injuries is the harm done by disclosure of private thoughts and information:

⁶ Record-Keeping and the Right of Privacy, Report of the Joint Standing Committee on Legal Affairs, 107th Legislature (January 11, 1977).

⁷ United States Department of Justice v. Reporters' Committee for Freedom of the Press, 489 U.S. 749, 773 (1989) (Douglas, J., dissenting)

⁸ Warren & Brandeis, The Right to Privacy, 4 Harv. L. Rev. 193 (1890).

"The common law secures to each individual the right of determining, ordinarily, to what extent his thoughts, sentiments and emotions shall be communicated to others. Under our system of government, he can never be compelled to express them (except when upon the witness stand); and even if he has chosen to give them expression, he generally retains the power to fix the limits of the publicity which shall be given them." Warren & Brandeis, The Right to Privacy, 4 Harv. L. Rev. 193, 198 (1890)

Warren and Brandeis urged courts to recognize a common law right to a remedy for invasion of privacy, with the following limitations. First, the right to privacy does not prevent disclosure of matter which is of public or general interest; it does not prohibit communication of private-nature matter when that communication would be privileged under slander or libel law, such as disclosure in a judicial or legislative arena; the right to privacy ceases if the information is made public by the individual or with the individual's consent; and the truth of the matter is not a defense.

Maine tort law today provides a remedy when the right to privacy is invaded by appropriation or use of a person's name or likeness (e.g., use of plaintiff's picture in advertisement to imply endorsement of product); unreasonable intrusion upon seclusion (e.g., examination of private papers, "snooping"); creating a false image of a person to the public; and public disclosure of private facts. Public disclosure of private facts is a tort if the disclosure would be highly offensive to a reasonable person and the matter disclosed is not of legitimate concern to the public. Nelson v. Maine Times, 373 A.2d 1221 (Me. 1977).

Disclosure of information contained in public records is not a tort. Cox Broadcasting Co. v. Cohn, 420 U.S. 469 (1975). There is little case law on the question of whether disclosure of confidential governmental records would constitute a tort, although several cases have implied that if all elements of the tort were present, the court could grant a tort remedy. See, e.g., Hudson v. S.D. Warren Co., 608 F.Supp. 477 (D. Me. 1985) (invasion of privacy suit against undercover police agent for release of confidential police information failed because complaint did not adequately allege that disclosures were made to the public or that the facts were of no legitimate concern to the public), Hillman v. Columbia County, 164 Wis.2d 376, 474 NW2d 913 (1991, App.) (alleged disclosure of fact that inmate tested positive for HIV is sufficient to overcome motion for summary judgment against inmate on his claim that privacy was invaded by public disclosure of private facts).

The United States Constitution protects privacy in a number of ways. Unreasonable governmental intrusion into our homes and other private locations is prohibited by the Fourth Amendment; governmental intrusion into what we say, who we associate with and how we practice religion is prohibited by the First Amendment. What is more commonly called the Constitutional "right to privacy" is not found in any specific Constitutional provision, but is derived from the "penumbra" of numerous Constitutional provisions including the First and Fourth Amendments, and the Due Process Clause of the Fifth Amendment.⁹ The exact contours of this right are difficult to define, but the right encompasses at least the right to make decisions and to enjoy personal autonomy in certain private matters, such as marriage, procreation and child-rearing.

Constitutional law professor Laurence Tribe urges the Supreme Court to extend the right to include protection against government collection and dissemination of certain types of information.¹⁰ The Supreme Court has never clearly agreed to that extension, but in at least one case, the court recognized the possibility that the Constitution might provide some protection against the harm resulting from disclosure of personal information. In Whalen v. Roe, 429 U.S. 589 (1977), the Supreme Court upheld a New York law requiring physicians to submit, and the state to maintain, a list of persons taking certain prescription drugs. The Court noted that whatever privacy rights the patients may have are not in danger because the law provided sufficient protection against disclosure. The Court noted, however, that:

"We are not unaware of the threat to privacy implicit in the accumulation of vast amounts of personal information in computerized data banks or other massive government files, ... much of which is personal in character and potentially embarrassing or harmful if disclosed. The right to collect and use such data for public purposes is typically accompanied by a concomitant statutory or regulatory duty to avoid unwarranted disclosures. Recognizing that in some circumstances that duty arguably has its roots in the Constitution, nevertheless New York's statutory scheme ... evidences a proper concern with, and protection of, the individual's interest in privacy. We therefore need not, and do not, decide any question which might be presented by the unwarranted disclosure of accumulated private data, or by a system that did not contain comparable security provisions."
Whalen v. Roe, 429 U.S. at 605-606.

⁹ See Clark, Constitutional Sources of the Penumbra Right to Privacy, 19 Villanova L. Rev. 833 (1974).

¹⁰ Tribe, American Constitutional Law (2d. ed. 1988)

2. The Right of Access to Government Records

The right of access to government records is derived almost exclusively from statute. Before enactment of the Freedom of Access law, a person had a right to see government records only in very limited circumstances. Access was permitted if records were made public by law, and then only if the person had a clear reason to see them. Op. Me. Att'y Gen. 1951, reprinted in 1951-54 Me. Att'y. Gen. Rep. 70, Hawes v. White, 66 Me. 305 (1876) (county commissioners were permitted to review records of the register of deeds only to perform statutorily authorized change in records indexing system).

The Constitution has also failed to provide a right of access to government information. Media representatives have argued that such a right is a necessary corollary to the First Amendment rights of free speech and press. The core purposes of the First Amendment, they say, is to assure that citizens get the information they need to govern themselves, and access to government information is therefore essential:

"...the First Amendment embodies more than a commitment to free expression and communicative interchange for their own sakes; it has a structural role to play in securing and fostering our republican system of self-government ... Implicit in this structural role is not only the principle that debate on public issues should be uninhibited, robust and wide-open,... but also the antecedent assumption that valuable public debate ... must be informed." Richmond Newspapers, Inc., 448 U.S. 555, 587 (1980).

Despite this concern for fully-informed debate on public matters, the majority of the Supreme Court has found no source in the Constitution for a right of access to government information.¹¹ The First Amendment only protects the media's right to publish information it lawfully obtains, and the media's right to as much access to information as the public in general enjoys.

There are two exceptions to the rule that the Constitution provides no special rights of access to government information: first, the public has a right of access to criminal trials. Richmond Newspapers, Inc. v. Virginia, supra. In Richmond Newspapers, the Court found that the firmly established history of public access to criminal trials and the nature of judicial proceedings as public functions required opening of those trials to the public.

¹¹ Houchins v. KOED, 438 U.S. 1, 12 (1978).

Second, the Due Process Clause of the Constitution grants criminal defendants a right of access to confidential government records in some instances.

"It is well settled that the government has the obligation to turn over evidence in its possession that is both favorable to the accused and material to guilt or punishment." (citations omitted) Pennsylvania v. Ritchie, 480 U.S. 39, 57 (1986)

In Ritchie, a man accused of sexual abuse of a minor subpoenaed investigatory records of the state agency for Children and Youth Services. The agency refused to release the records, which were declared confidential by state law, although the law did permit release of the records by order of a court of competent jurisdiction. The Supreme Court ruled that, at least where disclosure to a court was not absolutely expressly prohibited by law, due process required that the court review the records *in camera* to determine whether the records are material to the defendant's case and favorable to the accused. If the court finds that they are, the department must release them to the defendant.

III. Analysis of Maine Public Records Confidentiality Laws

Most confidentiality laws in Maine are enacted to protect one of three types of records: 1) trade secrets, proprietary information, or other business information; 2) personal information such as medical, criminal, and tax records; and 3) investigative records. Each of these records is collected by a variety of agencies, for a variety of reasons. There are some similarities in the issues raised by records within each category, so the following sections first divide records into these three categories and discuss general issues raised by each of the categories. However, the public need or privacy interest in similar types of records collected for different purposes varies. For example, disclosure of the name and address of a person applying for a student loan creates minimal invasion of the right to privacy, while disclosure of the same information about a person under investigation for welfare fraud creates a fairly high level of concern about privacy. Therefore, within each section discussing a type of record is a discussion of records collected for a variety of purposes. An attempt is made in each of these categories to discuss the level of uniformity among related laws and to discuss the unique privacy interests or right-to-know interest created by records collected for various purposes. The discussions point out a few observations about each group of records, but they are not comprehensive descriptions of the law governing each of the groups.

A. Laws Protecting Trade Secrets and Business Information

A "trade secret" is information, often a scientific formula or technical information, that gives its owner a competitive advantage over other businesses and that is not generally available to the public. For purposes of this discussion, proprietary information is considered trade secret information. Even without laws specifically making them confidential, trade secrets are exempt from the mandatory disclosure requirement of the Freedom of Access laws because they are privileged under Maine Rule of Evidence 507 and privileged information is not a public record for purposes of the Freedom of Access law. 1 M.R.S.A. §402, sub-§3, ¶B. Laws governing agencies that collect trade secret information provide additional protection for trade secrets by prohibiting disclosure, except in specified circumstances. Disclosure is occasionally permitted to other state or local agencies, but is rarely permitted to the public.

The harm that is suffered from disclosure of a trade secret comes not from the disclosure itself but from the use and subsequent loss of economic value of the information. Therefore, disclosure may be permitted where there can be enforceable assurances that the information will not be used to the detriment of the owner of the trade secret.

Because a state agency may not recognize that information is a trade secret, many of the laws require the submitter of the information to designate what information the submitter believes is a trade secret, and to provide proof of that status to the agency if anyone asks to see the information.

In addition to any penalties provided in the law governing the records, the Maine Criminal Code provides criminal penalties for

misuse of trade secrets. The Code includes trade secrets in its definition of "property" and provides for prosecution of unauthorized taking of that information, or receipt of information so taken. Theft of a trade secret would be a Class B, C, D, or E crime, depending on the value of the information taken.

Confidentiality statutes also protect business information that does not fall within the category of trade secret.

Trade secrets and other confidential business information are collected primarily for the following purposes. Special considerations indicated by the laws in each area are also listed.

1. Agriculture & Natural Resources Market Assistance and Regulation

There is wide variation among statutes relating to the records collected for agriculture and natural resources marketing programs.

Product harvest and sales reports may be released to the public in aggregate form; individual information may be released to aid in enforcement of tree growth tax law or to enforce prohibition against planting noncertified seed potatoes or for criminal proceedings; certain information may be released to legislative committees of jurisdiction or to any person where there is a "compelling reason" to disclose.

2. Economic and Community Development Assistance

Laws governing records of the Finance Authority of Maine and the Department of Economic and Community Development, located in Title 10, are the same; municipal community development assistance statutes covering similar types of information, but located in Title 30-A, are different.

FAME law provides that financial information is confidential only if disclosure would constitute an invasion of personal privacy, as determined by FAME.

Confidential information may be disclosed to financial and credit reporting services; as necessary to ensure collection of an obligation; in litigation; by order of court; or in impersonal statistical form.

Confidential information must be disclosed if it is already available to the public; and after provision of economic assistance, the name of recipient, description of the project funded, the number of jobs created and the tax revenue collected as a result of the assistance must be disclosed.

3. Regulation of Insurance, Utilities, Financial Institutions, Hospitals

Statutes regulating financial institutions, insurance, utilities and hospital rates vary widely.

The Bureau of Banking may disclose confidential information to any state department "which in the opinion of the superintendent requires such information" or any other person who may need such information to facilitate supervisory activity of the Bureau, by order of court, or to the Governor or the Attorney General at their request. The Bureau of Insurance may disclose information obtained in the regulation of insurance holding companies if the interest of policyholders or the public will be served, and may release information to insurance regulators of other states with protection for confidentiality; medical malpractice rate filings may be disclosed to rate payers for purposes of challenging rates prior to approval; aggregate loss or expense experience of insurers may be released; insurer examination and other information is not subject to subpoena; the Health Care Finance Commission adopts rules protecting hospital rate regulation information.

4. Environmental Regulation

Department of Environmental Protection laws permit fairly widespread use of trade secret and other confidential information by other state and federal agencies, but do not permit disclosure to private individuals unless necessary in a health emergency (e.g. pesticides formula).

5. Labor Regulation

Information regarding chemical substances in the workplace is released to the public in accordance with the community right to know law, Title 22, section 1696-A et. seq.; the Department of Labor must adopt rules for sharing of information with other governmental agencies.

6. Other Commercial Regulation

Records created in the regulation of manufactured housing, commercial whitewater outfitters, liquor licensing are governed by a wide variety of laws.

B. Laws Protecting Personal Information

State agencies collect and create records containing information about individuals for a variety of reasons -- to determine eligibility for government benefits, to license occupations that affect the public health and safety, to keep a record of criminal activity, and as an incident to its regulation of institutions and businesses that provide services to individuals, such as insurance companies and hospitals.

The level of concern over public release of personal information held by government agencies varies, based on the harm that might result from the release. Some information may endanger the safety of individuals, such as the location of a person who is protected from domestic abuse or harassment by a court order, or the home address and names of family members of corrections officials. Other information, even the name of the person mentioned in connection with a certain government function, may be personally embarrassing or may reflect negatively on a person, such as the names of persons receiving welfare benefits, criminal records, the names of persons with communicable diseases, or information regarding persons committed to mental health institutions. Finally, some information, although possibly not embarrassing or negative, is simply nobody else's business.

Although the general public does not have access to much of the personal information held by public agencies, most laws governing that information permit release to other state, federal or local agencies for related purposes, or for other purposes.

In contrast to trade secrets, it is not the information itself that is harmful or embarrassing, it is the information disclosed in a manner that connects the individual to the information. It is not uncommon, therefore, to find that laws only prevent disclosure of "personally identifying" information, and permit disclosure of information about persons if no connection can be made between the subject of the record and the information itself. Many statutes do not include this refinement, but it is not clear whether this results from a concern about the resources that would be required to release information in this manner or whether it is believed that the information would always at least indirectly lead to identification of the subject of the information.

Personal information is collected primarily for the following purposes, with the following special considerations.

1. Public Employment

Statutes governing public employee records are found in three titles: Title 5 (state employees); Title 30-A (municipal and county employees); Title 20-A (school personnel); the three are nearly identical.

Application materials are generally public (once an applicant is hired); personal information collected during employment

(including performance evaluations) is confidential; final discipline decisions are public.

Employees have access to their own files. Department of Human Services has access to state employee records for child protective investigations; Bureau of Employee Relations has access to state employee records for labor-related proceedings.

2. Education (student records)

State laws relating to student records are consistent; they merely refer to federal law; laws relating to teachers and other school personnel are not covered under federal law; personnel records are not governed by federal law; they are discussed under Public Employment.

The Federal Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, governs student records (elementary secondary and post-secondary); failure to comply with FERPA results in loss of federal funds.

Parents (and in some cases, students) have access to records under FERPA. Release is also permitted to school officials "with legitimate educational interests"; to state and federal auditors, and accreditation organizations; in health and safety emergency; and in certain other cases.

3. Occupational Licensing

Most occupational licensing laws are found in Title 32; other laws are found in Title 20-A (teachers), 24 and 24-A (physicians, insurance professionals), and 10 (licensing investigations). Two types of personal information are collected: information regarding the licensee and information about the licensee's clients, patients or customers. Personal information regarding clients, patients or customers are generally not disclosed unless necessary in a disciplinary action.

Information collected to determine initial eligibility for licensure is generally public information except for licensure of teachers, security guards, and insurance agents and administrators.

Intra-professional review board proceedings and records are confidential and exempt from discovery or other uses in litigation (reviews such as physician competence review boards, real estate professional standards committees and emergency medical services quality assurance committees).

Licensing boards have access to confidential Department of Human Services records relating to adult and child abuse

services, presumably to verify that the licensee is not harmful to the public; the confidentiality of that information is governed by Title 22.

4. Taxation

Tax records are not open to the public, but are accessed by many governmental agencies for enforcement purposes including: to DHS for child support enforcement; to the Attorney General for criminal investigations; in court actions for enforcement of tax laws; to other state and federal tax authorities; and to a research agency of the Legislature if personally-identifying information is removed.

5. Eligibility for Benefits

This section discusses student loans (Title 20-A) health insurance coverage (Title 24), Medicaid and Aid to Families with Dependent Children (AFDC), general assistance and housing assistance (Title 22, 30-A).

Student loan information may be disclosed to financial institutions and credit reporting services as necessary for the sale or transfer of bonds or the collection of a debt owed to the Department, in litigation or by court order. Health insurance and welfare benefits information may only be disclosed by consent of the subject and as necessary to implement the benefit program.

Federal laws relating to AFDC and Medicaid require that state confidentiality procedures meet federal standards.

6. Judicial Records

Records relating to proceedings in which the state or the court exercises control over a significant personal right (other than criminal laws) are often confidential (e.g. institutional commitment for mental health or mental retardation, sterilizations of an incompetent person, consent to a minor's abortion or performance of an AIDS test over objection of subject). These records are generally open only by consent of the subject and the court.

Other judicial records are confidential to promote dispute resolution, not to protect sensitive personal information (e.g. prelitigation screening of medical malpractice claims, negotiations by the state labor board); some records produced in these proceedings are specifically prohibited from being used in court.

7. Social Services

This section discusses records collected or created in adult and child protective programs, licensure of facilities for children and adults, and treatment of mental illness.

Laws relating to protective services and facilities are essentially the same; federal law requires confidentiality for these programs to meet certain standards. The laws limit the use of the information by the Department, and contain a number of authorized and required disclosures. Release of the information is permitted to abuse investigation agencies, the subject or a parent or other legal representative, researchers with certain protections, proceedings relating to licensing and state employee actions. Disclosure is required to a guardian of a reportedly abused person, to a court for *in camera* review if the court determines that release is necessary, to a grand jury, to a federal advocacy agency, and to the Commissioner of Education when information relates to teachers and other school personnel.

