

1.1 A bill for an act

1.2 relating to government data practices; clarifying and modifying laws governing  
1.3 access to data; amending Minnesota Statutes 2008, sections 13.05, subdivision 4,  
1.4 by adding a subdivision; 13D.05, subdivision 3; 125A.21, subdivision 5.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2008, section 13.05, subdivision 4, is amended to read:

1.7 Subd. 4. **Limitations on collection and use of data.** Private or confidential data on  
1.8 an individual shall not be collected, stored, used, or disseminated by government entities  
1.9 for any purposes other than those stated to the individual at the time of collection in  
1.10 accordance with section 13.04, except as provided in this subdivision.

1.11 (a) Data collected prior to August 1, 1975, and which have not been treated as public  
1.12 data, may be used, stored, and disseminated for the purposes for which the data was  
1.13 originally collected or for purposes which are specifically approved by the commissioner  
1.14 as necessary to public health, safety, or welfare.

1.15 (b) Private or confidential data may be used and disseminated to individuals or  
1.16 entities specifically authorized access to that data by state, local, or federal law enacted or  
1.17 promulgated after the collection of the data.

1.18 (c) Private or confidential data may be used and disseminated to individuals or  
1.19 entities subsequent to the collection of the data when the responsible authority maintaining  
1.20 the data has requested approval for a new or different use or dissemination of the data  
1.21 and that request has been specifically approved by the commissioner as necessary to carry  
1.22 out a function assigned by law.

1.23 (d) Private data may be used by and disseminated to any person or entity if the  
1.24 individual subject or subjects of the data have given their informed consent. Whether a

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2.1 data subject has given informed consent shall be determined by rules of the commissioner.  
2.2 ~~The format for informed consent is as follows, unless otherwise prescribed by the HIPAA,~~  
2.3 ~~Standards for Privacy of Individually Identifiable Health Information, 65 Fed. Reg. 82,~~  
2.4 ~~461 (2000) (to be codified as Code of Federal Regulations, title 45, section 164): informed~~  
2.5 ~~consent shall not be deemed to have been given by an individual subject of the data by the~~  
2.6 ~~signing of any statement authorizing any person or entity to disclose information about the~~  
2.7 ~~individual to an insurer or its authorized representative, unless the statement is:~~

2.8 (1) ~~in plain language;~~

2.9 (2) ~~dated;~~

2.10 (3) ~~specific in designating the particular persons or agencies the data subject is~~  
2.11 ~~authorizing to disclose information about the data subject;~~

2.12 (4) ~~specific as to the nature of the information the subject is authorizing to be~~  
2.13 ~~disclosed;~~

2.14 (5) ~~specific as to the persons or entities to whom the subject is authorizing~~  
2.15 ~~information to be disclosed;~~

2.16 (6) ~~specific as to the purpose or purposes for which the information may be used~~  
2.17 ~~by any of the parties named in clause (5), both at the time of the disclosure and at any~~  
2.18 ~~time in the future;~~

2.19 (7) ~~specific as to its expiration date which should be within a reasonable period of~~  
2.20 ~~time, not to exceed one year except in the case of authorizations given in connection~~  
2.21 ~~with applications for (i) life insurance or noncancelable or guaranteed renewable health~~  
2.22 ~~insurance and identified as such, two years after the date of the policy or (ii) medical~~  
2.23 ~~assistance under chapter 256B or MinnesotaCare under chapter 256L, which shall be~~  
2.24 ~~ongoing during all terms of eligibility, for individual education plan health-related services~~  
2.25 ~~provided by a school district under section 125A.21, subdivision 2.~~

2.26 The responsible authority may require a person requesting copies of data under this  
2.27 paragraph to pay the actual costs of making; and certifying; ~~and compiling~~ the copies.

2.28 (e) Private or confidential data on an individual may be discussed at a meeting open  
2.29 to the public to the extent provided in section 13D.05.

2.30 Sec. 2. Minnesota Statutes 2008, section 13.05, is amended by adding a subdivision to  
2.31 read:

2.32 Subd. 4a. **Informed consent for insurance purposes.** Informed consent for  
2.33 insurance purposes must comply with this subdivision, unless otherwise prescribed by  
2.34 the HIPAA Standards for Privacy of Individually Identifiable Health Information, 65 Fed.  
2.35 Reg. 82, 461 (2000), Code of Federal Regulations, title 45, section 164. Informed consent

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3.1 for insurance purposes is not considered to have been given by an individual subject of  
3.2 data by the signing of a statement authorizing a government entity to disclose information  
3.3 about the individual to an insurer or its authorized representative, unless the statement is:

3.4 (1) in plain language;

3.5 (2) dated;

3.6 (3) specific in designating the government entity the data subject is authorizing to  
3.7 disclose information about the data subject;

3.8 (4) specific as to the nature of the information the subject is authorizing to be  
3.9 disclosed;

3.10 (5) specific as to the persons to whom the subject is authorizing information to  
3.11 be disclosed;

3.12 (6) specific as to the purpose or purposes for which the information may be used  
3.13 by any of the persons named in clause (5), both at the time of the disclosure and at any  
3.14 time in the future;

3.15 (7) specific as to its expiration date, which must be within a reasonable period of  
3.16 time, not to exceed one year.

