

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 1083
Version: First Engrossment

DATE: April 15, 2009

Authors: Mullery

Subject: Omnibus Data Practices

Analyst: Matt Gehring, 651-296-5052

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This bill makes a variety of modifications to data practices law, including changes to the procedures governing temporary classifications, modifications to the treatment of personnel data, human services data clarifications, and multiple miscellaneous policy changes related to data held by various state agencies and boards.

The bill numbers referenced within the summary indicate the original source of the language in that section, and, where applicable, whether the language has been modified from the original bill.

Section

Article 1: General	
1	Limitations on collection and use. Strikes language related to informed consent for release of data for insurance purposes. This language is recodified in section 2 of this article. This section also eliminates a reference to charging a person requesting data the cost of “compiling” copies of the data. (HF 1083 – Mullery)
2	Informed consent for insurance purposes. Re-codifies the language related to informed consent for insurance purposes that is stricken in section 1. (HF 1083 – Mullery)
3	University of Minnesota investments. Classifies certain data related to the private investments of the University of Minnesota.

	<p>Definitions of “business data,” “financial, business, or proprietary data,” and “investment” are provided.</p> <p>Generally, financial, business, or proprietary data are classified as nonpublic data, except that the following data are public:</p> <ol style="list-style-type: none"> (1) The names of the general partners and the legal entity in which the University of Minnesota has invested; (2) The amount of the University’s initial commitment and any subsequent commitments; (3) Quarterly reports which outline the aggregate investment performance achieved and the market value, and the fees and expenses paid in aggregate to general partner investment managers. These reports are required for each of the following asset classes: venture capital, private equity, distressed debt, private real estate, and natural resources; (4) A description of all of the types of industry sectors the University is currently or has invested in, organized by each specific private equity asset class; (5) The portfolio performance of the University’s investments overall, including the number of investments, the total amount of the commitments, the total current market value, and the return on the total investment portfolio. <p>The bill is effective the day following final enactment.</p> <p><i>(HF 1247 – Kalin; with substantial modifications)</i></p>
4	<p>Closed meetings. Clarifies a statute related to the closing of a public meeting to discuss appraisal data. A reference to “nonpublic” appraisal data is changed to “protected nonpublic” data, which is the defined term appropriate for this section.</p> <p><i>(HF 1083 – Mullery)</i></p>
5	<p>Informed consent. Modifies a cross-reference to reflect changes made elsewhere in the bill.</p> <p><i>(HF 1083 – Mullery)</i></p>

Article 2: Temporary Classifications	
1	<p>Application to commissioner. Provides that data in a temporary classification application are classified in the manner requested in the application upon its receipt by the commissioner, rather than upon the filing of the application.</p> <p>Current law provides that data is classified in this manner only until the commissioner has disapproved, rejected, or granted the application, or 45 days have passed, whichever is earlier.</p> <p><i>(HF 1180 – Hortman)</i></p>
2	<p>Contents of application. Modifies the requirements for an application to classify</p>

	temporarily data as other than public. <i>(HF 1180 – Hortman)</i>
3	Temporary classification affecting others. Modifies the applicable procedures when an application for a temporary classification affects other government entities. Notice of an application must be published in the state register within 15 days of receipt, rather than the current 10 day requirement. The commissioner may determine that an application for temporary data classification affects other entities. <i>(HF 1180 – Hortman)</i>
4	Withdrawal of application. Permits a government entity requesting a temporary classification to withdraw the application prior to action by the commissioner. A withdrawal request must be made in writing, and describe why the temporary classification is no longer necessary. <i>(HF 1180 – Hortman)</i>
5	Action on application. Modifies certain timelines related to the processing of a temporary classification application, specifying that the time requirements apply as of the date an application is received by the commissioner, and as of the date a rejection of an application is received by the responsible authority. <i>(HF 1180 – Hortman)</i>
6	Data use. Permits a responsible authority to request a new or different use or dissemination of data subject to a temporary classification. <i>(HF 1180 – Hortman)</i>
7	Submission to legislature. Temporary classifications automatically expire if no action is taken by the legislature on the classification. This section extends the expiration date for the classification from June 1 to August 1 of the year it is submitted to the legislature. <i>(HF 1180 – Hortman)</i>

Article 3: Personnel Data

1	Definition. Modifies the definition of “personnel data” to mean data maintained by a government entity, rather than the narrower current definition, which covers only data collected by a government entity. <i>(HF 1180 – Hortman)</i>
2	Public data. Adds the terms and conditions of an employment relationship, an employer-provided email address, and work-related continuing education to the list of personnel data that are public, and specifies that the basis for and amount of any added remuneration paid to an employee by the government employer or any other person is public. This language does not require that remuneration from other sources be collected by a government entity,