The penalty for disclosure of information in each of the three laws differs. Disclosure of adult protective information is a civil violation; of child protective records is a Class E crime. No specific penalty is provided for disclosure of information regarding clients of facilities for children and adults.

A number of social service programs rely on reporting by persons otherwise prohibited from releasing information by privilege or confidentiality laws. That information is generally confidential once disclosed to the Department.

Child and adult abuse records are open to public agencies as needed for occupational licensing and state employee proceedings.

Information about commitments to mental health institutions, and medical and administrative records relating to mental health programs are confidential, but disclosure is permitted for a number of reasons, including order of a court, educational or statistical reasons, and to an insurer or other entity from whom reimbursement of expenses may be obtained.

Mental illness institution records are open to agencies issuing concealed weapons permits and security guard licenses.

8. Health

Medical information about individuals is collected by state agencies in programs to regulate communicable diseases, and

programs to collect data regarding abortions, miscarriages, occupational diseases, and lead inspection. The information is classified as confidential and may be disclosed generally only for public health purposes or to aid in treatment of the record subject. Information may also be disclosed for child and adult protection purposes. Non-personally identifying information may be released for research purposes.

Medical information is also collected in licensure of health care facilities, providers and in oversight of Medicaid administration. Information that identifies persons filing complaints, residents or recipients of services or that concerns medical or personal information about those persons is generally confidential. If federal law allows, however, disclosure may be made to the Department to carry out its functions, professional licensing boards, entities investigating allegations of abuse, physicians treating persons believed to be abused, the resident or recipient or a guardian of that person. The Department shall release information if permitted by federal law, to law enforcement officials investigating abuse or criminal conduct by the facility operator or health care provider, and to state and federal officials administering the Medicaid program. These provisions are similar to provisions regulating the release of information regarding child and adult protective services and licensure of facilities for children and adults, discussed in the Social Services section.

Access is permitted to facilities licensure information by laws relating to advocacy agencies for persons with disabilities and mental illness, and for use in licensing actions and certain proceedings relating to state employees (unemployment compensation, workers' compensation, human rights commission violations and employee grievances).

9. Criminal History & Corrections

Maine has a comprehensive law, the Criminal History Record Information Act, Title 16, §611 et seq., governing criminal history records, held by criminal justice agencies, enacted to qualify for federal law enforcement funding in the 1970's.

Disclosure of "nonconviction data" is limited by the law to other criminal justice agencies for law enforcement purposes or criminal justice agency employment purposes, as authorized by statute, to an independent contractor under certain conditions and for research; "nonconviction data" is information regarding cases that were not prosecuted or referred for prosecution, or that resulted in dismissal, acquittal, pardon or amnesty.

The law also permits disclosure of conviction data, grants right of access to all criminal history record information to the subject of the record and an opportunity to challenge the accuracy of the information contained in the record.

Title 32 provides access to juvenile and adult "crime records" for licensing of security guards. Information relating to orders of commitment to a correctional institution and records of persons receiving services from the Department of Corrections are confidential but may be disclosed to another state agency if necessary to its function, if ordered by court, to a criminal justice agency for criminal justice functions or criminal justice employment.

C. Laws Protecting Investigative Information

Investigative records contain a combination of personal and business information. They also include a combination of records obtained by the agency from other sources and records created by the agency as a result of their work. They are perhaps the most controversial of records because both the public interest and the privacy interest in investigative records are relatively high. Investigations discussed in this section include investigations of complaints about the operations of government agencies, complaints against holders of occupational licenses, criminal investigations, and complaints regarding the actions of regulated industries.

The privacy interest in investigative records is high because an investigation connotes wrongdoing, or at least a suspicion or accusation of wrongdoing, and the mere mention of a person's name in connection with an investigation may harm a person's reputation even if the investigation finds that no wrong was done.

On the other hand, information about wrongdoing, especially if it involves an allegation of wrongdoing by a state agency or reveals information about how well the agency is performing its investigatory function, is of great interest to the public.

Access to this information by the subject of the investigation is also an issue. While the investigation is proceeding, there may be reason to withhold from a subject the information that he or she is being investigated or the specific information that the agency has obtained, for example, the name of an informant or information that would permit a person to identify that informant. On the other hand, the interest in fairness and in the criminal context, the Constitution, may require disclosure of certain types of confidential information to the subject of an investigation.

Investigative information is collected for the following purposes.

1. Investigations (Criminal)

Criminal investigatory records are governed primarily by three statutes: 5 MRSA §200-D (governing the Attorney General); 25 MRSA §1631 (governing the State Police and the Bureau of Identification) and 16 MRSA §614 (governing local criminal justice agencies, the Department of Marine Resources, Inland Fisheries & Wildlife, the State Fire Marshal and the Maine Drug Enforcement Agency). The three statutes are entirely different.

Investigative records of the Attorney General are confidential, with no statutory provisions for disclosure. Representatives of the Attorney General suggest that this is necessary at least in part to encourage citizens to file complaints about departments without fear of repercussions.

The statute governing State Police and Bureau of Identification records was enacted in 1959, and has not been substantially changed since then. The law permits release of information on a pending case if the information would not jeopardize the investigation or prosecution. One recent change permits release of investigations of the use of deadly force by law enforcement officers following completion of the investigation, even if disciplinary action is not taken.

The law governing investigative records of local criminal justice agencies and the law enforcement arms of other departments was enacted in the 1970's, as part of a comprehensive statute governing criminal records. That law was enacted to qualify for federal law enforcement assistance funding. It patterned after the Federal Privacy Act exceptions for law enforcement records, prohibiting disclosure if there is a reasonable likelihood that certain harms will come to pass, e.g., interference with the investigation, prejudice of the defendant's right to fair trial, release of private information where there is no legitimate public interest and the release is offensive to a reasonable person; disclosure of the identity of an informer; endangerment to the life or physical safety of a law enforcement personnel; or disclosure of law enforcement investigation techniques not otherwise available to the public.

2. Investigations (Internal)

There are only a handful of Departments and programs that provide specifically in law for investigation of complaints against the Department and its services. The Department of the Attorney General, to some extent, serves this purpose at least with respect

to possible illegal actions by departments. The Legislature also, to some extent, investigates internal departmental performance.

The social services area most commonly provides for ombudsmen. The Department of Human Services (for child welfare services), the Department of Corrections and the Department of Mental Health and Mental Retardation provide ombudsmen for investigation of complaints. The identity of a complainant is absolutely protected in all cases, meaning that the complainant must consent to disclosure, or the court must order disclosure. Other information about investigation of the complaint is governed by the same law that limits disclosure of other department information.

3. Investigations (Other than Criminal and Internal)

Records governing investigations into violations of legislative ethics laws, occupational licensing requirements, abuse of the workers' compensation system and investigations of general subjects by the Legislature are protected to some extent by Maine law.

The occupational licensing law does not prevent public release of investigative records after an investigation is complete, but does regulate disclosure during the investigation. Among disclosures permitted during pendency of the investigation are disclosure to law enforcement officials when information reveals a possible law violation, disclosure when necessary to avoid imminent or serious harm, and disclosure to the subject of the investigation when release would not prejudice the investigation.

Legislative ethics investigations and complaints are confidential until the investigation is complete and a hearing is ordered, or the nature of the investigation becomes public knowledge.

Human Rights Commission laws protect only the name of the person included in a complaint if the person is not the complainant or the person accused of discrimination.

IV. Options for Standardization and Clarification of Maine Law

A. General Comments

Underlying the request for this staff study was a desire to resolve conflicts in Maine confidentiality laws, eliminate duplication and make the laws easier to find and to understand. One option for achieving this goal is to enact a comprehensive law addressing the limits on disclosure and use of information collected by public agencies. The law might address only disclosure and use, or it might address other record collection and management issues (fair information practices) as well.

A less comprehensive option would be to leave the confidentiality laws in the Titles governing the agency that holds the records. Minor improvements could be made to these laws to address specific problems, and confidentiality laws enacted or amended in the future could be brought into line with a more uniform treatment system for confidentiality laws.

B. Enactment of a Comprehensive Law

Examples of comprehensive records management laws are found on the federal level, and in 4 states.

1. Federal Public Records Laws

Management of federal agency records is governed by two laws -- the Freedom of Information Act,¹² enacted in 1966, and the Federal Privacy Act of 1974¹³. As in Maine, the federal government began its regulation of record-keeping practices with a law opening records to public view -- the Freedom of Information Act. The Act was enacted:

"...to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed," NLRB v. Robbins Tire & Rubber Co., 437 U.S. 214, 242 (1978)

The Act requires agencies to make all records available for public inspection and copying, with 9 exceptions and 3 special rules for law enforcement records. As in Maine, the exceptions to mandatory disclosure are discretionary, leaving it to the discretion of the agency whether to release the information. Chrysler Corp. v. Brown, 441 U.S. 281, 293 (1979).

¹² 5 U.S.C. §552

¹³ 5 U.S.C. §552a

Unlike Maine, the federal law requires agencies to disclose all information contained in a record that does not meet the definition of confidential records. The law provides that "any reasonably segregable portion of a record shall be provided ... after deletion of portions which are exempt." 5 U.S.C. §552(b). The law relates to all types of records held by government entities, not just records about individuals.

The following types of records are exempt from the mandatory disclosure requirement of the Freedom of Information Act:

- a. National security information;
- b. Internal personnel rules and practices of an agency (law enforcement agency investigation and operation procedures are often withheld under this exemption);
- c. Records specifically exempted from disclosure by statute provided the law leaves no discretion or leaves discretion with particular criteria for withholding;
- d. Trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- e. Inter-agency and intra-agency memoranda that would be privileged in civil discovery, such as memoranda that would constitute attorney work-products and deliberative process information (memos relating to an agency's deliberations prior to its adoption of an agency policy);
- f. Personnel and medical files and similar files the disclosure of which would constitute "a clearly unwarranted invasion of personal privacy;" (court must weigh the individual's interest in privacy with the public interest in disclosure, with the balance tipped in favor of disclosure)
- g. Records compiled for law enforcement purposes, but only if disclosure could reasonably be expected to interfere with enforcement proceedings, constitute an unwarranted invasion of personal privacy, disclose the identity of a confidential source or endanger the life or physical safety of an individual, or would deprive a person of a fair trial or impartial adjudication, disclose techniques or procedures for investigation or procedures if disclosure could reasonably be expected to risk circumvention of the law;
- h. Records relating to the regulation or supervision of financial institutions; or
- i. Geological or geophysical information and data.

The Federal Privacy Act was enacted in 1974. The Act contains five elements, known as "fair information practices:"

- a. Individuals have the right to know what records about them exist; agencies are required to publish in the Federal Register what records they collect and how they use them;
- b. Records collected for one purpose may not be used for another purpose or disclosed to the public without consent of the subject;
- c. An individual has a right to examine his or her records, to challenge incorrect or incomplete information, and to have the record corrected;
- d. Agencies must collect and maintain only necessary and relevant information and must take steps to assure the accuracy of the information, including collecting information directly from the individual where possible; and
- e. Civil remedies are provided for damaging disclosures or uses, and criminal penalties for unauthorized disclosure and other violations of the law.

The Federal Privacy Act protects only information about individuals, and only if that information is contained in a "system of records." A system of records is a group of records from which information is retrieved by the name of the individual or some other identifying symbol. The Act does not protect trade secrets, business information or information about an individual that happens to be contained in records collected to oversee an institution or other types of records.

The Privacy Act protects the entire record subject to the law. Unlike the Freedom of Information Act, the Privacy Act does not require disclosure of portions of a record.

Disclosure of information about individuals is permitted, however, under the following circumstances:

- a. To officers and employees of the agency who have "a need for the record in the performance of their duties;"
- b. If required under the Freedom of Information Act (release of personnel and medical files and "similar files" is not required if disclosure would constitute a clearly unwarranted invasion of personal privacy" 5 U.S.C. 552(b)(6));
- c. For a "routine use" defined as "the use of such record for a purpose which is compatible with the purpose for which it was collected"; an agency must give notice in the Federal Register of the "routine uses" it makes of records;

- d. To the Bureau of the Census;
- e. For statistical research, provided the information is not in personally identifiable form;
- f. To the National Archives, if records are of historical value;
- g. To another agency of any United States governmental jurisdiction for civil or criminal law enforcement activity;
- h. To a person who shows "compelling circumstances affecting the health or safety of an individual;"
- i. To either House of Congress or a committee or Subcommittee thereof;
- j. To the Comptroller General to perform the duties of the General Accounting Office;
- k. Pursuant to an order of a court of competent jurisdiction; and
- l. To a consumer reporting agency to report claims due the agency.

2. Public Records Laws in Other States

All fifty states have freedom of access laws, which require public disclosure of all but specifically designated records. Some states, like Maine, exempt a small number of records, and allow the bulk of laws permitting or requiring non-disclosure to be scattered throughout the statutes. Other states use the freedom of access law as the primary source of exemptions from disclosure. Virginia's Freedom of Information Act, for example, exempts 48 types of records from its disclosure requirement. A small number of states have an access law and a fair information practices law that gives subjects a right of access and a right to seek correction of incorrect or incomplete records. (Arkansas, Connecticut, Hawaii, Indiana, Massachusetts, Ohio and Virginia). Two states -- New York and California -- have separate privacy and freedom of information laws.

Only two states, Minnesota and Utah, have laws that combine freedom of access and fair information principles into one law. This offers the advantage of finding all laws governing public records in one location. However, they are not simple laws -- the Minnesota law is 40 pages long; the Utah law, 47.

The Minnesota law divides records into two groups: records about individuals and "records not about individuals." Records about individuals are either "public", "confidential", or "private;" other records are "public", "non-public" or "protected non-public." The law then sets forth rules for use and dissemination of records collected by the state and its subdivisions based on the purpose of collection, such as benefit eligibility, education, investigative and licensing data. Special rules are provided for data maintained only by political subdivisions of the State, data maintained only by particular state agencies and data maintained by criminal justice agencies. The law also gives the public a right of access to public records, and provides record subjects with a right of access and a process to challenge incorrect or incomplete record information. Finally, the law requires agencies collecting and maintaining records to notify the public of what information it collects and how that information will be used, and limits the department to those uses unless the Commissioner of Administration, who oversees the law, approves of a new use. A copy of the Minnesota law is attached as Appendix E.

Utah's Government Records Access and Management Act also defines records as public, private, controlled and protected, and lists under each definition which government records fall into each category.

3. Process for Developing a Comprehensive Maine Law

If the Maine Legislature wishes to improve Maine confidentiality law, the first step is to decide whether to simply consolidate all existing laws into one law, without change, or to change existing laws by establishing general records management policies and requiring all departments to comply with the general policy. If the effort is to simply consolidate all existing laws, legislative staff might be assigned to draft proposed legislation. This would be a massive task, but not one fraught with policy questions.

If the Legislature wishes to establish records management policy, a study involving policymakers, department representatives, and the public is advisable. The study might involve only disclosure issues, or fair information practices in general. If the laws are to be changed, Departments should be surveyed to determine: what records each department collects or creates that might implicate privacy rights; what state laws and rules or federal laws and rules affect the records; what is the rationale for protection of each type of record, and what are the potential needs for disclosure.

C. Improvement of Existing Laws

A second option would be to leave the confidentiality statutes in the Titles governing the agencies holding the records, but to amend the laws to provide greater clarity and uniformity and to resolve conflicts. The following issues should be considered in amending or enacting confidentiality laws.

Mandatory or Discretionary? What are the implications of declaring a record "confidential?" Calling a record "confidential" has one clear implication: since records designated confidential by statute are not "public records" for purposes of the Freedom of Information Act, agencies are not required to release the record in response to a request from the public. 1 MRSA §402, sub-§3, ¶A.

If the intent of a law is only to exempt a record from the Freedom of Access law, the exemption might be added to the Access law itself, with perhaps a cross-reference in the law otherwise governing the records. If this option is endorsed, it might also be advisable to amend the Freedom of Access law to clarify that exemptions from the law give the record holder discretion to withhold or release the information.

In some cases, a court may interpret a statute using the word "confidential" to also prohibit the agency from releasing the record, see, e.g., Dunn & Theobald, Inc. v. Cohen, 402 A.2d 603 (Me. 1979). This may not be the case in all situations, and it may not be the intent of the law, so the question should not be left to court interpretation. Statutes should clearly state what disclosure is permitted or prohibited. A good example to follow is the Department of Human Services law governing child protective records, 22 MRSA §4008.

Release of "record" after deletion of confidential "information." A number of laws specify that information is confidential "as to the identity of the subject," or that "personally identifying information" may not be disclosed. Other laws simply refer to certain "records" as being confidential. Unlike the federal Freedom of Information Act, the Maine Access law does not require record holders to release all portions of a "record" that do not contain confidential "data" or "information." It is unclear in Maine, then, whether a department must or even may release portions of a record if the sensitive information is deleted. To answer this question, the Legislature would be required to make a policy decision as to whether greater amounts of important information could be made available to the public in this manner without injuring the rights of the record subjects, and whether the increase in information justifies the additional cost that would be involved.

What limits apply to recipients of confidential information? When a law provides that "no person may disclose" records, it seems clear that the law limits disclosure by any person who holds the record, not just by the originating agency. Many laws, however, fail to address the question of what limits apply to persons who are given access to confidential records. This question becomes especially important when another government agency receives the information, since without a designation of confidentiality, that agency is required to release the record by the freedom of access law. If the receiving agency has more liberal record disclosure laws than the originating agency, a record that would be protected from disclosure in the hands of one agency may not be protected in the hands of another. One way to answer this question is to provide that records a department receives from other agencies are governed by the laws governing those records when they are held by the originating agency.

