

House Research Act Summary

CHAPTER: 468

SESSION: 2000 Regular Session

TOPIC: Omnibus Data Practices Act

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- 1 **Headnotes.** Amends chapter 13 to provide that headnotes for paragraphs in that chapter merely indicate content and are not part of the statute. Parallels a provision in Minnesota Statutes chapter 645 on headnotes for sections and subdivisions.
- 2 **Provisions coded in other chapters.** States that sections referenced in chapter 13 that are coded outside that chapter, classify government data, restrict access to it, or involve data sharing. Specifies that those sections are governed by chapter 13, except that the judiciary's records are governed by court rule and except as otherwise provided by law.
- 3 **Government entity.** Adds a definition of "government entity" to chapter 13.
- 4 **Request for access to data.** Deals with access to public government data in a computer storage medium. Requires the government entity to provide the data in computer form on request if it can reasonably make a copy or have a copy made. Does not require the government entity to provide the data in an electronic format or program different from the one in which it maintains the data. Allows the government entity to require the requester to pay the actual cost of providing the copy.
- 5 **Copyright or patent of government data.** Authorizes a government entity to enforce a copyright or patent computer software without statutory authority. Restates prior law, which says nothing in the statute prevents taking these actions.
- 6 **Identification or justification.** Unless authorized by statute, government entities may not require persons to identify themselves, state a reason for requesting data, or justify a request for public data. Permits asking a person to provide identifying or clarifying information for the sole purpose of facilitating data access.
- 7 **Data practices compliance official.** By December 1, 2000, requires each government entity to appoint an employee to act as the entity's compliance official. The responsible authority for the entity may fill this role. The public may direct to this person questions or concerns about data

access or other data problems.

8 **Action to compel compliance.** Modifies provisions dealing with an action to compel compliance with the act. Any person seeking to enforce the person's rights or to obtain access to data may impose a civil penalty for noncompliance of up to \$300, payable to the state general fund. Courts must forward copies of orders to the commissioner of administration. In determining whether to assess a civil penalty, the court would consider whether the government entity has substantially complied with general data practices requirements in chapter 13. Statutes to be considered are specified.

9 **Administrative remedies.**

Subd. 1. Complaints. Lets anyone file with the commissioner of administration a data practices compliance complaint about a government entity. Requires the commissioner to specify the form of complaint. Requires the commissioner to investigate whether the complaint is valid or whether an alternative dispute resolution process exists for the complaint. Requires the commissioner to dismiss the complaint if it is not valid or an alternative process would be more appropriate. If the commissioner finds the complaint valid, the actions in subdivision 2 may be used. Requires the commissioner to either dismiss the complaint or refer it under subdivision 2 within 20 days after receiving the request. Lets the commissioner extend this deadline another 30 days for good cause and upon written notice to the person with the complaint.

Subd. 2. Informal resolution of complaint. Allows the commissioner to informally resolve a complaint or, with both parties' consent, refer it to the office of dispute resolution or the office of administrative hearings to arbitrate or mediate.

10 **Uses of data.** Provides that a school district, its agents, and employees who in good faith use and share juvenile data they receive pursuant to the juvenile statutes are immune from criminal or civil liability that might otherwise result from their actions.

11 **Private data; designated address and telephone.** Allows all licensees to designate an alternate address for licensing activities and provides that designating an address constitutes consent to service of process on the licensing agency. Prior law applied only to licensed health occupations and did not cover service of process.

12 **St. Paul Housing and Redevelopment Authority.**

Subd. 1. Private and nonpublic data. Makes private the following data on individuals and business entities requesting financial assistance: financial statements, credit reports, business plans, income and expense projections, customer lists, balance sheets, income tax returns, and design, market, and feasibility studies not paid for with public funds.

Subd. 2. Public data. Keeps some of the data under subdivision 1 private if the authority provides financial assistance to the individual or business. Items that become public are income and expense projections related to the financial assistance provided, financial statements, credit reports, and balance sheets. Items kept private are business plans, income and expense projections not related to the financial assistance, customer lists, income tax returns, and design/market/feasibility studies not paid for with public funds.

13 **St. Paul economic assistance data.** Identical to section 12 except it applies to data submitted to the city.

14 **Disclosure.** Amends the court services data section of the Minnesota Government Data Practices Act. Authorizes disclosure of private or confidential court services data on an individual to both local and state correctional facilities and agencies.

15 **Public data.** Makes public the date of birth of an adult on whom court services data exists.

16 **HMO examinations.** Amends section 13.99, subd. 19. Modifies a cross-reference in the

Government Data Practices Act to conform with other changes made in the act.

17 Adds to section 13.99: references to the new classifications in sections 21 to 23.

18 **Classification of data.** Adds subdivision 4a to section 62D.14. Classifies any data obtained by the commissioner of health in the course of regulating HMOs, as private data on individuals or as nonpublic data. Protects the data and allows it to be released consistent with law on protection and release of information obtained by the commissioner of commerce in the course of supervising and examining insurance companies.

19 **Disclosure of information held by health maintenance organizations.**

Subd. 1. Personal and privileged information. Provides cross-references in chapter 62D, which governs HMOs, to provisions in chapter 72A that regulate the ability of HMOs and other insurers to disclose personal information and privileged information.