	<p>but if it is collected, the data would be public.</p> <p>This section also provides that a disciplinary action does not become public data if an arbitrator sustains a grievance and reverses all aspects of a disciplinary action.</p> <p><i>(HF 1180 – Hortman; with modifications)</i></p>
3	<p>Continuity of operations. Permits the use of home contact information for an employee to ensure that the employee can be reached in the event of an emergency or other disruption to the operations of the government entity. This section also permits the sharing of personal contact information with another government entity to prepare for or respond to an emergency or other disruption.</p> <p><i>(HF 1180 – Hortman; with modifications)</i></p>
4	<p>Private personnel data. Requires disclosure of private personnel data to the department of administration for purposes of administering the worker’s compensation program.</p> <p><i>(HF 1180 – Hortman)</i></p>
5	<p>Department of Administration data. Classifies security features, building specifications, and building drawings of state-owned or leased facilities as nonpublic data within the department of administration. The data may be shared with anyone as needed to perform the duties of the commissioner of administration.</p> <p><i>(HF 1180 – Hortman; with modifications)</i></p>
6	<p>Grants management comments. Classifies the identity of a person providing comments to the commissioner of administration related to grant governance policies in an executive branch agency as private or nonpublic. The data may be shared with the executive agency that is the subject of the comments.</p> <p><i>(HF 1180 – Hortman)</i></p>
7	<p>Repealer. Repeals the following statutes and rules:</p> <p>13.06, subdivision 2: Related to applications for temporary classification of data on individuals; the substance of this policy is re-codified in Article 2 of this bill.</p> <p>Rule 1205.1800: Related to the duties of the commissioner of administration related to temporary classification applications.</p> <p><i>(HF 1180 – Hortman)</i></p>

Article 4: Miscellaneous Provisions

1	<p>Agricultural data. Classifies as private or nonpublic certain identifying information that the Minnesota Department of Agriculture (MDA) collects as part of the agency’s research, monitoring, and farm-practice assessment activities. Certain related data would remain public.</p> <p>The MDA could disclose private/nonpublic data with permission of the subject</p>
---	--

	<p>of the data or if the MDA deems that withholding the data seriously threatens human health or the environment or hinders law enforcement. (<i>HF 1095 – Mullery; with technical modifications</i>)</p>
2	<p>Private donor gift data. Adds the Regional Parks Foundation of the Twin Cities to the section of law classifying certain private donor data as private or nonpublic. In practical effect, this means that data on private contributors would not be accessible to the public, except for names of donors and the dollar range of their gifts. Effective the day following final enactment. (<i>HF 930 – Wagenius</i>)</p>
3	<p>Electronic licensing system. Provides a cross-reference to a new classification of DNR licensing data, established in section 6 of this article. Effective March 1, 2010. (<i>HF 1555 – Holberg</i>)</p>
4	<p>Parole and probation authorities. Permits parole and county probation authorities to access data related to a weapons permit, or application for a permit, and any purchase or transfer of firearms by a person who is a defendant in court, or who is on probation or parole. (<i>HF 497 – Mullery</i>)</p>
5	<p>Forensic Laboratory Advisory Board. Provides a cross-reference to data of the Forensic Laboratory Advisory Board. (<i>HF 1609 – Smith</i>)</p>
6	<p>Licensing data; Department of Natural Resources. Classifies certain Department of Natural Resources data related to licensing as private data. The classification applies to data related to a noncommercial game and fish license, cross-country ski pass, horse trail pass, or snowmobile trail sticker, registration of an RV, and any other electronic licensing transactions. All data collected is classified as private, except that the individual's name, address, and type of license applied for is public. The individual is permitted to request that any data that is public be classified as private. Data, except for a driver's license, may also be disclosed to a government entity and for natural resources management purposes. This section is effective March 1, 2010. (<i>HF 1555 – Holberg; with substantial modification</i>)</p>
7	<p>Corrections data. Provides that certain corrections data related to conditional release are accessible to the Minnesota sex offender program. The circumstances under which the data may be released to the sex offender program are provided in section 8 of this article. (<i>HF 1689 – Holberg</i>)</p>
8	<p>Access to data; sex offender program. Permits the Minnesota sex offender program to</p>