Is the record subject to subpoena or other court order? Confidential records are not automatically free from court-compelled disclosure. Pooler v. Maine Coal Products, 532 A.2d 1026 (Me. 1987) (unemployment compensation records are confidential, but law does not specify that they are exempt from court orders, therefore department must comply with court order compelling disclosure). If it is important to prevent disclosure of a record in a court proceeding, the law should clearly specify that disclosure pursuant to court order is prohibited. See, for example, 24 MRSA §2510, relating to physician professional competence reports. Without specific statutory protection, records may be accessible in litigation unless the court exercises its discretion to prohibit or limit discovery under Me. R. Civ. Pro. 26 (b)(1) or to quash or modify a subpoena under Me. R. Civ. P. 45(b).

Records sought by a criminal defendant may need to be made available to the defendant under the Due Process Clause of the Constitution. See the discussion in Part II. B. 2 of this report.

Other issues to address Laws that limit disclosure and use of information could be clarified by expressly addressing at least the following issues.

1. What information specifically is confidential: all information in certain records, or only personally-identifying information? Does the record become public at some point in time?
2. Under what circumstances is disclosure permitted? What standard should the department use in determining how to exercise discretion?
3. Under what circumstances is disclosure required?

4. Is disclosure permitted, required, or prohibited in each of the following circumstances?
 - to the subject of the record
 - to any person, with the consent of the subject
 - to any person within the department for the purpose collected, for related purposes, for any purpose
 - pursuant to order of a court of competent jurisdiction
 - in response to a discovery request or subpoena
 - in statistical or other non-personally identifying form
 - for research purposes, with certain protections
 - to the public or a segment of the public in the event of an emergency affecting the safety or health of a person or persons
 - to other agencies for civil and criminal law enforcement purposes, or for the enforcement of particular laws only
 - to related departments and organizations outside Maine, with assurances of confidentiality
 - to the general public
5. What rights does the subject of the record have?
6. Is use of the record within the Department limited?
7. May or must a record be released if the personally-identifying information or other confidential portion is excised?
8. What limits apply to use or disclosure by a person to whom a confidential record is disclosed?
9. What penalty applies to improper disclosure or use?
10. What federal confidentiality law applies?

V. Conclusion

The issue of public records confidentiality is complex. Formulating confidentiality laws requires a balancing of two important societal interests -- an individual's right to privacy and the public right of access to governmental information. Currently in Maine this balancing takes place in a variety of legislative committees, which consider many different types of records, with varying results. In many instances, it appears that the variation in level of protection or permitted disclosures is justified by differences in the records themselves. If, however, the Legislature would like to bring greater uniformity to existing laws, a legislative study would be advisable, since changes in existing laws to make them more uniform involve important policy questions. If the Legislature finds that it is desirable to make the laws easier to find and to make the structure of the laws more uniform, without changing the content of the laws, a staff assignment to draft such legislation during the next legislative interim would probably be sufficient.

231STUDY



Appendix A
Staff Study Request

SENATE

N. PAUL GAUVREAU, DISTRICT 23, CHAIR
GEORGETTE B. BERUBE, DISTRICT 16
MURIEL D. HOLLOWAY, DISTRICT 20



HOUSE

PATRICK E. PARADIS, AUGUSTA, CHAIR
CONSTANCE D. COTE, AUBURN
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ANDREW KETTERER, MADISON
DANA C. HANLEY, PARIS
JOHN H. RICHARDS, HAMPDEN
DAVID N. OTT, YORK

STATE OF MAINE
ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY

March 18, 1992

The Honorable Charles P. Pray, Chair
Legislative Council
Maine Legislature
State House Station #115
Augusta, ME 04333

Dear Mr. Chair:

The Joint Standing Committee on Judiciary has considered several bills this session relating to confidentiality of criminal investigative and other types of public records. In the course of our consideration, it has become clear to us that there are many inconsistent confidentiality provisions in the statutes. Some are duplicative or in conflict. They have been adopted at different times historically and frequently without reference to each other.

Our committee believes that these differing standards are confusing to the agencies that administer them and to the public. We request the Legislative Council to approve a staff study of the similarities and differences of the various confidentiality statutes, the need for different standards and the possibilities for standardization or clarification of existing laws. Such a study is necessary for our Committee or individual legislators considering changes to confidentiality laws.

A draft study outline is attached.

Sincerely,

N. Paul Gauvreau
Senate Chair

Patrick E. Paradis
House Chair

#3804LHS

**Proposed Outline for Judiciary Committee
Staff Study on Records Confidentiality**

I. Discussion of the goals, major features, balancing of interests involved in laws governing confidentiality of governmental records, e.g.:

- Limiting public access to individualized records to ensure individual privacy;
- Opening access to records to permit public oversight of government activities;
- Assuring access to individual records to assure accuracy;
- Balancing the need for confidential governmental investigations against open government needs;
- Regulation of intergovernmental sharing of information

II. Relationship between confidentiality statutes, Constitutional privacy issues and tort law

III. Historical development and survey of Maine laws on records confidentiality

- General, such as freedom of access law
- Laws governing specific types of records

IV. Summary of major federal laws on records confidentiality

V. Investigation of possible consolidation or imposition of uniform structure for records confidentiality laws in Maine

Appendix B
Maine Confidentiality Laws,
Sorted by Title and Section in the Maine Revised Statutes

Types of Records Discussed

The charts included in Appendices B through D list confidentiality laws, classified by the purpose for which the record was collected. This table of contents gives the code used to designate each category of records and the report page on which discussion of those laws may be found.

<u>Code</u>	<u>Page(s)</u>	
B	15	Eligibility for welfare, veterans', other benefits
C	11	Economic and community development
CH	17	Criminal history and corrections
ED	14	Education (student records)
H	16	Health
IC	19	Investigations (Criminal)
II	19	Investigations (Department internal)
IO	20	Investigations (Other)
J	15	Judicial proceedings
M	11	Agriculture and natural resources market development and regulation
OL	14	Occupational licensing
PE	13	Public employment
RC	12	Commercial regulation
RI	12	Regulation of insurance, financial institutions, utilities and hospitals (rate regulation)
RL	12	Regulation of labor
RV	12	Environmental regulation
S	16	Social Services
T	15	Taxation

Public records confidentiality laws

Sorted by title and section in the Maine Revised Statutes

TITLE	SECTION	SUB- SECTION	SUBJECT	STATUTE TYPE*	COLLECTION PURPOSE*
1	402	3	Freedom of access, public records, exemption	C,P	H,IC,RL,O
1	1013	2,3	Legislature, ethics violations	C	IO
3	429	1	Legislative investigating committee	C	II
4	17	3	Courts, investigation of complaints	C	II
4	17	15	Courts, security arrangements	C	O
4	809		Attorney at law, unauthorized practice, investigations	C	IC
5	200 C	3	Attorney general, fraud division, access to records	A	(All)
5	200 D		Attorney general, records	C	IC,IO
5	200 E	4	Victims of crime, medical records	C	IC
5	642	5	State employees suggestion system	C	O
5	791		Affirmative action, certification of business	C	O
5	1886	12	Information Services, rules to protect confidentiality	P	All
5	1890 B	4	Computer programs, trade secrets	C	O
5	3523		Community services programs, records	C	B
5	4612	5	Human rights, discrimination investigations	C	IO
5	4656		Harassment victims, protection orders	C	J

* See last page of appendix for key

Appendix B

TITLE	SECTION	SUB-SECTION	SUBJECT	STATUTE TYPE*	COLLECTION PURPOSE*
5	7070		State employees, personnel records	C	PE
5	7070 A		Personnel records, use of force by police	A	(PE)
5	7071		State employees, right to review personnel records	A	(PE)
5	9057	6	Adjudicatory proceedings, disclosure of confidential information	A	(H,W)
5	9059	3	Adjudicatory proceedings, protection of confidential information	P	All
5	13119 A to	13119 C	Economic and community development assistance	C	C
5	17057		State retirement system, medical/life insurance information	C	PE
5	19203		AIDS tests	C	H
5	19203 C	3	AIDS, judicial consent after exposure during medical treatment	C	J
5	19203 E	4	AIDS, judicial consent after gross sexual assault	C	J
5	19506	1	Disabilities, mental illness, agency, access to records	A	(H,S)
5	19507		Disabilities, mental illness, protection and advocacy agencies	C	II,S
7	234		Biotechnology and genetic engineering commission	C	M
7	401 D	5	Agricultural market research and development grants	C	M
7	606	2	Pesticides, disclosure of confidential information	C	RV
7	607		Pesticides, test required for registration	C	RV
7	618		Pesticides, analysis of samples	C	RV
7	722		Commercial feeds, trade secrets	C	RV
7	951 A		Potato growers, planting records	C	M
7	1008 C	3	Potatoes, fair market value	C	M
9 A	2-304	2	Supervised loans, annual report by licensees	C	RI
9 A	6-116		Consumer credit protection bureau	C	RI
9 B	226		Financial institutions, examinations	C	RI
9 B	252	3	Financial institutions, applications for bureau decision	P	RI

* See last page of appendix for key

Appendix B

TITLE	SECTION	SUB- SECTION	SUBJECT	STATUTE TYPE*	COLLECTION PURPOSE*
10	975 A		Finance authority, records	C	C
10	1109	4	Gasoline, heating oil assets, acquisition reports	C	IC
10	8003 B		Occupational licensing boards, investigative records	C	IO
10	9012		Manufactured housing, trade secrets	C	RC
12	550 B	6	Water wells, completion reports, disclosure	C	RV
12	6077	4	Aquaculture information	C	M
12	6173		Sea and shore fisheries, statistics	C	M
12	6255	7	Salmon reports by aquaculture licensees	C	M
12	6455	3	Lobster Promotion Council, market studies, promotional plans	C	M
12	7365	7	Whitewater outfitters, affiliated outfitters, records	C	RC
12	7369	7	Whitewater outfitters, financial information, allocation	C	RC
12	8884	3	Wood processing reports	C	M
12	8885	4,5	Forest landowners, harvest, silviculture practices	C	M
13	1957	8	Agricultural Marketing and Bargaining Act, reports	C	M
14	1252 A	2	Prospective juror list, access to confidential information	A	(L)
14	1254 A	7	Juror qualification questionnaire	C	J
14	1254 B	2	Juror selection process records, lists	C	J
15	101 C		Mental examination of accused person records	C,A	J
16	612 A		Criminal history, juveniles pretrial detention records	C	CH
16	613		Criminal history, nonconviction data confidential	C	CH
16	614		Criminal history, intelligence & investigative records	C	IC

* See last page of appendix for key

Appendix B

TITLE	SECTION	SUB-SECTION	SUBJECT	STATUTE TYPE*	COLLECTION PURPOSE*
16	617		Criminal history, limit on use of disclosed information	P	CH
16	618		Criminal history, confirmation prohibited	C	CH
16	619		Criminal history, penalty for disclosure	P	CH
16	620		Criminal history, right of access by accused	A	(CH)
16	621		Criminal history, AG, State Police records	P	IC,CH
18	A	2 901	Wills, deposited with court	C	J
19	532	C	Adoption, putative father rights, proceedings	C	J
19	534		Adoption, probate court records	C	J
19	751		Divorce, reports, child custody	C	J
19	766	A	Domestic abuse, proceedings, plaintiffs address	C	J
20	A	6001	Student records, applicability of federal law	C	ED
20	A	6101	2,3 School officers and employees, records	C	PE
20	A	6102	School employee records, right to review	A	PE
20	A	6205	Educational assessment tests, individual data	C,A	ED
20	A	6357	1 Student immunization records	C	ED
20	A	7202	Exceptional students, records	P	ED
20	A	7727	5 Handicapped children, rules for confidentiality	P	ED
20	A	10206	2 Energy testing laboratory records	C	O
20	A	11418	Educational loan authority, records	C	B
20	A	11444	Student financial aid, supplemental loan program	C	B
20	A	13004	2,2-A,2-B Teachers, certification	C	OL
20	A	13015	5 Teacher action plans	C	PE
20	A	13034	Teacher qualifying examination scores	C	OL

* See last page of appendix for key

Appendix B

TITLE	SECTION	SUB-SECTION	SUBJECT	STATUTE TYPE*	COLLECTION PURPOSE*
22	16		Public assistance recipients, financial records, access	P	B
22	42	2	Human services department records, rules to limit use	P	S,H
22	387		Health care finance commission, confidentiality	C	RI
22	396	G 2	Hospital differentials, information used to determine	C	RI
22	666	3	Nuclear safety, identity of informant	C	RC,IO
22	811	6	Communicable diseases, judicial proceedings	C	J
22	815	1	Communicable diseases, confidentiality of privileged information	C	H
22	824		Communicable diseases, names of persons with disease	C	H
22	1233		Blood specimens, prenatal examination	C	H
22	1322	D	Lead inspection results	C	H
22	1494		Occupational diseases, names of persons with diseases	C	H
22	1596		Abortion, miscarriage reports	C	H
22	1597	A 6	Abortion, minors, court proceedings regarding	C	J
22	1692	B	Environmental health investigations, access	P,A	(All)
22	1828		Health care facilities and providers, licensure	C	H
22	2706		Vital records, disclosure limited	C	O
22	2706	A 6	Adoption contact files	C	O
22	2842	3	Medical examiner, death certificate	C	IC
22	3022	8,10,11	Medical examiner, information in possession of	C	IC
22	3034	2	Missing persons files, confidentiality, access	C	IC
22	3062		Rehabilitation services records	C	B
22	3188	4	Managed care insurance records	C	B
22	3265		Social welfare, Supplemental income program	C	B
22	3291 - 3296		Confidential information, use for personnel and licensure	A	(H,S)
22	3474		Adult protective records	C	S
22	3755	A	Support recoupment, access, confidentiality	C	S
22	4008		Child protective services, records	C	S

* See last page of appendix for key

Appendix B

TITLE	SECTION	SUB-SECTION	SUBJECT	STATUTE TYPE*	COLLECTION PURPOSE*
22	4015		Child abuse or neglect reports, confidentiality	C	S
22	4016		Child protective proceedings, employee records	A	(PE)
22	4021	2	Child protective proceedings, information obtained by subpoena	P	S
22	4087	4	Child welfare services ombudsman	C	II
22	4088	5	Abuse and neglect investigating team	C	S
22	4306		General assistance records, municipal	C	B
22	4314	4	General assistance, municipality, collection of information	C	B
22	7703		Child and adult facilities, licensure records	C	H
23	63		Roads and highways, prospective plans	C	O
24	2510		Physician professional competence reports	C	OL,IO
24	2604		Physician liability claims reports	C	RI
24	2608		Physician liability insurance cancellation, nonrenewal information	C	RI
24	2853	1-A	Physician liability filings during prelitigation screening	C	J
24	2857	1	Physician liability prelitigation screening panels, proceedings	C	J
24	2978	4	Medical liability demonstration project reports	C	RI
24 A	216	2	Bureau of Insurance records	C	RI,IO
24 A	222	13	Insurance control transactions, holding companies	C	RI
24 A	225	3	Insurance examination work papers	C	RI
24 A	226	2,7	Insurance examination reports pending final decision	C	RI
24 A	227		Insurance examination reports, personal information	C	RI
24 A	414	4,5	Insurance, accountant audit work papers	C	RI
24 A	1519	2	Insurance agent/broker, credit and investigatory report	C	OL
24 A	1905	1	Insurance administrators, credit and investigative reports	C	OL
24 A	1911		Insurance administrator audits, individual claims information	C	RI

* See last page of appendix for key

Appendix B

TITLE	SECTION	SUB-SECTION	SUBJECT	STATUTE TYPE*	COLLECTION PURPOSE*	
24	A	2304 A	4,7	Insurance rate filings	C	RI
24	A	2304 C	3,5	Physicians and surgeons liability insurance, rate filing information	C	RI
24	A	2315		Fire insurance advisory organizations, examination of members	C	RI
24	A	2323	4	Loss or expense experience report	C	RI
24	A	2384 B	8	Workers' compensation statistical reports	C	RI
24	A	4406	3	Delinquent insurers, proceedings, records	C	RI
24	A	4612	3	Solvency reports, recommendations by guarantee association board	C	RI
24	A	6203	1	Continuing care retirement communities, responsible persons	C	RI
25		1631		State police, criminal and administrative records	C	IC,O
25		2003	5	Concealed weapons permits, access to confidential information	A	(S)
25		2004		Penalty, breach of confidentiality, concealed weapons permits	P	S
25		2006		Concealed weapons permits, applications	C	L
25		2413		Arson reporting	C	IC
25		2957		Intergovernmental drug enforcement, bureau records	C	IC
26		3		Labor and industry, reports	C	RL
26		43		Labor standards bureau, report	C	RL
26		665	1	Minimum wage, hours worked records	C	RL
26		934		Labor arbitration board report	C	J
26		939		Labor disputes, information disclosed to board	C	J
26		979 Q	2	State employee labor relations, access to confidential information	A	(PE)
26		1082	7	Unemployment compensation, employing unit records	C	RL
26		1719	3	Chemical hazards, cooperation with municipality, other agencies	P	RL,RV
26		1721		Chemical hazards, information held by department	C	RL,RV
27		121		State library, records	C	O