3.17 Notwithstanding clause (7), in the case of authorizations given in connection with  
3.18 applications for life insurance or noncancelable or guaranteed renewable health insurance  
3.19 that is so identified, the expiration date must not exceed two years after the date of the  
3.20 policy. An authorization in connection with medical assistance under chapter 256B or  
3.21 MinnesotaCare under chapter 256L or for individual education plan health-related services  
3.22 provided by a school district under section 125A.21, subdivision 2, is valid during all  
3.23 terms of eligibility.

3.24 Sec. 3. Minnesota Statutes 2008, section 13D.05, subdivision 3, is amended to read:

3.25 Subd. 3. **What meetings may be closed.** (a) A public body may close a meeting  
3.26 to evaluate the performance of an individual who is subject to its authority. The public  
3.27 body shall identify the individual to be evaluated prior to closing a meeting. At its next  
3.28 open meeting, the public body shall summarize its conclusions regarding the evaluation.  
3.29 A meeting must be open at the request of the individual who is the subject of the meeting.

3.30 (b) Meetings may be closed if the closure is expressly authorized by statute or  
3.31 permitted by the attorney-client privilege.

3.32 (c) A public body may close a meeting:

3.33 (1) to determine the asking price for real or personal property to be sold by the  
3.34 government entity;

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4.1 (2) to review confidential or protected nonpublic appraisal data under section 13.44,  
4.2 subdivision 3; and

4.3 (3) to develop or consider offers or counteroffers for the purchase or sale of real or  
4.4 personal property.

4.5 Before holding a closed meeting under this paragraph, the public body must identify  
4.6 on the record the particular real or personal property that is the subject of the closed  
4.7 meeting. The proceedings of a meeting closed under this paragraph must be tape recorded  
4.8 at the expense of the public body. The recording must be preserved for eight years after  
4.9 the date of the meeting and made available to the public after all real or personal property  
4.10 discussed at the meeting has been purchased or sold or the governing body has abandoned  
4.11 the purchase or sale. The real or personal property that is the subject of the closed meeting  
4.12 must be specifically identified on the tape. A list of members and all other persons present  
4.13 at the closed meeting must be made available to the public after the closed meeting. If an  
4.14 action is brought claiming that public business other than discussions allowed under this  
4.15 paragraph was transacted at a closed meeting held under this paragraph during the time  
4.16 when the tape is not available to the public, section 13D.03, subdivision 3, applies.

4.17 An agreement reached that is based on an offer considered at a closed meeting is  
4.18 contingent on approval of the public body at an open meeting. The actual purchase or  
4.19 sale must be approved at an open meeting after the notice period required by statute or the  
4.20 governing body's internal procedures, and the purchase price or sale price is public data.

4.21 (d) Meetings may be closed to receive security briefings and reports, to discuss issues  
4.22 related to security systems, to discuss emergency response procedures and to discuss  
4.23 security deficiencies in or recommendations regarding public services, infrastructure and  
4.24 facilities, if disclosure of the information discussed would pose a danger to public safety or  
4.25 compromise security procedures or responses. Financial issues related to security matters  
4.26 must be discussed and all related financial decisions must be made at an open meeting.  
4.27 Before closing a meeting under this paragraph, the public body, in describing the subject to  
4.28 be discussed, must refer to the facilities, systems, procedures, services, or infrastructures  
4.29 to be considered during the closed meeting. A closed meeting must be tape recorded at the  
4.30 expense of the governing body, and the recording must be preserved for at least four years.

4.31 Sec. 4. Minnesota Statutes 2008, section 125A.21, subdivision 5, is amended to read:

4.32 Subd. 5. **Informed consent.** When obtaining informed consent, consistent with  
4.33 sections 13.05, subdivision 4, ~~paragraph (d)~~ 4a; and 256B.77, subdivision 2, paragraph  
4.34 (p), to bill health plans for covered services, the school district must notify the legal  
4.35 representative (1) that the cost of the person's private health insurance premium

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5.1 may increase due to providing the covered service in the school setting, (2) that the  
5.2 school district may pay certain enrollee health plan costs, including but not limited to,  
5.3 co-payments, coinsurance, deductibles, premium increases or other enrollee cost-sharing  
5.4 amounts for health and related services required by an individual service plan, or individual  
5.5 family service plan, and (3) that the school's billing for each type of covered service may  
5.6 affect service limits and prior authorization thresholds. The informed consent may be  
5.7 revoked in writing at any time by the person authorizing the billing of the health plan.