Subd. 2. Health data or information. Specifies that an HMO is prohibited from disclosing any individually identifiable data or information regarding the diagnosis, treatment, or health of any enrollee or any application obtained, except in the following circumstances:

- to the commissioner of health to regulate HMOs, provided the data does not identify particular patients or clients or contain unique personal identifiers;
- with the enrollee's or applicant's consent;
- pursuant to a statute or court order for the production of evidence or discovery;
- as part of litigation or a claim between the subject of the data and a provider or HMO, when the data is pertinent;
- to meet the requirements of contracts for prepaid medical services with DHS;
- to meet the requirements of contracts for benefit plans with the commissioner of employee relations; or
- as otherwise authorized by statute.

Prohibits benefit contracts under chapter 43A from authorizing dissemination of individually identifiable health records, unless required to carry out the contract and employees are informed.

Also allows the commissioner of health to obtain data that identifies patients or clients by name when the data are needed for a case involving a suspected violation of law by an HMO. Allows HMOs to claim any statutory privileges against the disclosure of the information that a provider would be entitled to claim. (The content of this subdivision comes from section 62D.14, subdivision 4, which is being repealed. This subdivision differs from the subdivision being repealed by (1) specifying that it governs an HMO's ability to disclose information, while the existing subdivision does not specify to whom it applies; and (2) prohibiting the release of individually identifiable information, rather than classifying the data as private.)

20 **Personal information.** Amends section 72A.491, subdivision 17. In the definition of "personal information" for sections 72A.49 to 72A.505, changes a term used from "health information," a term which is not defined for these sections, to "health record information," a term which is defined. (Health record information is defined in section 72A.491, subdivision 10.)

21 **Data classification.** Provides for the protection of data collected under the Government Data Practices Act for individuals receiving services through community action programs.

22 **Data classification.** Provides for the protection of data collected under the Government Data Practices Act for individuals receiving services through foodshelf programs.

23 **Head Start Program.**

Subd. 1. Department of children, families, and learning. Makes technical changes.

Subd. 2. Data classification. Provides for the protection of data collected under the Government Data Practices Act for individuals receiving services through the Head Start program.

24 **Request for information.** Amends the parent locator statute used in paternity and child support cases. Clarifies that political subdivisions as well as state agencies may be required to provide information to help locate a parent.

25 **Data privacy.** Amends the statute that permits release of private and nonpublic data held by the department of economic security. Adds to the current list: that the department must give the federal Immigration and Naturalization Service (INS) data the department has on specific individuals and employers who are the subject of an INS investigation.

26 **Exchange; labor and industry; revenue.** Expands a provision allowing the exchange of data between the departments of labor and industry and revenue to include taxpayer identity information relating to employees, as well as employers.

27 **Geographic Information Systems (GIS).** Amends the local government tort liability statute. Adds a provision immunizing local governments against claims from alleged or actual inaccuracies in information from geographic information systems (GIS) used by the public, if the local government provides a disclaimer of accuracy at the point of initial contact between the GIS and the public.

States that GIS data is government data. Defines it as data generated by computer and designed to do specified things with geographically referenced information. States that GIS data is accurate for its intended use by a municipality but may be inaccurate for other uses.

28 **Report to commissioner or local correctional agency.** Amends the presentence investigation statute. Requires that when a defendant is sentenced to a local correctional agency or facility, a copy of the presentence investigation report must be provided to the agency or facility.

29 **Sec 36. Pilot project authorized; purpose.** Amends the 1999 session law that created a temporary domestic fatality review team in Hennepin County. States that the team may review cases in which prosecution has been completed or the prosecutor has decided not to pursue the case.

30 **Duties; access to data.** Requires the domestic fatality review team to collect and analyze necessary and appropriate data on deaths by domestic violence. Authorizes the team to compel production of records by district court subpoena. Gives the team access to the following data that is not public:

- inactive law enforcement investigative data;
- autopsy and medical examiner or coroner records;
- social service agency records on the dead victim, the perpetrator, or other victims of the perpetrator; and
- medical records of the victim.

31 **Confidentiality; data privacy.** Persons attending a team meeting must not disclose matters discussed, except to carry out team purposes. Lets the team disclose names of victims in the cases it reviews. Team proceedings or records are protected nonpublic data (not available to the public or any subject of the records). Records are not subject to discovery and cannot be offered in evidence in a civil or criminal matter against a professional, the state, or a county agency arising out of matters reviewed by the team. Material available from other sources is not exempt from discovery or being used as evidence because it was presented at team proceedings. Does not prevent a team member or person who presented information to the team from testifying on matters in the person's own knowledge, but the person cannot be questioned about a good faith presentation to the team or opinions formed because of the review meeting.

- 32 **Immunity.** Gives civil and criminal immunity for acting in good faith and without malice as a member, agent, or employee of the fourth judicial district domestic fatality advisory board, the domestic fatality review team, or a review panel. A complainant has the burden of proving malice or lack of good faith. Exempts from civil or criminal liability: a person or organization that provides information to the team for an investigation in good faith and without malice.
- 33 **Repealer.** Repeals section 62D.14, subdivision 4, which is rewritten as section 62D.14, subdivision 4a.
- 34 **Effective date.** Section 9 creating administrative remedies for noncompliance with the data practices act is effective July 1, 2001. Section 27 on immunity for GIS data is effective immediately and applies to causes of action arising on or after the effective date of the act (May 16, 2000).