* See last page of appendix for key

Appendix B

TITLE	SECTION	SUB-SECTION	SUBJECT	STATUTE TYPE*	COLLECTION PURPOSE*
27	377		Archeology, site location information	C	O
28	A 755		Alcoholic beverages, licensee, business and financial records	C	RC
29	57		Motor vehicles, complaints, control numbers	C	L
29	256	1	State-owned law enforcement vehicles, unmarked	C	L
29	547	4	Driver licenses, medical fitness, review	C	L
30	A 503		County officers and employees, personnel records	C	PE
30	A 2702		Municipal officers and employees, personnel records	C	PE
30	A 4706		Housing authorities, tenancy and mortgage applications	C	B
30	A 5205		Community development, assistance, records	C	C
32	92	2	Emergency medical services, quality assurance records	C	OL
32	92 A		Emergency medical services, disciplinary actions	C	OL
32	1658 F	1	Hearing aid dealers, sales and testing records	C	OL
32	2105 A	3	Nurses, disciplinary proceedings	C	OL
32	2599		Physicians (osteopaths), medical review committees	C	OL
32	3296		Physicians (allopaths), medical review committees	C	OL
32	4167	6	Sardine Council, certain records confidential	C	M
32	5013		Foresters, board of registration references	C	OL
32	9405	4	Security guards, license applications, access to confidential records	A	(S,CH)
32	9410 A	5	Contract security companies, access to confidential records	A	(S,CH)
32	9418		Security guards, application information confidential	C	OL
32	10701	4,5	Securities, filings	C	OL
32	11305	3,4,5	Commodity Code	C	OL
32	13006		Real estate broker licensing, complaints, proceedings	C	OL

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Appendix B

TITLE	SECTION	SUB- SECTION	SUBJECT	STATUTE TYPE*	COLLECTION PURPOSE*
32	13064		Real estate broker license, examination contents	C	OL
33	1857	3	Abandoned property records	C	O
33	1864	6	Abandoned property records	C	O
34 A	1203	5	Corrections, Office of Advocacy	C	II
34 A	1212		Corrections, information about employees, independent contractors	C	PE
34 A	3003		Corrections, records, orders, etc.	C	CH
34 A	5210		Parole board, investigations, reports	C	O
34 B	1205	5	Mental Health/Retardation, Office of Advocacy	C	II
34 B	1207		Mental Health/Retardation, records, orders, etc.	C	S
34 B	3003	2	Mental Health and Mental Retardation, department to establish rules	P	S
34 B	3864	5	Commitment, mental illness, judicial proceedings	C	J
34 B	5475	3	Certification, mental retardation, judicial proceedings	C	J
34 B	5476	6	Commitment, mental retardation	C	J
34 B	5605	15	Mentally retarded clients, rights of	A	(S)
34 B	7014	1	Sterilization, court proceedings	C	J
35 A	112	3	Public utilities, records	C	RI
35 A	704	5	Public utilities, consumer assistance information	C	RI
36	191		Tax returns, state	C	T
36	841	2	Property tax abatement applications	C	T
36	4316	4	Blueberry receivers, records	C	T
36	4604	5	Potato board, records	C	M

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TITLE	SECTION	SUB- SECTION	SUBJECT	STATUTE TYPE*	COLLECTION PURPOSE*
37 B	506		Veterans, benefit claim documents	C	B
38	345 A	4	Environmental protection, department hearings	C	RV
38	414	6	Water pollution, records	C	RV
38	585 C	2	Air pollution, emissions inventory	C	RV
38	1310 B		Hazardous waste	C	RV
38	2110		Waste management agency records	C	RV
38	2307	6	Toxics and hazardous waste reduction, plan summary	C	RV
39 A	152	2	Workers' compensation board, rules re: confidentiality	P	RL
39 A	153	5	Workers' compensation, investigation of fraud, abuse	C	IO
39 A	403	15	Workers' compensation, self-insurer records	C	RI

* See last page of appendix for key

Appendix B

Key to Statute Type and Collection Purpose Columns

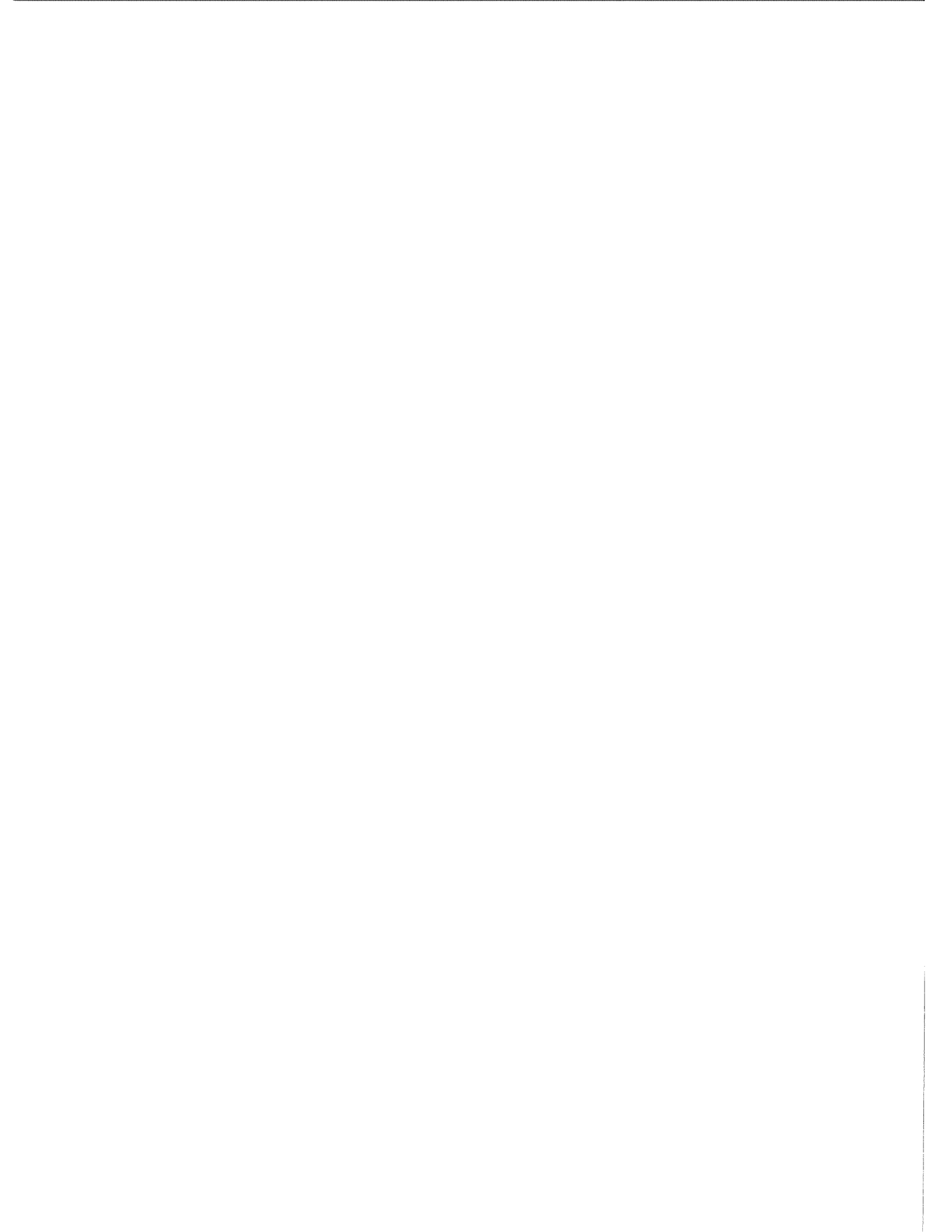
Statute Type

- C: Statute designates certain records confidential
- P: Statute establishes procedure for management of records declared confidential by other law or requires department to establish such procedure
- A: Statute gives access to records declared confidential by other law

Collection Purpose

- B: Eligibility for welfare and other benefits
- C: Economic and community development
- CH: Criminal history and corrections
- ED: Education (student records)
- H: Health
- IC: Investigation (criminal)
- II: Investigation (department internal)
- IO: Investigation (other)
- J: Judicial proceedings
- L: Licensing (driver, concealed weapons)
- M: Market assistance and regulation, agriculture, etc.
- O: Other
- OL: Occupational licensing
- PE: Public Employment
- RC: Regulation, other commercial
- RI: Regulation, Insurance, Utilities, Banking, Hospitals
- RL: Regulation, Labor
- RV: Regulation, Environmental
- S: Social services
- T: Taxation

(): Type of record to be accessed



Appendix C
Maine Confidentiality Laws,
Sorted by Collection Purpose

Public records confidentiality laws

Sorted by collection purpose

COLLECTION PURPOSE*	SUBJECT	TITLE	SECTION	SUB- SECTION	STATUTE TYPE*
All	Information Services, rules to protect confidentiality	5	1886	12	P
All	Adjudicatory proceedings, protection of confidential information	5	9059	3	P
B	Public assistance recipients, financial records, access	22	16		P
B	Veterans, benefit claim documents	37 B	506		C
B	Rehabilitation services records	22	3062		C
B	Managed care insurance records	22	3188	4	C
B	Social welfare, Supplemental income program	22	3265		C
B	Community services programs, records	5	3523		C
B	General assistance records, municipal	22	4306		C
B	General assistance, municipality, collection of information	22	4314	4	C
B	Housing authorities, tenancy and mortgage applications	30 A	4706		C
B	Educational loan authority, records	20 A	11418		C
B	Student financial aid, supplemental loan program	20 A	11444		C
C	Finance authority, records	10	975 A		C
C	Community development, assistance, records	30 A	5205		C
C	Economic and community development assistance	5	13119 A to 13119 C		C

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COLLECTION PURPOSE*	SUBJECT	TITLE	SECTION	SUB- SECTION	STATUTE TYPE*
CH	Criminal history, juveniles pretrial detention records	16	612 A		C
CH	Criminal history, nonconviction data confidential	16	613		C
CH	Criminal history, limit on use of disclosed information	16	617		P
CH	Criminal history, confirmation prohibited	16	618		C
CH	Criminal history, penalty for disclosure	16	619		P
CH	Corrections, records, orders, etc.	34 A	3003		C
ED	Student records, applicability of federal law	20 A	6001		C
ED	Educational assessment tests, individual data	20 A	6205		C,A
ED	Student immunization records	20 A	6357	1	C
ED	Exceptional students, records	20 A	7202		P
ED	Handicapped children, rules for confidentiality	20 A	7727	5	P
H	Communicable diseases, confidentiality of privileged information	22	815	1	C
H	Communicable diseases, names of persons with disease	22	824		C
H	Blood specimens, prenatal examination	22	1233		C
H	Lead inspection results	22	1322 D		C
H	Occupational diseases, names of persons with diseases	22	1494		C
H	Abortion, miscarriage reports	22	1596		C
H	Health care facilities and providers, licensure	22	1828		C
H	Child and adult facilities, licensure records	22	7703		C
H	AIDS tests	5	19203		C
H,IC,RL,O	Freedom of access, public records, exemption	1	402	3	C,P
IC	Victims of crime, medical records	5	200 E	4	C
IC	Criminal history, intelligence & investigative records	16	614		C
IC	Attorney at law, unauthorized practice, investigations	4	809		C

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COLLECTION PURPOSE*	SUBJECT	TITLE	SECTION	SUB- SECTION	STATUTE TYPE*
IC	Gasoline, heating oil assets, acquisition reports	10	1109	4	C
IC	Arson reporting	25	2413		C
IC	Medical examiner, death certificate	22	2842	3	C
IC	Intergovernmental drug enforcement, bureau records	25	2957		C
IC	Medical examiner, information in possession of	22	3022	8,10,11	C
IC	Missing persons files, confidentiality, access	22	3034	2	C
IC,CH	Criminal history, AG, State Police records	16	621		P
IC,IO	Attorney general, records	5	200 D		C
IC,O	State police, criminal and administrative records	25	1631		C
II	Legislative investigating committee	3	429	1	C
II	Courts, investigation of complaints	4	17	3	C
II	Corrections, Office of Advocacy	34 A	1203	5	C
II	Mental Health/Retardation, Office of Advocacy	34 B	1205	5	C
II	Child welfare services ombudsman	22	4087	4	C
II,S	Disabilities, mental illness, protection and advocacy agencies	5	19507		C
IO	Workers' compensation, investigation of fraud, abuse	39 A	153	5	C
IO	Legislature, ethics violations	1	1013	2,3	C
IO	Human rights, discrimination investigations	5	4612	5	C
IO	Occupational licensing boards, investigative records	10	8003 B		C
J	Wills, deposited with court	18 A	2	901	C
J	Mental examination of accused person records	15	101 C		C,A

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COLLECTION PURPOSE*	SUBJECT	TITLE	SECTION	SUB- SECTION	STATUTE TYPE*
J	Adoption, putative father rights, proceedings	19	532 C		C
J	Adoption, probate court records	19	534		C
J	Divorce, reports, child custody	19	751		C
J	Domestic abuse, proceedings, plaintiffs address	19	766 A		C
J	Communicable diseases, judicial proceedings	22	811	6	C
J	Labor arbitration board report	26	934		C
J	Labor disputes, information disclosed to board	26	939		C
J	Juror qualification questionnaire	14	1254 A	7	C
J	Juror selection process records, lists	14	1254 B	2	C
J	Abortion, minors, court proceedings regarding	22	1597 A	6	C
J	Physician liability filings during prelitigation screening	24	2853	1-A	C
J	Physician liability prelitigation screening panels, proceedings	24	2857	1	C
J	Commitment, mental illness, judicial proceedings	34 B	3864	5	C
J	Harassment victims, protection orders	5	4656		C
J	Certification, mental retardation, judicial proceedings	34 B	5475	3	C
J	Commitment, mental retardation	34 B	5476	6	C
J	Sterilization, court proceedings	34 B	7014	1	C
J	AIDS, judicial consent after exposure during medical treatment	5	19203 C	3	C
J	AIDS, judicial consent after gross sexual assault	5	19203 E	4	C
L	Motor vehicles, complaints, control numbers	29	57		C
L	State-owned law enforcement vehicles, unmarked	29	256	1	C
L	Driver licenses, medical fitness, review	29	547	4	C
L	Concealed weapons permits, applications	25	2006		C
M	Biotechnology and genetic engineering commission	7	234		C
M	Agricultural market research and development grants	7	401 D	5	C
M	Potato growers, planting records	7	951 A		C

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COLLECTION PURPOSE*	SUBJECT	TITLE	SECTION	SUB- SECTION	STATUTE TYPE*
M	Potatoes, fair market value	7	1008 C	3	C
M	Agricultural Marketing and Bargaining Act, reports	13	1957	8	C
M	Sardine Council, certain records confidential	32	4167	6	C
M	Potato board, records	36	4604	5	C
M	Aquaculture information	12	6077	4	C
M	Sea and shore fisheries, statistics	12	6173		C
M	Salmon reports by aquaculture licensees	12	6255	7	C
M	Lobster Promotion Council, market studies, promotional plans	12	6455	3	C
M	Wood processing reports	12	8884	3	C
M	Forest landowners, harvest, silviculture practices	12	8885	4,5	C
O	Courts, security arrangements	4	17	15	C
O	Roads and highways, prospective plans	23	63		C
O	State library, records	27	121		C
O	Archeology, site location information	27	377		C
O	State employees suggestion system	5	642	5	C
O	Affirmative action, certification of business	5	791		C
O	Abandoned property records	33	1857	3	C
O	Abandoned property records	33	1864	6	C
O	Computer programs, trade secrets	5	1890 B	4	C
O	Vital records, disclosure limited	22	2706		C
O	Adoption contact files	22	2706 A	6	C
O	Parole board, investigations, reports	34 A	5210		C
O	Energy testing laboratory records	20 A	10206	2	C
OL	Emergency medical services, disciplinary actions	32	92 A		C
OL	Emergency medical services, quality assurance records	32	92	2	C
OL	Insurance agent/broker, credit and investigatory report	24 A	1519	2	C

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COLLECTION PURPOSE*	SUBJECT	TITLE	SECTION	SUB- SECTION	STATUTE TYPE*
OL	Hearing aid dealers, sales and testing records	32	1658 F	1	C
OL	Insurance administrators, credit and investigative reports	24 A	1905	1	C
OL	Nurses, disciplinary proceedings	32	2105 A	3	C
OL	Physicians (osteopaths), medical review committees	32	2599		C
OL	Physicians (allopaths), medical review committees	32	3296		C
OL	Foresters, board of registration references	32	5013		C
OL	Security guards, application information confidential	32	9418		C
OL	Securities, filings	32	10701	4,5	C
OL	Commodity Code	32	11305	3,4,5	C
OL	Teachers, certification	20 A	13004	2,2-A,2-B	C
OL	Real estate broker licensing, complaints, proceedings	32	13006		C
OL	Teacher qualifying examination scores	20 A	13034		C
OL	Real estate broker license, examination contents	32	13064		C
OL,IO	Physician professional competence reports	24	2510		C
PE	County officers and employees, personnel records	30 A	503		C
PE	Corrections, information about employees, independent contractors	34 A	1212		C
PE	Municipal officers and employees, personnel records	30 A	2702		C
PE	School officers and employees, records	20 A	6101	2,3	C
PE	School employee records, right to review	20 A	6102		A
PE	State employees, personnel records	5	7070		C
PE	Teacher action plans	20 A	13015	5	C
PE	State retirement system, medical/life insurance information	5	17057		C
RC	Alcoholic beverages, licensee, business and financial records	28 A	755		C
RC	Whitewater outfitters, affiliated outfitters, records	12	7365	7	C
RC	Whitewater outfitters, financial information, allocation	12	7369	7	C

