

House Research Act Summary

CHAPTER: 253

SESSION: 2006 Regular Session

TOPIC: Omnibus Data Practices Act

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Overview

This is the annual act that regulates public access to government information.
Common terms used in the act:

"Private data" and "nonpublic data" is accessible to the subject of it but not to the general public.

"Confidential data" and "protected nonpublic data" is not accessible to the subject of the data or the general public.

Section

- 1 Information on web site.** Prohibits the Campaign Finance and Public Disclosure Board from putting on its web site any cancelled checks, account numbers, or Social Security numbers it contains in connection with report or statement filings or complaints.
- 2 Opinion; when required.** Amends the deadline for the commissioner of administration to notify a requester if no advisory opinion will be issued on a question. Changes from five days to five business days.
- 3 Drinking water testing data.** Enacts into law a temporary classification that was given to drinking water testing data. Makes private or nonpublic: data that identify residential homeowners on sites tested for copper and lead in the drinking water.
- 4 Treatment of genetic information.**

Subd. 1. Definition. Defines "genetic information."

Section

Subd. 2. Private data. Makes genetic information held by a government entity: private data on individuals.

Subd. 3. Collection, storage, use, and dissemination of genetic information.

Specifies that unless otherwise expressly provided by law, genetic information about an individual may be (1) collected by a government entity or other person only with the individual's written informed consent; (2) used only for purposes for which the individual has given written informed consent; (3) stored only for a period of time to which the individual has given written informed consent; and (4) disseminated only with either the individual's written informed consent, or if necessary to accomplish purposes to which the individual gave informed consent.

Requires consent to be signed and dated; makes the consent valid for a year or a shorter time specified in the consent.

Effective August 1, 2006, for genetic information collected on or after that date.

- 5 Name and index service; data classification.** Defines the "name and event index service" as data held by the Bureau of Criminal Apprehension (BCA) that links data about an individual which is stored in one or more databases maintained by criminal justice agencies or the judiciary.

Classifies name and event index service data as private data on individuals. Makes the data confidential if it links public or private data about the individual to confidential data about the same individual. Makes the data revert to private data when no confidential data about the individual is maintained in the databases. Provides that the classification of data in the name and event index service does not change the data classification in the linked databases.

- 6 Classification of data.** Amends the data classification statute governing financial aid programs administered by the Higher Education Services Office. Makes private: the names and addresses of aid recipients.
- 7 Records management.** Amends the law that requires a records management program for government records. Eliminates the Commissioner of Administration's role in the program. Leaves in the place the pre-existing responsibilities of the heads of state agencies and local governing bodies.
- 8 Emergency records preservation.** Modifies the law that required a program to preserve records from the possibility of nuclear war or natural disaster. Eliminates a policy statement and the Commissioner of Administration's role in the process, as well as specific details on acceptable ways to prepare duplicate records.
- 9 Commissioner's duties.** Amends the Commissioner of Health's duties in connection with a program of testing newborns for inherited and congenital disorders. Adds the following duties:

- prepare a consent form that parents or adults tested as babies can use to direct that blood samples and test results be destroyed;
- comply with a destruction request within 45 days after receipt; and
- notify individuals who request destruction when the samples and test results have been destroyed.

Section

10 Release of records to family and caretakers involved in mental health care. Amends the Patient's Medical Records Act. Lets provider release specified mental health information to a patient's family member or caretaker if:

- the request is written;
- the family member or caretaker lives with, cares for, or directly monitors the patient's treatment;
- the individual's involvement is verified by the patient's mental health provider, attending physician, or a person other than the requester and is documented in the patient's medical record;
- before disclosure, the patient is informed in writing of the request, the name of the requester, reason for the request, and specific information requested;
- the patient agrees, does not object, or is unable to consent or object and the decision or inability to make a decision is documented in the patient's medical record; and
- disclosure is needed to assist in providing care or monitoring the patient's treatment.

Allows release only of diagnosis, admission to or discharge from treatment, name and dosage of any medication, medication side effects, consequences of failure to take medication, and summary of discharge plan.

Prohibits a provider from releasing this information if the provider determines doing so would be detrimental to the patient's physical or mental health or is likely to cause the patient to harm self or another.

This section does not apply to disclosures in a medical emergency or other specified disclosures allowed under the Patient's Medical Records Act.

11 License required. Amends a provision of the driver license statutes. Specifies that the law requiring invalidation of a Minnesota identification card in order to receive a driver license does not apply to a tribal identification card that is used in connection with a driver license application.