	<p>access private data in the statewide supervision system as necessary for administration and management of current sex offender clients.</p> <p>The program is required to adopt a policy to govern access to the data, and periodic audits must be conducted by the commissioner of corrections to ensure compliance with the policy.</p> <p><i>(HF 1689 – Holberg; with modifications)</i></p>
9	<p>Tax return data; Disclosure to law enforcement. Permits disclosure of tax return information as necessary to law enforcement in the event an employee of the department of revenue is subject to harassment. A definition of harassment is provided.</p> <p>Initially, only the name, address, and phone number of the harassing individual, and the name of the employee being harassed may be disclosed, along with the nature and circumstances of the harassment.</p> <p>This section is effective the day following final enactment.</p> <p><i>(HF 1405, First Engrossment – Hilstrom)</i></p>
10	<p>Use of reports. Modifies certain classifications related to reports of the Forensic Laboratory Advisory Board. Investigations are private or nonpublic unless the Board determines there was negligence or misconduct. A report or complaint received by the Board is private or nonpublic.</p> <p>These classifications would not override classifications of personnel data.</p> <p><i>(HF 1609 – Smith; with technical modifications)</i></p>
11	<p>Business screening services; definitions. Modifies the definition of “criminal record” for purposes of the section of law regulating business screening services. A criminal record would only include a public record originating from a Minnesota agency or court, except for judicial opinions.</p> <p><i>(HF 1930 – Holberg)</i></p>
12	<p>Business screening services; criminal record updates. Requires business screening services to update their criminal records in a timely manner, based on updates obtained from a state agency or court. The service must make a good faith effort to ensure that a criminal record is accurate, current, and complete consistent with the information provided by the state agency or court.</p> <p>If data contained in a criminal record is inaccurate, the business screening service is not liable if a good faith effort was made to comply with the requirements of this section.</p> <p><i>(HF 1930 – Holberg; with substantial modifications)</i></p>
13	<p>Business screening services; correction and deletion of records. Provides that, in an investigation as to the completeness or accuracy of a criminal record maintained by business screening service, the service must determine whether the record accurately reflects the content of the official government record.</p>

	<p>If a record maintained by a screening service does not match the official government record, the service must correct its record to reflect the government record. A business screening service must promptly delete a disputed record found to be sealed, expunged, or the subject of a pardon.</p> <p><i>(new language)</i></p>
14	<p>Business screening services; date and notice of record collection. Clarifies that the notice required of a business screening service when disseminating a criminal record must contain the date the record was collected by the service. A reference to “criminal” records is also clarified.</p> <p>This section only applies to records collected by a business screening service on or after the date the section becomes effective.</p> <p><i>(new language)</i></p>

<p align="center">Article 5: Human Services Data</p> <p>(HF 1750 – Abeler, with modifications)</p>	
1	<p>Investigative data. Amends § 13.46, subd. 3. Adds that data in the welfare system pertaining to an applicant is subject to the data protections in this section.</p> <p><i>(HF 1750 – Abeler)</i></p>
2	<p>Licensing data. Amends § 13.46, subd 4. Paragraph (a) contains no changes.</p> <p>Paragraph (b) adds that specified data on current and former licensees and applicants is public data when an order to forfeit a fine, an order of license suspension, an order of temporary immediate suspension, an order of license revocation, an order of license denial, or an order of conditional license has been issued. The licensing determinations are already public data; this makes them public at the time they are issued.</p> <p>This paragraph also provides that the identity of a license holder or applicant who is found to be responsible for maltreatment or is a disqualified individual is public data at the time the licensing sanction or denial is issued.</p> <p>Additionally, if a licensing sanction or a license is denied based on disqualification of an individual, then the reason for the disqualification is public data. However, if this individual is not the license holder or an applicant, then the identity of the disqualified individual remains private data.</p> <p>Paragraph (c) contains no changes.</p> <p>Paragraph (d) clarifies that the names of reporters of complaints or alleged violations of licensing standards under specified chapters and reports of alleged maltreatment under specified chapters are confidential data.</p> <p>Paragraph (e), (f), (g), and (h) contain no changes.</p> <p>Paragraph (i) add that the identity of a reporter of licensing violations or alleged</p>

	<p>maltreatment may not be disclosed unless otherwise specified in this chapter.</p> <p>Paragraphs (j) and (k) contain no changes.</p> <p><i>(HF 1750 – Abeler, with modifications)</i></p>
3	<p>Background study; commissioner reviews. Amends § 245C.08. Allows the commissioner to have access to juvenile court records when there is reasonable cause. Allows the commissioner to review juvenile court records of individuals ages 13 through 23 who live in the home where services will be provided as part of the background study process.</p> <p><i>(HF 1750 – Abeler)</i></p>
4	<p>Classification of certain data. Amends § 245C.22, subd. 7. Provides that the identity of a disqualified individual can be considered public data under circumstances specified in section 13.46, sub. 4. (See section 2 above.)</p> <p><i>(HF 1750 – Abeler, with modifications)</i></p>
5	<p>Data management. Amends § 626.557, subd. 12b. Adds that after an assessment or investigation is complete, the name of the reporter must be confidential.</p> <p><i>(HF 1750 – Abeler, with modifications)</i></p>