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COLLECTION PURPOSE*	SUBJECT	TITLE	SECTION	SUB- SECTION	STATUTE TYPE*
RC	Manufactured housing, trade secrets	10	9012		C
RC,IO	Nuclear safety, identity of informant	22	666	3	C
RI	Supervised loans, annual report by licensees	9 A	2-304	2	C
RI	Consumer credit protection bureau	9 A	6-116		C
RI	Public utilities, records	35 A	112	3	C
RI	Insurance control transactions, holding companies	24 A	222	13	C
RI	Insurance examination work papers	24 A	225	3	C
RI	Insurance examination reports pending final decision	24 A	226	2,7	C
RI	Financial institutions, examinations	9 B	226		C
RI	Insurance examination reports, personal information	24 A	227		C
RI	Financial institutions, applications for bureau decision	9 B	252	3	P
RI	Health care finance commission, confidentiality	22	387		C
RI	Hospital differentials, information used to determine	22	396 G	2	C
RI	Workers' compensation, self-insurer records	39 A	403	15	C
RI	Insurance, accountant audit work papers	24 A	414	4,5	C
RI	Public utilities, consumer assistance information	35 A	704	5	C
RI	Insurance administrator audits, individual claims information	24 A	1911		C
RI	Insurance rate filings	24 A	2304 A	4,7	C
RI	Physicians and surgeons liability insurance, rate filing information	24 A	2304 C	3,5	C
RI	Fire insurance advisory organizations, examination of members	24 A	2315		C
RI	Loss or expense experience report	24 A	2323	4	C
RI	Workers' compensation statistical reports	24 A	2384 B	8	C
RI	Physician liability claims reports	24	2604		C
RI	Physician liability insurance cancellation, nonrenewal information	24	2608		C
RI	Medical liability demonstration project reports	24	2978	4	C
RI	Delinquent insurers, proceedings, records	24 A	4406	3	C

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COLLECTION PURPOSE*	SUBJECT	TITLE	SECTION	SUB- SECTION	STATUTE TYPE*
RI	Solvency reports, recommendations by guarantee association board	24 A	4612	3	C
RI	Continuing care retirement communities, responsible persons	24 A	6203	1	C
RI,IO	Bureau of Insurance records	24 A	216	2	C
RL	Labor and industry, reports	26	3		C
RL	Labor standards bureau, report	26	43		C
RL	Workers' compensation board, rules re: confidentiality	39 A	152	2	P
RL	Minimum wage, hours worked records	26	665	1	C
RL	Unemployment compensation, employing unit records	26	1082	7	C
RL,RV	Chemical hazards, cooperation with municipality, other agencies	26	1719	3	P
RL,RV	Chemical hazards, information held by department	26	1721		C
RV	Environmental protection, department hearings	38	345 A	4	C
RV	Water pollution, records	38	414	6	C
RV	Water wells, completion reports, disclosure	12	550 B	6	C
RV	Air pollution, emissions inventory	38	585 C	2	C
RV	Pesticides, disclosure of confidential information	7	606	2	C
RV	Pesticides, test required for registration	7	607		C
RV	Pesticides, analysis of samples	7	618		C
RV	Commercial feeds, trade secrets	7	722		C
RV	Hazardous waste	38	1310 B		C
RV	Waste management agency records	38	2110		C
RV	Toxics and hazardous waste reduction, plan summary	38	2307	6	C
S	Mental Health/Retardation, records, orders, etc.	34 B	1207		C
S	Penalty, breach of confidentiality, concealed weapons permits	25	2004		P

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COLLECTION PURPOSE*	SUBJECT	TITLE	SECTION	SUB- SECTION	STATUTE TYPE*
S	Mental Health and Mental Retardation, department to establish rules	34 B	3003	2	P
S	Adult protective records	22	3474		C
S	Support recoupment, access, confidentiality	22	3755 A		C
S	Child protective services, records	22	4008		C
S	Child abuse or neglect reports, confidentiality	22	4015		C
S	Child protective proceedings, information obtained by subpoena	22	4021	2	P
S	Abuse and neglect investigating team	22	4088	5	C
S,H	Human services department records, rules to limit use	22	42	2	P
T	Tax returns, state	36	191		C
T	Property tax abatement applications	36	841	2	C
T	Blueberry receivers, records	36	4316	4	C
(All)	Attorney general, fraud division, access to records	5	200 C	3	A
(All)	Environmental health investigations, access	22	1692 B		P,A
(CH)	Criminal history, right of access by accused	16	620		A
(H,S)	Confidential information, use for personnel and licensure	22	3291 - 3296		A
(H,S)	Disabilities, mental illness, agency, access to records	5	19506	1	A
(H,W)	Adjudicatory proceedings, disclosure of confidential information	5	9057	6	A
(L)	Prospective juror list, access to confidential information	14	1252 A	2	A
(PE)	State employee labor relations, access to confidential information	26	979 Q	2	A
(PE)	Child protective proceedings, employee records	22	4016		A
(PE)	Personnel records, use of force by police	5	7070 A		A

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COLLECTION PURPOSE*	SUBJECT	TITLE	SECTION	SUB- SECTION	STATUTE TYPE*
(PE)	State employees, right to review personnel records	5	7071		A
(S,CH)	Security guards, license applications, access to confidential records	32	9405	4	A
(S,CH)	Contract security companies, access to confidential records	32	9410 A	5	A
(S)	Concealed weapons permits, access to confidential information	25	2003	5	A
(S)	Mentally retarded clients, rights of	34 B	5605	15	A

* See last page of appendix for key

Appendix C

Key to Statute Type and Collection Purpose Columns

Statute Type

- C: Statute designates certain records confidential
- P: Statute establishes procedure for management of records declared confidential by other law or requires department to establish such procedure
- A: Statute gives access to records declared confidential by other law

Collection Purpose

- B: Eligibility for welfare and other benefits
 - C: Economic and community development
 - CH: Criminal history and corrections
 - ED: Education (student records)
 - H: Health
 - IC: Investigation (criminal)
 - II: Investigation (department internal)
 - IO: Investigation (other)
 - J: Judicial proceedings
 - L: Licensing (driver, concealed weapons)
 - M: Market assistance and regulation, agriculture, etc.
 - O: Other
 - OL: Occupational licensing
 - PE: Public Employment
 - RC: Regulation, other commercial
 - RI: Regulation, Insurance, Utilities, Banking, Hospitals
 - RL: Regulation, Labor
 - RV: Regulation, Environmental
 - S: Social services
 - T: Taxation
- (): Type of record to be accessed

Appendix D
Maine Confidentiality Laws
Sorted by Subject

Public records confidentiality laws

Sorted by subject

SUBJECT	TITLE	SECTION	SUB- SECTION	STATUTE TYPE*	COLLECTION PURPOSE*
Abandoned property records	33	1864	6	C	O
Abandoned property records	33	1857	3	C	O
Abortion, minors, court proceedings regarding	22	1597	A 6	C	J
Abortion, miscarriage reports	22	1596		C	H
Abuse and neglect investigating team	22	4088	5	C	S
Adjudicatory proceedings, disclosure of confidential information	5	9057	6	A	(H,W)
Adjudicatory proceedings, protection of confidential information	5	9059	3	P	All
Adoption, probate court records	19	534		C	J
Adoption, putative father rights, proceedings	19	532	C	C	J
Adoption contact files	22	2706	A 6	C	O
Adult protective records	22	3474		C	S
Affirmative action, certification of business	5	791		C	O
Agricultural market research and development grants	7	401	D 5	C	M
Agricultural Marketing and Bargaining Act, reports	13	1957	8	C	M
AIDS, judicial consent after exposure during medical treatment	5	19203	C 3	C	J
AIDS, judicial consent after gross sexual assault	5	19203	E 4	C	J
AIDS tests	5	19203		C	H
Air pollution, emissions inventory	38	585	C 2	C	RV
Alcoholic beverages, licensee, business and financial records	28	A 755		C	RC
Aquaculture information	12	6077	4	C	M

* See last page of appendix for key

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SUBJECT	TITLE	SECTION	SUB-SECTION	STATUTE TYPE*	COLLECTION PURPOSE*
Archeology, site location information	27	377		C	O
Arson reporting	25	2413		C	IC
Attorney at law, unauthorized practice, investigations	4	809		C	IC
Attorney general, fraud division, access to records	5	200 C	3	A	(All)
Attorney general, records	5	200 D		C	IC,IO
Biotechnology and genetic engineering commission	7	234		C	M
Blood specimens, prenatal examination	22	1233		C	H
Blueberry receivers, records	36	4316	4	C	T
Bureau of Insurance records	24 A	216	2	C	RI,IO
Certification, mental retardation, judicial proceedings	34 B	5475	3	C	J
Chemical hazards, cooperation with municipality, other agencies	26	1719	3	P	RL,RV
Chemical hazards, information held by department	26	1721		C	RL,RV
Child abuse or neglect reports, confidentiality	22	4015		C	S
Child and adult facilities, licensure records	22	7703		C	H
Child protective proceedings, employee records	22	4016		A	(PE)
Child protective proceedings, information obtained by subpoena	22	4021	2	P	S
Child protective services, records	22	4008		C	S
Child welfare services ombudsman	22	4087	4	C	II
Commercial feeds, trade secrets	7	722		C	RV
Commitment, mental illness, judicial proceedings	34 B	3864	5	C	J
Commitment, mental retardation	34 B	5476	6	C	J
Commodity Code	32	11305	3,4,5	C	OL
Communicable diseases, confidentiality of privileged information	22	815	1	C	H
Communicable diseases, judicial proceedings	22	811	6	C	J
Communicable diseases, names of persons with disease	22	824		C	H
Community development, assistance, records	30 A	5205		C	C

* See last page of appendix for key

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SUBJECT	TITLE	SECTION	SUB-SECTION	STATUTE TYPE*	COLLECTION PURPOSE*	
Community services programs, records	5	3523		C	B	
Computer programs, trade secrets	5	1890	B	4	C	O
Concealed weapons permits, access to confidential information	25	2003		5	A	(S)
Concealed weapons permits, applications	25	2006			C	L
Confidential information, use for personnel and licensure	22	3291 - 3296			A	(H,S)
Consumer credit protection bureau	9	A 6-116			C	RI
Continuing care retirement communities, responsible persons	24	A 6203		1	C	RI
Contract security companies, access to confidential records	32	9410	A	5	A	(S,CH)
Corrections, information about employees, independent contractors	34	A 1212			C	PE
Corrections, Office of Advocacy	34	A 1203		5	C	II
Corrections, records, orders, etc.	34	A 3003			C	CH
County officers and employees, personnel records	30	A 503			C	PE
Courts, investigation of complaints	4	17		3	C	II
Courts, security arrangements	4	17		15	C	O
Criminal history, AG, State Police records	16	621			P	IC,CH
Criminal history, confirmation prohibited	16	618			C	CH
Criminal history, intelligence & investigative records	16	614			C	IC
Criminal history, juveniles pretrial detention records	16	612	A		C	CH
Criminal history, limit on use of disclosed information	16	617			P	CH
Criminal history, nonconviction data confidential	16	613			C	CH
Criminal history, penalty for disclosure	16	619			P	CH
Criminal history, right of access by accused	16	620			A	(CH)
Delinquent insurers, proceedings, records	24	A 4406		3	C	RI
Disabilities, mental illness, agency, access to records	5	19506		1	A	(H,S)
Disabilities, mental illness, protection and advocacy agencies	5	19507			C	II,S
Divorce, reports, child custody	19	751			C	J
Domestic abuse, proceedings, plaintiffs address	19	766	A		C	J

* See last page of appendix for key

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SUBJECT	TITLE	SECTION	SUB-SECTION	STATUTE TYPE*	COLLECTION PURPOSE*
Driver licenses, medical fitness, review	29	547	4	C	L
Economic and community development assistance	5	13119 A to	13119 C	C	C
Educational assessment tests, individual data	20 A	6205		C,A	ED
Educational loan authority, records	20 A	11418		C	B
Emergency medical services, disciplinary actions	32	92 A		C	OL
Emergency medical services, quality assurance records	32	92	2	C	OL
Energy testing laboratory records	20 A	10206	2	C	O
Environmental health investigations, access	22	1692 B		P,A	(All)
Environmental protection, department hearings	38	345 A	4	C	RV
Exceptional students, records	20 A	7202		P	ED
Finance authority, records	10	975 A		C	C
Financial institutions, applications for bureau decision	9 B	252	3	P	RI
Financial institutions, examinations	9 B	226		C	RI
Fire insurance advisory organizations, examination of members	24 A	2315		C	RI
Forest landowners, harvest, silviculture practices	12	8885	4,5	C	M
Foresters, board of registration references	32	5013		C	OL
Freedom of access, public records, exemption	1	402	3	C,P	H,IC,RL,O
Gasoline, heating oil assets, acquisition reports	10	1109	4	C	IC
General assistance, municipality, collection of information	22	4314	4	C	B
General assistance records, municipal	22	4306		C	B
Handicapped children, rules for confidentiality	20 A	7727	5	P	ED
Harassment victims, protection orders	5	4656		C	J
Hazardous waste	38	1310 B		C	RV
Health care facilities and providers, licensure	22	1828		C	H

* See last page of appendix for key

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SUBJECT	TITLE	SECTION	SUB-SECTION	STATUTE TYPE*	COLLECTION PURPOSE*	
Health care finance commission, confidentiality	22	387		C	RI	
Hearing aid dealers, sales and testing records	32	1658	F	1	C	OL
Hospital differentials, information used to determine	22	396	G	2	C	RI
Housing authorities, tenancy and mortgage applications	30	A 4706		C	B	
Human rights, discrimination investigations	5	4612		5	C	IO
Human services department records, rules to limit use	22	42		2	P	S,H
Information Services, rules to protect confidentiality	5	1886		12	P	All
Insurance, accountant audit work papers	24	A 414		4,5	C	RI
Insurance administrator audits, individual claims information	24	A 1911			C	RI
Insurance administrators, credit and investigative reports	24	A 1905		1	C	OL
Insurance agent/broker, credit and investigatory report	24	A 1519		2	C	OL
Insurance control transactions, holding companies	24	A 222		13	C	RI
Insurance examination reports, personal information	24	A 227			C	RI
Insurance examination reports pending final decision	24	A 226		2,7	C	RI
Insurance examination work papers	24	A 225		3	C	RI
Insurance rate filings	24	A 2304	A	4,7	C	RI
Intergovernmental drug enforcement, bureau records	25	2957			C	IC
Juror qualification questionnaire	14	1254	A	7	C	J
Juror selection process records, lists	14	1254	B	2	C	J
Labor and industry, reports	26	3			C	RL
Labor arbitration board report	26	934			C	J
Labor disputes, information disclosed to board	26	939			C	J
Labor standards bureau, report	26	43			C	RL
Lead inspection results	22	1322	D		C	H
Legislative investigating committee	3	429		1	C	II

* See last page of appendix for key

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SUBJECT	TITLE	SECTION	SUB-SECTION	STATUTE TYPE*	COLLECTION PURPOSE*
Legislature, ethics violations	1	1013	2,3	C	IO
Lobster Promotion Council, market studies, promotional plans	12	6455	3	C	M
Loss or expense experience report	24 A	2323	4	C	RI
Managed care insurance records	22	3188	4	C	B
Manufactured housing, trade secrets	10	9012		C	RC
Medical examiner, death certificate	22	2842	3	C	IC
Medical examiner, information in possession of	22	3022	8,10,11	C	IC
Medical liability demonstration project reports	24	2978	4	C	RI
Mental examination of accused person records	15	101 C		C,A	J
Mental Health and Mental Retardation, department to establish rules	34 B	3003	2	P	S
Mental Health/Retardation, Office of Advocacy	34 B	1205	5	C	II
Mental Health/Retardation, records, orders, etc.	34 B	1207		C	S
Mentally retarded clients, rights of	34 B	5605	15	A	(S)
Minimum wage, hours worked records	26	665	1	C	RL
Missing persons files, confidentiality, access	22	3034	2	C	IC
Motor vehicles, complaints, control numbers	29	57		C	L
Municipal officers and employees, personnel records	30 A	2702		C	PE
Nuclear safety, identity of informant	22	666	3	C	RC,IO
Nurses, disciplinary proceedings	32	2105 A	3	C	OL
Occupational diseases, names of persons with diseases	22	1494		C	H
Occupational licensing boards, investigative records	10	8003 B		C	IO
Parole board, investigations, reports	34 A	5210		C	O
Penalty, breach of confidentiality, concealed weapons permits	25	2004		P	S
Personnel records, use of force by police	5	7070 A		A	(PE)

* See last page of appendix for key

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SUBJECT	TITLE	SECTION	SUB-SECTION	STATUTE TYPE*	COLLECTION PURPOSE*
Pesticides, analysis of samples	7	618		C	RV
Pesticides, disclosure of confidential information	7	606	2	C	RV
Pesticides, test required for registration	7	607		C	RV
Physician liability claims reports	24	2604		C	RI
Physician liability filings during prelitigation screening	24	2853	1-A	C	J
Physician liability insurance cancellation, nonrenewal information	24	2608		C	RI
Physician liability prelitigation screening panels, proceedings	24	2857	1	C	J
Physician professional competence reports	24	2510		C	OL,IO
Physicians and surgeons liability insurance, rate filing information	24 A	2304 C	3,5	C	RI
Physicians (allopaths), medical review committees	32	3296		C	OL
Physicians (osteopaths), medical review committees	32	2599		C	OL
Potato board, records	36	4604	5	C	M
Potato growers, planting records	7	951 A		C	M
Potatoes, fair market value	7	1008 C	3	C	M
Property tax abatement applications	36	841	2	C	T
Prospective juror list, access to confidential information	14	1252 A	2	A	(L)
Public assistance recipients, financial records, access	22	16		P	B
Public utilities, consumer assistance information	35 A	704	5	C	RI
Public utilities, records	35 A	112	3	C	RI
Real estate broker license, examination contents	32	13064		C	OL
Real estate broker licensing, complaints, proceedings	32	13006		C	OL
Rehabilitation services records	22	3062		C	B
Roads and highways, prospective plans	23	63		C	O
Salmon reports by aquaculture licensees	12	6255	7	C	M
Sardine Council, certain records confidential	32	4167	6	C	M
School employee records, right to review	20 A	6102		A	PE