12 Tribal identification card. Makes a tribal identification card an acceptable form of identification in cases where a Minnesota identification card would be acceptable. Makes a tribal identification card a primary document for purposes of obtaining a driver license under driver license rules. To satisfy this section, the tribal identification card must be unexpired, issued by the tribal government of a tribe recognized by the federal Bureau of Indian Affairs, and must contain the name, birth date, signature, and picture of the enrolled tribe member. The card must have security features that make it impervious to alteration, including using materials not readily available to the general public.

Requirements of this section do not apply to tribal identification cards used to prove residence for purposes of voter registration.

Section

- 13 Required statement of earnings by employer.** Amends the law that requires employers to provide employees with earnings statements. Allow employers to provide these statements in electronic form if the employer gives the employee access to an employer-owned computer during working hours to review and print earnings statements. Requires the employer to provide written earnings statements to an employee who gives at least 24 hours notice that the employee wants the statement in written form. Requires the employer to comply with such a request on an ongoing basis once it is received.
- 14 Powers and duties.** Technical. Amends the Department of Revenue data practices chapter to reflect the reorganization of the federal Alcohol, Tobacco, and Firearms agency.

Effective immediately.

- 15 Notice of multiple law enforcement operations conflicts.** Allows the Department of Public Safety to use a secure subscription service to protect officer safety by notifying other law enforcement agencies when multiple agency efforts are under way. Allows notification to include warrant executions, surveillance activity, SWAT activity, and undercover operations. Makes the data in the system criminal investigative data, which is confidential.
- 16 Definitions.** Amends the definitions that apply to the Comprehensive Incident-Based Reporting System (CIBRS) managed by the BCA. Adds to the definition of law enforcement agency: the Department of Corrections Fugitive Apprehension Unit.
- 17 Access to CIBRS data by data subject.** Requires that if an individual wants to get CIBRS data on himself or herself from the BCA or wants the BCA to release data about him or her, the individual must go to the BCA or a law enforcement agency in person to give consent.
- 18 Subscription service.** Existing law prohibits DPS from establishing a subscription service for ongoing electronic notice of contacts an individual has with a criminal justice agency. This section allows an exception for the multiple law enforcement agency system described earlier in the act.
- 19 Generally.** Amends a statute that limits non-government entities' use of Social Security numbers (SSNs). Allows sending an individual's SSN over the Internet to comply with Social Security laws and regulations related to a standardized assessment instrument for nursing home residents.

Allows using an individual's SSN as long as it is not the primary account identifier.

Prohibits selling SSNs obtained from individuals in the course of business or including an SSN in a bulk mail credit card solicitation offer.

Requires non-government entities to restrict employee access to SSNs so that only those who require the numbers to perform their job duties have access.

- 20 Fraud related to consumer telephone records.**

Subd. 1. Prohibited acts. Prohibits the following acts with regard to telephone records of state residents: knowingly procuring, selling, or receiving customer phone records without the customer's authorization.

Subd. 2. Penalties. A violation is a gross misdemeanor; subsequent violations are five year/\$5,000 felonies. A \$5,000 civil penalty also applies.

Section

Subd. 3. Definitions. "Telephone record" and "telephone company" are defined.

Subd. 4. Unfair or deceptive trade practices. Makes a violation a deceptive trade practice. Remedies available under that law include injunctive relief and attorney fees.

Subd. 5. Information security. Requires telephone companies to have security procedures to minimize fraudulent disclosure. States there is no private right of action under this subdivision.

Subd. 6. Telephone companies. States several circumstances in which telephone companies are allowed to obtain or disclose customer records: unless prohibited by law; with the customer's lawful consent; as necessary to provide service; in connection with sale or transfer of all or part of a business; to a government entity if the telephone company reasonably believes release is justified by an emergency involving immediate danger to any person; or to the National Center for Missing and Exploited Children.

Subd. 7. Enforcement. Provides for enforcement under section 8.31, which includes the attorney general bringing suit for injunction or damages.

- 21 Evaluation and referral of reports.** Amends the vulnerable adults reporting act provision on referring a report to the appropriate agency. Provides that in the case of a report suggesting a suspicious death, the local medical examiner is one of the agencies that must be notified.
- 22 Reports required.** Requires the Commissioner of Administration to create a work group to develop principles for public policy on use of genetic information about individuals. Specifies governmental and non-governmental entities from which the group's membership must be drawn. Specifies topics the group must study, in light of the report required by the 2005 data practices act. Requires a report to the legislature in January 2008.