* See last page of appendix for key

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SUBJECT	TITLE	SECTION	SUB-SECTION	STATUTE TYPE*	COLLECTION PURPOSE*
School officers and employees, records	20 A	6101	2,3	C	PE
Sea and shore fisheries, statistics	12	6173		C	M
Securities, filings	32	10701	4,5	C	OL
Security guards, application information confidential	32	9418		C	OL
Security guards, license applications, access to confidential records	32	9405	4	A	(S,CH)
Social welfare, Supplemental income program	22	3265		C	B
Solvency reports, recommendations by guarantee association board	24 A	4612	3	C	RI
State employee labor relations, access to confidential information	26	979 Q	2	A	(PE)
State employees, personnel records	5	7070		C	PE
State employees, right to review personnel records	5	7071		A	(PE)
State employees suggestion system	5	642	5	C	O
State library, records	27	121		C	O
State police, criminal and administrative records	25	1631		C	IC,O
State retirement system, medical/life insurance information	5	17057		C	PE
State-owned law enforcement vehicles, unmarked	29	256	1	C	L
Sterilization, court proceedings	34 B	7014	1	C	J
Student financial aid, supplemental loan program	20 A	11444		C	B
Student immunization records	20 A	6357	1	C	ED
Student records, applicability of federal law	20 A	6001		C	ED
Supervised loans, annual report by licensees	9 A	2-304	2	C	RI
Support recoupment, access, confidentiality	22	3755 A		C	S
Tax returns, state	36	191		C	T
Teacher action plans	20 A	13015	5	C	PE
Teacher qualifying examination scores	20 A	13034		C	OL
Teachers, certification	20 A	13004	2,2-A,2-B	C	OL
Toxics and hazardous waste reduction, plan summary	38	2307	6	C	RV

* See last page of appendix for key

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SUBJECT	TITLE	SECTION	SUB-SECTION	STATUTE TYPE*	COLLECTION PURPOSE*
Unemployment compensation, employing unit records	26	1082	7	C	RL
Veterans, benefit claim documents	37 B	506		C	B
Victims of crime, medical records	5	200 E	4	C	IC
Vital records, disclosure limited	22	2706		C	O
Waste management agency records	38	2110		C	RV
Water pollution, records	38	414	6	C	RV
Water wells, completion reports, disclosure	12	550 B	6	C	RV
Whitewater outfitters, affiliated outfitters, records	12	7365	7	C	RC
Whitewater outfitters, financial information, allocation	12	7369	7	C	RC
Wills, deposited with court	18 A	2 901		C	J
Wood processing reports	12	8884	3	C	M
Workers' compensation, investigation of fraud, abuse	39 A	153	5	C	IO
Workers' compensation, self-insurer records	39 A	403	15	C	RI
Workers' compensation board, rules re: confidentiality	39 A	152	2	P	RL
Workers' compensation statistical reports	24 A	2384 B	8	C	RI

* See last page of appendix for key

Appendix D

Key to Statute Type and Collection Purpose Columns

Statute Type

- C: Statute designates certain records confidential
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 - RV: Regulation, Environmental
 - S: Social services
 - T: Taxation
- (): Type of record to be accessed

Appendix E
Minnesota Government Data Practices Act



or to produce any records for inspection by any person, or to examine any person under oath; and

(2) To remove summarily from office any person, other than a person appointed under this chapter, except as now provided by law or as herein specifically authorized.

History: 1951 c 694 s 406; 1986 c 444

- 12.51 [Expired]
 12.52 [Expired]
 12.53 [Expired]
 12.56 [Repealed, 1978 c 762 s 9]
 12.57 [Repealed, 1978 c 762 s 9]

Data Practices

CHAPTER 13

GOVERNMENT DATA PRACTICES

- | | |
|--|--|
| GENERAL REQUIREMENTS | |
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| 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. |
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| DATA MAINTAINED BY
STATE AGENCIES AND
POLITICAL SUBDIVISIONS | |
| 13.30 | Attorneys. |
| 13.31 | Benefit data. |
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| 13.35 | Federal contracts data. |
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| 13.38 | Health data. |
| 13.39 | Investigative data. |
| 13.40 | Library data. |
| 13.41 | Licensing data. |
| 13.42 | Medical data. |
| 13.43 | Personnel data. |
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POLITICAL SUBDIVISIONS | |
| 13.50 | Appraisal data. |
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| 13.53 | Foster care data. |
| 13.531 | Farm assistance data. |
| 13.54 | Housing agency data. |
| 13.55 | St. Paul civic center authority data. |
| 13.551 | Classification of Saint Paul port authority data. |
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BY STATE AGENCIES | |
| 13.64 | Department of administration data. |
| 13.642 | Teachers retirement association data. |
| 13.643 | Department of agriculture data. |
| 13.644 | State auditor's data. |
| 13.65 | Attorney general data. |
| 13.66 | Corrections ombudsman data. |
| 13.67 | Employee relations data. |
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| 13.74 | Environmental quality data. |
| 13.75 | Bureau of mediation services data. |
| 13.76 | Department of trade and economic development data. |
| 13.761 | Indian affairs council data. |
| 13.77 | Agricultural resource loan board data. |
| 13.771 | Harmful substance injury compensation board data. |
| 13.78 | Minnesota export authority data. |
| 13.79 | Department of labor and industry data. |
| 13.791 | Rehabilitation data. |
| 13.792 | Minnesota zoological garden data. |
| 13.793 | Natural resources mineral data. |
| 13.794 | Internal auditing 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. |
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| 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 state-wide 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

Minn. Stat. (1990 + Supp. 1991)

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 that is made by statute or federal law applicable to the data: (a) not accessible to the 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; 1989 c 351 s 2

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. 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 data upon request. If a person requests copies or electronic transmittal of the data to the person, the responsible authority may require the requesting person to pay the actual costs of searching for and retrieving government data, including the cost of employee time, and for making, certifying, compiling, and electronically transmitting the copies of the data or the data, but may not charge for separating public from not public data. 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 a substantial and discrete portion of or 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.

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; 1987 c 351 s 1; 1990 c 573 s 1

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.

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. (a) An individual subject of the data may contest the accuracy or completeness of public or private data. To exercise this right, an individual shall notify in writing the responsible authority describing the nature of the disagreement. The responsible authority shall within 30 days either:

(1) correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual; or (2) notify the individual that the authority believes the data to be correct. Data in dispute shall be disclosed only if the individual's statement of disagreement is included with the disclosed data.

The determination of the responsible authority may be appealed pursuant to the provisions of the administrative procedure act relating to contested cases. Upon receipt of an appeal by an individual, the commissioner shall, before issuing the order and notice of a contested case hearing required by chapter 14, try to resolve the dispute through education, conference, conciliation, or persuasion. If the parties consent, the commissioner may refer the matter to mediation. Following these efforts, the commissioner shall dismiss the appeal or issue the order and notice of hearing.

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

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

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; 1987 c 351 s 2; 1988 c 670 s 1

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 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.

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; 1987 c 351 s 3

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 representative has been appointed or after discharge, the surviving spouse, any child of the decedent, or, if there is no surviving spouse or children, the parents of the decedent.

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. Non-public data concerning a decedent, created or collected after death, are accessible 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; 1989 c 351 s 3; 1990 c 573 s 2

**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. Definitions. 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. Private data; when disclosure is permitted. Except as provided in subdivision 5, educational data is private data on individuals and shall not be disclosed except as follows:

(a) Pursuant to section 13.05;

(b) Pursuant to a valid court order;

(c) Pursuant to a statute specifically authorizing access to the private data;

(d) To disclose information in health and safety emergencies pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code of Federal Regulations, title 34, section 99.36 which are in effect on July 1, 1989;

(e) Pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3) and Code of Federal Regulations, title 34, sections 99.31, 99.32, 99.33, 99.34, and 99.35 which are in effect on July 1, 1989; 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. Student's access to private data. 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. Directory information. Information designated as directory information pursuant to the provisions of United States Code, title 20, section 1232g and Code of Federal Regulations, title 34, section 99.37 which are in effect on July 1, 1989, is public data on individuals.

Subd. 6. Admissions forms. 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; 1989 c 351 s 4,5

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 624.719 are classified as private, pursuant to section 13.02, subdivision 12.

History: 1981 c 311 s 20,39; 1982 c 545 s 24; 1987 c 384 art 2 s 1

13.37 GENERAL NONPUBLIC DATA.

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

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

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

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

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.

Subd. 3. Data dissemination. Crime prevention block maps and names, home addresses, and telephone numbers of volunteers who participate in community crime prevention programs may be disseminated to volunteers participating in crime prevention programs.

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; 1990 c 573 s 3,4

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 as defined in section 145A.02, subdivision 2, may disclose health data to the data subject's physician as necessary to locate or identify a case, carrier, or suspect case, to establish a diagnosis, to provide treatment, to identify persons 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: 1981 c 311 s 31,39; 1982 c 545 s 24; 1987 c 309 s 24; 1987 c 351 s 4

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 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: 1981 c 311 s 22,39; 1982 c 545 s 11,24; 1985 c 298 s 11; 1987 c 351 s 5

13.40 LIBRARY DATA.

Subdivision 1. Records subject to this chapter. 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. Private data; records of borrowing. 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. 2a. Board of peace officer standards and training. The following government data of the board of peace officer standards and training are private data:

(1) home addresses of licensees and applicants for licenses; and

(2) data that identify the state agency, statewide system, or political subdivision that employs a licensed peace officer.

The board may disseminate private data on applicants and licensees as is necessary to administer law enforcement licensure.

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. 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.

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; 1987 c 351 s 6; 1990 c 573 s 5

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, parents, children, and siblings of a deceased patient or client or, if there are no surviving spouse, parents, children, or siblings, to the surviving heirs of the nearest degree of kindred;

(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; 1989 c 175 s 1

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 indepen-

dent contractor with a state agency, statewide system or political subdivision or is a member of an advisory board or commission.

Subd. 2. Public data. (a) Except for employees described in subdivision 5, the following personnel data on current and former employees, volunteers, and independent contractors of a state agency, statewide system, or political subdivision and members of advisory boards or commissions is public: name; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; job title; job description; education and training background; previous work experience; date of first and last employment; the existence and status of any complaints or charges against the employee, whether or not the complaint or charge resulted in a disciplinary action; the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body; the terms of any agreement settling administrative or judicial proceedings; work location; a work telephone number; badge number; honors and awards received; payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data; and city and county of residence.

(b) For purposes of this subdivision, a final disposition occurs when the state agency, statewide system, or political subdivision makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the state agency, statewide system, political subdivision, or arbitrator.

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.

Subd. 3. Public employment. Except for applicants described in subdivision 5, the following personnel data on current and former applicants for employment by a state agency, statewide system or political subdivision is public: veteran status; relevant test scores; rank on eligible list; job history; education and training; and work availability. Names of applicants shall be private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the appointing authority to be finalists for a position in public employment. For purposes of this subdivision, "finalist" means an individual who is selected to be interviewed by the appointing authority prior to selection.

Subd. 4. All other personnel data is private data on individuals but may be released pursuant to a court order.

Subd. 5. All personnel data maintained by any state agency, statewide system or political subdivision relating to an individual employed as or an applicant for employment as an undercover law enforcement officer is private data on individuals.

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 commissioner of the bureau of mediation services.

Subd. 7. Employee assistance data. All data created, collected or maintained by

any state agency or political subdivision to administer employee assistance programs similar to the one authorized by section 16B.39, subdivision 2, are classified as private, pursuant to section 13.02, subdivision 12. This section shall not be interpreted to authorize the establishment of employee assistance programs.

History: 1979 c 328 s 17; 1980 c 603 s 24,25,29; 1981 c 311 s 12,13,17,39; 1982 c 545 s 9,10,24; 1984 c 436 s 17; 1984 c 544 s 89; 1985 c 298 s 12; 1987 c 186 s 15; 1987 c 284 art 1 s 1; 1987 c 351 s 7; 1987 c 384 art 1 s 2; 1988 c 598 s 1; 1990 c 550 s 1

13.44 PROPERTY COMPLAINT DATA.

The identities of individuals who register complaints with state agencies or political subdivisions concerning violations of state laws or local ordinances concerning the use of real property are classified as confidential data, pursuant to section 13.02, subdivision 3.

History: 1980 c 603 s 20; 1981 c 311 s 39; 1982 c 545 s 5,24; 1984 c 436 s 18

13.45 SALARY BENEFIT SURVEY DATA.

Salary and personnel benefit survey data purchased from consulting firms, non-profit corporations or associations or obtained from employers with the written understanding that the data shall not be made public which is maintained by state agencies, political subdivisions or statewide systems are classified as nonpublic pursuant to section 13.02, subdivision 9.

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

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.

Subd. 2. General. (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(1) pursuant to section 13.05;

(2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;

(6) to administer federal funds or programs;

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

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names and social security numbers, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, and the income tax;

(9) to the Minnesota department of jobs and training for the purpose of monitoring the eligibility of the data subject for unemployment compensation, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential facilities as defined in section 245A.02 may be disclosed 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; or

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased 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 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 or who formerly were licensed or registered under the authority of the commissioner of human services;

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

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

(b) Except as provided in paragraph (c), the following data are public: name, address, telephone number of licensees, licensed capacity, type of client preferred, variances granted, type of dwelling, name and relationship of other family members, previous license history, class of license, and the existence and status of complaints. When disciplinary action has been taken against a licensee or the complaint is resolved, the

following data are public: the substance of the complaint, the findings of the investigation of the complaint, the record of informal resolution of a licensing violation, orders of hearing, findings of fact, 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, nonpublic, or protected nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning 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.

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. Access to information that is maintained by the public authority responsible for support enforcement and that is needed to enforce medical support is subject to the provisions of section 518.171.

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 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.

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, except data provided to the legislative auditor. Notwithstanding any statute or rule to the contrary, and solely for the purposes of conducting an audit approved by the legislative audit commission in 1988, the legislative auditor shall be given access to all data, records, and files classified as not public. The legislative auditor shall maintain all data collected under this subdivision in accordance with chapter 13 and may not disclose data that identify a patient or client by name or that contain any other 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.

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: 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; 1987 c 333 s 22; 1987 c 351 s 8-11; 1987 c 352 s 1; 1988 c 598 s 3; 1989 c 209 art 1 s 4; art 2 s 2; 1989 c 282 art 5 s 1; 1989 c 351 s 6; 1990 c 568 art 3 s 1; 1990 c 573 s 6,7

13.47 EMPLOYMENT AND TRAINING DATA.

Subdivision 1. Definition. (a) "Employment and training data" means data on individuals collected, maintained, used, or disseminated because an individual applies for, is currently enrolled in, or has been enrolled in employment and training programs funded with federal, state, or local resources.

(b) "Employment and training service provider" means an administrative entity certified by the commissioner of jobs and training to deliver employment and training services under section 268.0122, subdivision 3, or an organization that contracts with a certified administrative entity or the department of jobs and training to deliver employment and training services.

Subd. 2. Classification. Employment and training data are private data on individuals.

Subd. 3. Dissemination. Employment and training data may be disseminated:

- (a) to other employment and training service providers to coordinate the employment and training services for the data subject or to determine eligibility or suitability for services from other programs;
- (b) to local and state welfare agencies for monitoring the eligibility of the participant for assistance programs, or for any employment or training program administered by those agencies.

History: 1988 c 598 s 2

DATA MAINTAINED ONLY BY POLITICAL SUBDIVISIONS

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.

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; 1987 c 351 s 12

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

13.511 LODGING TAX DATA.

Data, other than basic taxpayer identification data, collected from taxpayers under a lodging tax ordinance are nonpublic.

History: 1990 c 573 s 8

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

13.521 TRANSPORTATION SERVICE DATA.

Personal, medical, financial, familial, or locational information data pertaining to applicants for or users of services providing transportation for the disabled or elderly, with the exception of the name of the applicant or user of the service, are private.

History: 1990 c 573 s 9

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

13.531 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

13.54 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 commencement 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 sec-

tion 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

13.551 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 469.065: 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; 1989 c 209 art 2 s 1

13.552 HUMAN RIGHTS DATA.

Data maintained by the human rights department of a political subdivision, including human rights investigative data and data contained in closed or open case files, are classified the same as and administered in accordance with chapter 363.

History: 1989 c 351 s 7

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 [Repealed, 1987 c 268 art 6 s 53]

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 management studies, audits, reviews, consultations, or investigations 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 a report 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; 1989 c 351 s 8

13.641 [Repealed, 1990 c 573 s 23]

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

13.643 DEPARTMENT OF AGRICULTURE DATA.

The following data on applicants, collected by the department of agriculture in its sustainable agriculture revolving loan and grant programs under sections 17.115 and 17.116, are private or nonpublic: nonfarm income; credit history; insurance coverage; machinery and equipment list; financial information; and credit information requests.

History: 1990 c 573 s 10

13.644 STATE AUDITOR'S DATA.

(a) Data collected by the office of the state auditor relating to an audit are protected nonpublic data or confidential data until the final report of the audit has been completed or the audit is no longer being actively pursued.

(b) Data collected by the office of the state auditor that could reasonably be used to determine the identity of an individual supplying data for an audit are private, if the data supplied by the individual was needed for an audit or was provided to initiate an audit, and the individual would not have provided the data to the state auditor without an assurance that the individual's identity would remain private.

History: 1990 c 573 s 11

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;
- (c) consumer complaint data, other than that data classified as confidential, including consumers' complaints against businesses and follow-up investigative materials;
- (d) investigative data, obtained in anticipation of, or in connection with litigation or an administrative proceeding where the investigation is not currently active; and
- (e) data collected by the consumer division of the attorney general's office in its administration of the home protection hot line including: the name, address, and phone number of the consumer; the name and address of the mortgage company; the total amount of the mortgage; the amount of money needed to bring the delinquent mortgage current; the consumer's place of employment; the consumer's total family income; and the history of attempts made by the consumer to renegotiate a delinquent mortgage.

Subd. 2. Confidential data. The following data created, collected and maintained by the office of the attorney general are classified as confidential, pursuant to section 13.02, subdivision 3: data acquired through communications made in official confidence to members of the attorney general's staff where the public interest would suffer by disclosure of the data.

Subd. 3. Public data. Data describing the final disposition of disciplinary proceedings held by any state agency, board or commission are classified as public, pursuant to section 13.02, subdivision 15.

History: 1981 c 311 s 35,39; 1982 c 545 s 24; 1985 c 298 s 20

13.66 CORRECTIONS OMBUDSMAN DATA.

Subdivision 1. Private data. The following data maintained by the ombudsman for corrections are classified as private, pursuant to section 13.02, subdivision 12:

- (a) All data on individuals pertaining to contacts made by clients seeking the assistance of the ombudsman, except as specified in subdivisions 2 and 3;
- (b) Data recorded from personal and phone conversations and in correspondence between the ombudsman's staff and persons interviewed during the course of an investigation;
- (c) Client index cards;
- (d) Case assignment data; and
- (e) Monthly closeout data.

Subd. 2. Confidential data. The following data maintained by the ombudsman are classified as confidential, pursuant to section 13.02, subdivision 3: the written summary of the investigation to the extent it identifies individuals.

Subd. 3. Public data. The following data maintained by the ombudsman are classified as public, pursuant to section 13.02, subdivision 15: client name, client location; and the inmate identification number assigned by the department of corrections.

History: 1981 c 311 s 33,39; 1982 c 545 s 24

13.67 EMPLOYEE RELATIONS DATA.

The following data collected, created, or maintained by the department of employee relations are classified as nonpublic data pursuant to section 13.02, subdivision 9:

- (a) The commissioner's plan prepared by the department, pursuant to section 3.855, which governs the compensation and terms and conditions of employment for employees not covered by collective bargaining agreements until the plan is submitted to the legislative commission on employee relations;
- (b) Data pertaining to grievance or interest arbitration that has not been presented to the arbitrator or other party during the arbitration process;
- (c) Notes and preliminary drafts of reports prepared during personnel investigations and personnel management reviews of state departments and agencies;
- (d) The managerial plan prepared by the department pursuant to section 43A.18 that governs the compensation and terms and conditions of employment for employees in managerial positions, as specified in section 43A.18, subdivision 3, and for employees in the career executive service pursuant to section 43A.18, subdivision 3, clause (c), until the plan is submitted to the legislative commission on employee relations; and
- (e) Claims experience and all related information received from carriers and claims administrators participating in either the state group insurance plan or the public employees insurance plan as defined in chapter 43A, and survey information collected from employees and employers participating in these plans, except when the department determines that release of the data will not be detrimental to the plan.

History: 1981 c 311 s 34,39; 1982 c 545 s 24; 1984 c 436 s 29; 1988 c 670 s 2

13.671 IRON RANGE RESOURCES AND REHABILITATION BOARD DATA.

Subdivision 1. Nonpublic data. The following data that are submitted to the commissioner of the iron range resources and rehabilitation board by businesses that are requesting financial assistance are nonpublic data: the identity of the business and financial information about the business including, but not limited to, credit reports, financial statements, net worth calculations, business plans, income and expense projections, customer lists, and market and feasibility studies not paid for with public funds.

Subd. 2. Public data. Data submitted to the commissioner under subdivision 1 become public data upon submission of the request for financial assistance to the iron

range resources and rehabilitation board except that the following data remain nonpublic: business plans, income and expense projections, customer lists, and market and feasibility studies not paid for with public funds.

History: 1989 c 351 s 9

13.68 ENERGY AND FINANCIAL DATA AND STATISTICS.

Subdivision 1. **Nonpublic data.** Energy and financial data, statistics, and information furnished to the director of public service development by a coal supplier or petroleum supplier, or information on individual business customers of a public utility pursuant to section 216C.16 or 216C.17, either directly or through a federal department or agency are classified as nonpublic data as defined by section 13.02, subdivision 9.

Subd. 2. **Energy audit data.** Data contained in copies of bids, contracts, letters of agreement between utility companies and third party auditors and firms, and in utility statements or documents showing costs for employee performance of energy audits which are received by the director of public service in order to arbitrate disputes arising from complaints concerning the award of contracts to perform energy conservation audits are classified as protected nonpublic data not on individuals as defined by section 13.02, subdivision 13.

History: 1981 c 85 s 1; 1981 c 311 s 39; 1981 c 356 s 248; 1982 c 545 s 7,24; 1983 c 231 s 1; 1983 c 289 s 115 subd 1; 1Sp1985 c 13 s 78; 1987 c 312 art 1 s 10 subds 1,2

13.69 PUBLIC SAFETY DATA.

Subdivision 1. **Classifications.** (a) The following government data of the department of public safety are private data:

(1) medical data on driving instructors, licensed drivers, and applicants for parking certificates and special license plates issued to physically handicapped persons; and
(2) social security numbers in driver's license and motor vehicle registration records, except that social security numbers must be provided to the department of revenue for purposes of tax administration.

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

Subd. 2. **Photographic negatives.** Photographic negatives obtained by the department of public safety in the process of issuing drivers licenses or Minnesota identification cards shall be private data on individuals pursuant to section 13.02, subdivision 12.

History: 1981 c 311 s 18,37,39; 1982 c 545 s 24; 1990 c 573 s 12

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

13.70 [Repealed, 1989 c 184 art 1 s 20]

13.71 DEPARTMENT OF COMMERCE DATA.

Subdivision 1. **Surplus line insurance data.** All data appearing on copies of surplus line insurance policies collected by the department of commerce pursuant to sections 60A.195 to 60A.209 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.

Subd. 6. **Comprehensive health insurance data.** The following data on eligible persons and enrollees of the state comprehensive health insurance plan are classified as private: all data collected or maintained by the Minnesota comprehensive health association, the writing carrier, and the department of commerce.

The Minnesota comprehensive health association is considered a state agency for purposes of this chapter.

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

- (1) the board authorizes the disclosure;
- (2) no individual may be identified in the actuarial or research report;
- (3) materials allowing an individual to be identified are returned or destroyed as soon as they are no longer needed; and
- (4) the actuarial or research organization agrees not to disclose the information unless the disclosure would be permitted under this chapter if made by the association.

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; 1987 c 384 art 2 s 1; 1990 c 523 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. [Repealed, 1988 c 544 s 27; 1988 c 670 s 14]

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.

Subd. 6. **Complaint data.** Names of complainants, complaint letters, and other unsolicited data furnished to the department of transportation by a person other than the data subject or department employee, which provide information that a person who is subject to chapter 221 or rules adopted under that chapter may not be in compliance with those requirements, are classified as confidential data or protected nonpublic data.

Subd. 7. **Public investigative data.** The following data created, collected, or maintained about persons subject to chapter 221 and rules adopted under that chapter are public: data contained in inspection and compliance forms and data contained in audit reports that are not prepared under contract to the federal highway administration.

History: 1981 c 209 s 1; 1981 c 311 s 39; 1982 c 545 s 20,24; 1985 c 298 s 22-24; 1989 c 318 s 1,2

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 179A.12, 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 commissioner 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 commissioner of the bureau of mediation services determines such data are necessary to fulfill the requirements of section 179A.16, or to identify the general nature of or parties to a labor dispute.

History: 1984 c 436 s 31; 1986 c 444; 1987 c 186 s 15; 1987 c 384 art 2 s 1; 1989 c 209 art 2 s 3

13.76 DEPARTMENT OF TRADE 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 an application received by the department of trade 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 until the application is approved.

Subd. 2. **Financial incentive data.** Data collected by the department of trade 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: 1985 c 298 s 25; 1987 c 312 art 1 s 26 subd 2; 1987 c 351 s 17; 1989 c 351 s 10

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

13.771 HARMFUL SUBSTANCE INJURY COMPENSATION BOARD DATA.

The following data on individuals filing claims for compensation with the harmful substance injury compensation board for injury from harmful 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; 1989 c 325 s 78

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 116J.9673, 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; 1987 c 396 art 10 s 8

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.

Subd. 3. **Data on blind vendors.** The commissioner of jobs and training may release the name, business address, and business telephone number of an individual licensed under section 248.07, subdivision 8. The state committee of blind vendors organized in accordance with Code of Federal Regulations, title 34, section 395.14, has access to private data in the department of jobs and training on an individual licensed under section 248.07, subdivision 8, to the extent necessary to complete its duties.

History: 1986 c 337 s 2; 1988 c 670 s 3; 1989 c 86 s 1,2

13.792 MINNESOTA ZOOLOGICAL GARDEN DATA.

The following data maintained by the Minnesota zoological garden are classified as private or nonpublic:

(1) research information about prospects and donors gathered to aid in determining appropriateness of solicitation and level of gift request;

(2) specific data in prospect lists that would identify prospects to be solicited, dollar amounts to be requested, and name of solicitor;

(3) portions of solicitation letters and proposals that identify the prospect being solicited and the dollar amount being requested;

(4) letters, pledge cards, and other responses received from prospective donors in response to solicitations;

(5) portions of thank-you letters and other gift acknowledgment communications that would identify the name of the donor and the specific amount of the gift, pledge, or pledge payment; and

(6) data detailing dates of gifts and specific gift amounts made by donors to the Minnesota zoo.

Names of donors and gift ranges are public data.

History: 1988 c 670 s 4

13.793 NATURAL RESOURCES MINERAL DATA.

Subdivision 1. **Nonpublic data.** Except as provided in subdivision 2, the following data received and maintained by the commissioner of natural resources are nonpublic data:

(1) a letter or other documentation from a person that is supplied to the commissioner before a public lease sale of metallic or other minerals for the purpose of making

suggestions or recommendations about which state lands may be offered for public lease sale; or

(2) a written report or other documentation of private analyses of a state-owned or controlled drill core that is public data and is under the custody of the commissioner.

Subd. 2. **Data become public.** Data under subdivision 1, clause (1), become public data three years after the date the lease sale was held or, if not held, within three years after the date the lease sale was scheduled to be held. Data under subdivision 1, clause (2), become public data 90 days after receipt by the commissioner.

History: 1989 c 182 s 1

13.794 INTERNAL AUDITING DATA.

Subdivision 1. **Confidential data or protected nonpublic data.** Data, notes, and preliminary drafts of reports created, collected, and maintained by the internal audit offices of state agencies or persons performing audits for state agencies and relating to an audit or investigation are confidential data on individuals or protected nonpublic data until the final report has been published or the audit or investigation is no longer being pursued actively.

Subd. 2. **Private data on individuals.** Data on an individual supplying information for an audit or investigation, that could reasonably be used to determine the individual's identity, are private data on individuals if the information supplied was needed for an audit or investigation and would not have been provided to the internal audit office or person performing audits without an assurance to the individual that the individual's identity would remain private.

History: 1989 c 351 s 11

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. 5a. Child abuse identity data. Active or inactive investigative data that identify a victim of child abuse or neglect reported under section 626.556 are private data on individuals. Active or inactive investigative data that identify a reporter of child abuse or neglect under section 626.556 are confidential data on individuals, unless the subject of the report compels disclosure under section 626.556, subdivision 11.

Subd. 5b. Inactive child abuse data. Investigative data that become inactive under subdivision 5, clause (a) or (b), and that relate to the alleged abuse or neglect of a child by a person responsible for the child's care, as defined in section 626.556, subdivision 2, are private data.

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 or protected nonpublic 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 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;

(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; or

(e) When access to the data would reveal the identity of a deceased person whose body was unlawfully removed from a cemetery in which it was interred.

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; 1988 c 625 s 1; 1989 c 177 s 1; 1989 c 351 s 12,13; 1990 c 402 s 1

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 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.

Subd. 3. **Unidentified individual; public data.** A county coroner or medical examiner unable during an investigation to identify a deceased individual, may release to the public any relevant data which would assist in ascertaining identity.

Subd. 4. **Investigative data.** Data created or collected by a county coroner or medical examiner which is part of an active investigation mandated by chapter 390, or any other general or local law relating to coroners or medical examiners is confidential data or protected nonpublic data, until the completion of the coroner's or medical examiner's final summary of findings at which point the data collected in the investigation and the final summary thereof shall become private or nonpublic data, except that nothing in this subdivision shall be construed to make not public the data elements identified in subdivision 2 at any point in the investigation or thereafter.

Subd. 5. **Other data.** All other medical examiner data on deceased individuals are nonpublic and shall not be disclosed except pursuant to the provisions of chapter 390, or any other general or local law on county coroners or medical examiners, or pursuant to a valid court order.

Subd. 6. **Other data.** Unless a statute specifically provides a different classification, all other data created or collected by a county coroner or medical examiner that is not data on deceased individuals or the manner and circumstances of their death is public pursuant to section 13.03.

Subd. 7. **Court review.** Any person may petition the district court located in the county where medical examiner data is being maintained to authorize disclosure of nonpublic, protected nonpublic, or confidential medical examiner data. The petitioner shall notify the medical examiner or coroner. The court may notify other interested persons and require their presence at a hearing. A hearing may be held immediately if the parties agree, and in any event shall be held as soon as practicable. After examining the data in camera, the court may order disclosure of the data if it determines that disclosure would be in the public interest.

Subd. 8. **Access to nonpublic data.** The data made nonpublic by this section are accessible to the legal representative of the decedent's estate and to the decedent's surviving spouse, parents, children, and siblings and their legal representatives.

Subd. 9. **Change in classification.** Data classified as nonpublic, protected nonpublic, or confidential by this section shall be classified as public 30 years after the date of death of the decedent.

History: 1981 c 311 s 24,39; 1982 c 545 s 24; 1985 c 298 s 37; 1986 c 444; 1987 c 49 s 1; 1989 c 175 s 2; 1990 c 573 s 13-17

13.84 COURT SERVICES DATA.

Subdivision 1. **Definition.** As used in this section "court services data" means data that are created, collected, used or maintained by a court services department, parole or probation authority, correctional agency, or by an agent designated by the court to perform studies or other duties and that are on individuals who are or were defendants,

parolees or probationers of a municipal, district or county court, participants in diversion programs, petitioners or respondents to a family court, or juveniles adjudicated delinquent and committed, detained prior to a court hearing or hearings, or found to be dependent or neglected and placed under the supervision of the court.

Subd. 2. **General.** Unless the data is summary data or a statute, including sections 609.115 and 257.70, specifically provides a different classification, the following court services data are classified as private pursuant to section 13.02, subdivision 12:

(a) Court services data on individuals gathered at the request of a municipal, district or county court to determine the need for any treatment, rehabilitation, counseling, or any other need of a defendant, parolee, probationer, or participant in a diversion program, and used by the court to assist in assigning an appropriate sentence or other disposition in a case;

(b) Court services data on petitioners or respondents to a family court gathered at the request of the court for purposes of, but not limited to, individual, family, marriage, chemical dependency and marriage dissolution adjustment counseling, including recommendations to the court as to the custody of minor children in marriage dissolution cases;

(c) Court services data on individuals gathered by psychologists in the course of providing the court or its staff with psychological evaluations or in the course of counseling individual clients referred by the court for the purpose of assisting them with personal conflicts or difficulties.

Subd. 3. **Third party information.** Whenever, in the course of gathering the private data specified above, a psychologist, probation officer or other agent of the court is directed by the court to obtain data on individual defendants, parolees, probationers, or petitioners or respondents in a family court, and the source of that data provides the data only upon the condition of its being held confidential, that data and the identity of the source shall be confidential data on individuals, pursuant to section 13.02, subdivision 3.

Subd. 4. **Probation data.** Progress reports and other reports and recommendations provided at the request of the court by parole or probation officers for the purpose of determining the appropriate legal action or disposition regarding an individual on probation are confidential data on individuals.

Subd. 5. **Disclosure.** Private or confidential court services data shall not be disclosed except:

(a) Pursuant to section 13.05;

(b) Pursuant to a statute specifically authorizing disclosure of court services data;

(c) With the written permission of the source of confidential data;

(d) To the court services department, parole or probation authority or correctional agency having statutorily granted supervision over the individual subject of the data;

(e) Pursuant to subdivision 5a; or

(f) Pursuant to a valid court order.

Subd. 5a. **Public benefit data.** (a) The responsible authority or its designee of a parole or probation authority or correctional agency may release private or confidential court services data related to: (1) criminal acts to any law enforcement agency, if necessary for law enforcement purposes; and (2) criminal acts or delinquent acts to the victims of criminal or delinquent acts to the extent that the data are necessary for the victim to assert the victim's legal right to restitution. In the case of delinquent acts, the data that may be released include only the juvenile's name, address, date of birth, and place of employment; the name and address of the juvenile's parents or guardians; and the factual part of police reports related to the investigation of the delinquent act.

(b) A parole or probation authority, a correctional agency, or agencies that provide correctional services under contract to a correctional agency may release to a law enforcement agency the following data on defendants, parolees, or probationers: current address, dates of entrance to and departure from agency programs, and dates and times of any absences, both authorized and unauthorized, from a correctional program.

(c) The responsible authority or its designee of a juvenile correctional agency may release private or confidential court services data to a victim of a delinquent act to the extent the data are necessary to enable the victim to assert the victim's right to request notice of release under section 611A.06. The data that may be released include only the name, home address, and placement site of a juvenile who has been placed in a juvenile correctional facility as a result of a delinquent act.

Subd. 6. **Public data.** The following court services data on adult individuals is public:

(a) name, age, sex, occupation and the fact that an individual is a parolee, probationer or participant in a diversion program, and if so, at what location;

(b) the offense for which the individual was placed under supervision;

(c) the dates supervision began and ended and the duration of supervision;

(d) court services data which was public in a court or other agency which originated the data;

(e) arrest and detention orders, orders for parole or probation revocation and the reasons for revocation;

(f) the conditions of parole, probation or participation and the extent to which those conditions have been or are being met;

(g) identities of agencies, units within agencies and individuals providing supervision; and

(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; 1988 c 670 s 5,6; 1989 c 278 s 1; 1990 c 573 s 18; 1990 c 579 s 1

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 detention 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.

Subd. 5. **Public benefit data.** The responsible authority or its designee of any agency that maintains corrections and detention data may release private or confidential corrections and detention data to any law enforcement agency, if necessary for law enforcement purposes, or to the victim of a criminal act where the data are necessary for the victim to assert the victim's legal right to restitution.

History: 1981 c 311 s 39; 1982 c 545 s 17,24; 1988 c 670 s 7

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.

Subdivision 1. **Mental retardation.** Data on clients and residents of facilities licensed pursuant to sections 144.50 to 144.58, 245A.01 to 245A.16, 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: 1985 c 298 s 42; 1987 c 236 s 1; 1989 c 209 art 2 s 1

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

CHAPTER 12

DIVISION OF EMERGENCY MANAGEMENT

12.14 Assessment for nuclear safety preparedness act.

12.14 ASSESSMENT FOR NUCLEAR SAFETY PREPAREDNESS ACT.

Any person, firm, corporation, or association in the business of owning or operating a nuclear fission electrical generating plant located in Minnesota, shall pay quarterly assessments to cover the cost of nuclear power plant emergency response plans and other programs necessary to deal with incidents resulting from the operation of nuclear fission electrical generating plants. An assessment of up to one quarter of the projected annual cost shall be paid to the commissioner of public safety on July 1 of each year. An assessment shall be billed by the commissioner based on actual costs for each quarter of the fiscal year starting with the first quarter ending September 30. The July 1 assessment shall be deducted from the final quarterly billing for the fiscal year. The assessment collected shall be credited to the nuclear safety preparedness account in the special revenue fund.

History: 1991 c 233 s 37

CHAPTER 13

GOVERNMENT DATA PRACTICES

13.01	Government data.	13.55	Convention center data.
13.03	Access to government data.	13.645	Aquaculture permit data.
13.08	Civil remedies.	13.71	Department of commerce data.
13.40	Library and historical data.	13.72	Transportation department data.
13.43	Personnel data.	13.793	Natural resources mineral data.
13.46	Welfare data.	13.82	Comprehensive law enforcement data.
13.48	Award data.	13.83	Medical examiner data.
13.51	Assessor's data.	13.84	Court services data.
13.54	Housing agency data.		

13.01 GOVERNMENT DATA.

[For text of subs 1 and 2, see M.S.1990]

Subd. 3. Scope. This chapter regulates the collection, creation, storage, maintenance, dissemination, and access to government data in state agencies, statewide systems, and political subdivisions. It establishes a presumption that government data are public and are accessible by the public for both inspection and copying unless there is federal law, a state statute, or a temporary classification of data that provides that certain data are not public.

History: 1991 c 319 s 1

13.03 ACCESS TO GOVERNMENT DATA.

[For text of subs 1 and 2, see M.S.1990]

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 data upon request. If a person requests copies or electronic transmittal of the data to the person, the responsible authority may require the requesting person to pay the actual costs of searching for and retrieving government data, including the cost of employee time, and for making, certifying, compiling, and electronically transmitting the copies of the data or the data, but may not charge for separating public from not public data. If the responsible authority is a state agency, the amount received is appropriated to the agency and added to the appropriations from which the costs were paid. 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 a substantial and discrete portion of or 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 subs 4 to 8, see M.S.1990]

Subd. 9. Effect of changes in classification of data. Unless otherwise expressly provided by a particular statute, the classification of data is determined by the law applicable to the data at the time a request for access to the data is made, regardless of the data's classification at the time it was collected, created, or received.

History: 1991 c 319 s 2; 1991 c 345 art 1 s 44

13.08 CIVIL REMEDIES.

[For text of subs 1 to 5, see M.S.1990]

Subd. 6. Immunity from liability; personnel settlement. No cause of action may arise as a result of the release of data contained in a termination or personnel settlement agreement if the data were not public data as defined in section 13.02, at the time the agreement was executed but become public data under a law enacted after execution.

History: 1991 c 319 s 30

13.40 LIBRARY AND HISTORICAL DATA.

Subdivision 1. Records subject to this chapter. (a) For purposes of this section, "historical records repository" means an archives or manuscript repository operated by any state agency, statewide system, or political subdivision whose purpose is to collect and maintain data to further the history of a geographic or subject area. The term does not include the state archives as defined in section 138.17, subdivision 1, clause (5).

(b) Data collected, maintained, used, or disseminated by a library or historical records repository operated by any state agency, political subdivision, or statewide system shall be administered in accordance with the provisions of this chapter.

Subd. 2. Private data; records of borrowing. That portion of data 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, under section 13.02, subdivision 12, and shall not be disclosed except pursuant to a valid court order.

Subd. 3. Nongovernmental data. Data held in the custody of a historical records repository that were not originally created, received, maintained, or disseminated by a state agency, statewide system, or political subdivision are not government data. These data are accessible to the public unless:

- (1) the data are contributed by private persons under an agreement that restricts access, to the extent of any lawful limitation; or
- (2) access would significantly endanger the physical or organizational integrity of the data.

History: 1991 c 319 s 3

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 or an applicant for an advisory board or commission.

Subd. 2. Public data. (a) Except for employees described in subdivision 5, the following personnel data on current and former employees, volunteers, and independent contractors of a state agency, statewide system, or political subdivision and members

of advisory boards or commissions is public: name; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; job title; job description; education and training background; previous work experience; date of first and last employment; the existence and status of any complaints or charges against the employee, whether or not the complaint or charge resulted in a disciplinary action; the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body; the terms of any agreement settling administrative or judicial proceedings; work location; a work telephone number; badge number; honors and awards received; payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data; and city and county of residence.

(b) For purposes of this subdivision, a final disposition occurs when the state agency, statewide system, or political subdivision makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the state agency, statewide system, political subdivision, or arbitrator.

(c) The state agency, statewide system, or political subdivision may display a photograph of a current or former employee to a prospective witness as part of the state agency's, statewide system's, or political subdivision's investigation of any complaint or charge against the employee.

[For text of subd 2a, see M.S.1990]

Subd. 3. Public employment. Except for applicants described in subdivision 5, the following personnel data on current and former applicants for employment by a state agency, statewide system or political subdivision or appointment to an advisory board or commission is public: veteran status; relevant test scores; rank on eligible list; job history; education and training; and work availability. Names of applicants shall be private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the appointing authority to be finalists for a position in public employment. For purposes of this subdivision, "finalist" means an individual who is selected to be interviewed by the appointing authority prior to selection. Names and home addresses of applicants for appointment to and members of an advisory board or commission are public.

[For text of subs 4 to 7, see M.S.1990]

History: 1991 c 319 s 4-6

13.46 WELFARE DATA.

[For text of subd 1, see M.S.1990]

Subd. 2. General. (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

- (1) pursuant to section 13.05;
- (2) pursuant to court order;
- (3) pursuant to a statute specifically authorizing access to the private data;
- (4) to an agent of the welfare system, including a law enforcement person, attor-

ney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;

(6) to administer federal funds or programs;

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

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names and social security numbers, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, and the income tax;

(9) to the Minnesota department of jobs and training for the purpose of monitoring the eligibility of the data subject for unemployment compensation, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential facilities as defined in section 245A.02 may be disclosed 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;

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

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education coordinating board to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5).

(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).

[For text of subs 3 to 11, see M.S.1990]

History: 1991 c 292 art 5 s 1

13.48 AWARD DATA.

Financial data on business entities submitted to a state agency, statewide system, or political subdivision for the purpose of presenting awards to business entities for achievements in business development or performance are private data on individuals or nonpublic data.

History: 1991 c 319 s 7

13.51 ASSESSOR'S DATA.

[For text of subd 1, see M.S.1990]

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;

(e) projected vacancy factor for the current year; and

(f) lease information.

Subd. 3. Data on income of individuals. Income information on individuals collected and maintained by political subdivisions to determine eligibility of property for classification 4c under section 273.13, subdivision 25, paragraph (c), is private data on individuals as defined in section 13.02, subdivision 12.

History: 1991 c 291 art 1 s 1,2

13.54 HOUSING AGENCY DATA.

[For text of subs 1 to 4, see M.S.1990]

Subd. 5. Private data on individuals. Income information on individuals collected and maintained by a housing agency to determine eligibility of property for classification 4c under section 273.13, subdivision 25, paragraph (c), is private data on individuals as defined in section 13.02, subdivision 12. The data may be disclosed to the county and local assessors responsible for determining eligibility of the property for classification 4c.

History: 1991 c 291 art 1 s 3

13.55 CONVENTION CENTER DATA.

Subdivision 1. Not public classification. The following data received, created, or maintained by or for publicly owned and operated convention facilities, civic center authorities, or the metropolitan sports facilities commission are classified as nonpublic data pursuant to section 13.02, subdivision 9; or private data on individuals pursuant to section 13.02, subdivision 12:

(a) a letter or other documentation from any person who makes inquiry to or who is contacted by the facility regarding the availability of the facility for staging events;

(b) identity of firms and corporations which contact the facility;

(c) type of event which they wish to stage in the facility;

(d) suggested terms of rentals; and

(e) responses of authority staff to these inquiries.

Subd. 2. Public data. The data made not public by the provisions of subdivision 1 shall become public upon the occurrence of any of the following:

(a) five years elapse from the date on which the lease or contract is entered into between the facility and the inquiring party or parties or the event which was the subject of inquiry occurs at the facility, whichever occurs earlier;

(b) the event which was the subject of inquiry does not occur; or

(c) the event which was the subject of inquiry occurs elsewhere.

Subd. 3. Exhibitor data. The names, addresses, and contact persons for individual exhibitors at an exhibition may be withheld at the discretion of the facility to protect the competitive position of the facility or its customers.

History: 1991 c 319 s 8

13.645 AQUACULTURE PERMIT DATA.

The following data collected and maintained by an agency issuing aquaculture permits under sections 17.47 to 17.498 are classified as private or nonpublic: the names and addresses of customers provided in the permit application.

History: 1991 c 309 s 1

13.71 DEPARTMENT OF COMMERCE DATA.*[For text of subs 1 to 6, see M.S.1990]*

Subd. 7. **Classification of PPO agreement data.** Data described in section 62E.13, subdivision 11, are nonpublic data.

History: 1991 c 165 s 1

13.72 TRANSPORTATION DEPARTMENT DATA.

Subdivision 1. **Estimates for construction projects.** An estimate of the cost of a construction project of the Minnesota department of transportation prepared by department employees is nonpublic data and is not available to the public from the time of final design until the project is awarded.

[For text of subs 2 to 7, see M.S.1990]

History: 1991 c 339 s 2

13.793 NATURAL RESOURCES MINERAL DATA.*[For text of subd 1, see M.S.1990]*

Subd. 2. **Data become public.** (a) Data under subdivision 1, clause (1), become public data three years after the date the lease sale was held or, if not held, within three years after the date the lease sale was scheduled to be held. Except as provided in paragraph (b), data under subdivision 1, clause (2), become public data one year after receipt by the commissioner.

(b) If data under subdivision 1, clause (2), relate to private land that is under mineral lease to the person submitting the data, and the mineral lease is in force at the time the data are submitted, the data become public data only after the mineral lease is no longer in force. The person submitting the data that relate to private land that is under mineral lease shall provide to the commissioner at the time the data are submitted and annually thereafter, in a format designated by the commissioner, satisfactory evidence that the mineral lease is in effect. If, in a given year, satisfactory evidence that the mineral lease is still in effect is not provided to the commissioner before the anniversary date of receipt of the data by the commissioner, the data immediately become public data.

History: 1991 c 228 s 1

13.82 COMPREHENSIVE LAW ENFORCEMENT DATA.*[For text of subs 1 to 3, see M.S.1990]*

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 including, but not limited to, responses to traffic accidents, 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;

(j) response or incident report number; and

(k) dates of birth of the parties involved in a traffic accident.

[For text of subs 5 to 9, see M.S.1990]

Subd. 10. **Protection of identities.** A law enforcement agency or a law enforcement dispatching agency working under direction of 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 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;

(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;

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

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

[For text of subs 11 to 14, see M.S.1990]

Subd. 14a. **Data on registered criminal offenders.** Data described in section 243.166 shall be classified as described in that section.

Subd. 14b. **Data in missing children bulletins.** Data described in section 299C.54 shall be classified as described in that section.

[For text of subs 15 and 16, see M.S.1990]

History: 1991 c 285 s 1,2; 1991 c 319 s 9,10

13.83 MEDICAL EXAMINER DATA.*[For text of subs 1 to 3, see M.S.1990]*

Subd. 4. **Investigative data.** Data created or collected by a county coroner or medical examiner which is part of an active investigation mandated by chapter 390, or any other general or local law relating to coroners or medical examiners is confidential data or protected nonpublic data, until the completion of the coroner's or medical examiner's final summary of findings at which point the data collected in the investigation and the final summary thereof shall become private or nonpublic data, unless the final summary and the death certificate indicate the manner of death is homicide, undetermined, or pending investigation and there is an active law enforcement investigation, within the meaning of section 13.82, subdivision 5, relating to the death of the deceased indi-

vidual. If there is an active law enforcement investigation of a possible homicide, the data remain confidential or protected nonpublic. However, upon review by the county attorney of the jurisdiction in which the law enforcement investigation is active, the data may be released to persons described in subdivision 8 if the county attorney determines release would not impede the ongoing investigation. When the law enforcement investigation becomes inactive, the data shall become private or nonpublic data. Nothing in this subdivision shall be construed to make not public the data elements identified in subdivision 2 at any point in the investigation or thereafter.

[For text of subs 5 to 7, see M.S.1990]

Subd. 8. Access to nonpublic data. The data made nonpublic by this section are accessible to the physician who attended the decedent at the time of death, the legal representative of the decedent's estate and to the decedent's surviving spouse, parents, children, and siblings and their legal representatives.

[For text of subd 9, see M.S.1990]

Subd. 10. Classification of certain medical examiner and coroner data. Data described in sections 383B.225, subdivision 6, 390.11, subdivision 7, and 390.32, subdivision 6, shall be classified as described therein.

History: 1991 c 319 s 11-13

13.84 COURT SERVICES DATA.

[For text of subs 1 to 7, see M.S.1990]

Subd. 8. Child abuse data; release to child protective services. A court services agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under section 626.556 to a local welfare agency if:

(1) the local welfare agency has an active case involving a common client or clients who are the subject of the data; and

(2) the data are necessary for the local welfare agency to effectively process the agency's case, including investigating or performing other duties relating to the case required by law.

Court services data disclosed under this subdivision may be used only for purposes of the active case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.

History: 1991 c 319 s 14

CHAPTER 14

ADMINISTRATIVE PROCEDURE

14.03	Nonapplicability.	14.29	Authority for use of emergency rules procedure; expiration of authority.
14.07	Form of rule.	14.38	Effect of adoption of rules.
14.08	Revisor of statutes approval of rule form.	14.47	Publication in compiled form.
14.18	Publication of adopted rule; effective date.		

14.03 NONAPPLICABILITY.

[For text of subs 1 and 2, see M.S.1990]

Subd. 3. Rulemaking procedures. The definition of a rule in section 14.02, subdivision 4, does not include:

(1) rules concerning only the internal management of the agency or other agencies that do not directly affect the rights of or procedures available to the public;

(2) rules of the commissioner of corrections relating to the placement and supervision of inmates serving a supervised release term, the internal management of institutions under the commissioner's control, and rules adopted under section 609.105 governing the inmates of those institutions;

(3) rules relating to weight limitations on the use of highways when the substance of the rules is indicated to the public by means of signs;

(4) opinions of the attorney general;

(5) the systems architecture plan and long-range plan of the state education management information system provided by section 121.931;

(6) the data element dictionary and the annual data acquisition calendar of the department of education to the extent provided by section 121.932;

(7) the occupational safety and health standards provided in section 182.655; or

(8) revenue notices and tax information bulletins of the commissioner of revenue.

History: 1991 c 259 s 3; 1991 c 291 art 21 s 1

NOTE: The amendments to subdivision 3 found in Laws 1991, chapter 259, section 3, are effective July 1, 1992. See Laws 1991, chapter 259, section 25.

14.07 FORM OF RULE.

Subdivision 1. Rule drafting assistance provided. (a) The revisor of statutes shall:

(1) maintain an agency rules drafting department to draft or aid in the drafting of rules or amendments to rules for any agency in accordance with subdivision 3 and the objective or other instructions which the agency shall give the revisor; and,

(2) prepare and publish an agency rules drafting guide which shall set out the form and method for drafting rules and amendments to rules, and to which all rules shall comply.

(b) An agency may not contract with an attorney, consultant, or other person either to provide rule drafting services to the agency or to advise on drafting unless the revisor determines that special expertise is required for the drafting and the expertise is not available from the revisor or the revisor's staff.

Subd. 2. Approval of form. No agency decision to adopt a rule or emergency rule, including a decision to amend or modify a proposed rule or proposed emergency rule, shall be effective unless the agency has presented the rule to the revisor of statutes and the revisor has certified that its form is approved.

[For text of subs 3 to 7, see M.S.1990]

History: 1991 c 345 art 1 s 45,46

Appendix F
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