

Vital Records Data Practices Manual

FOR LOCAL ISSUANCE OFFICES

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Section I: Government Records

Life Cycle of Government Data

The following table provides the statutory citations that apply to government data/government records over the course of the life cycle of the data/record.

Create and maintain	Use and disclose	Dispose
Official Records	Minnesota Government Data Practices Act	Government Records; Administration
Minnesota Statutes, section 15.17	Minnesota Statutes, chapter 13	Minnesota Statutes, section 138.17

The life cycle of government data involves data practices, government records, and records retention. Although government data and government records are very similar, they are not identical, and it is important to distinguish between the two issues. All recorded information regardless of the media (e.g., paper, microfilm, electronic storage) is considered government data. Certain types of government data are not considered government records.

While Minnesota Statutes, chapter 13 covers in general the use and disclosure of government records, [Minnesota Statutes, sections 144.211 to 144.227](#) pertain specifically to vital records and vital statistics.

Is it a Government Record?

The first step is to determine if data are records and subject to Minnesota Statutes, sections 15.17 and 138.17, and chapter 13. Government records are data or information that is part of an official transaction.

Government records can be found in:

- a database
- in an e-mail
- on microfilm/microfiche
- on paper
- in a report
- in correspondence
- in a word processing files
- on audio or computer tape
- on CDs or disks

You may be able to list other media that potentially contains government records. Each source may contain more than one government record.

Yes, it IS a Government Record

A piece of data or information is a government record if:

- the contents are part of an official transaction; and
- the contents are not included in another record (e.g., part of an official transaction); and
- you are the creator, primary recipient, or assigned staff.

All of the statements must be true.

No, it IS NOT a Government Record

A piece of data or information is not a government record if:

- the contents are not part of an official transaction;
- the contents are included in another record (e.g., part of an official transaction); or
- you are not the creator, recipient, or assigned staff person.

Only one of the statements must be true.

Convenience Copies

Extra copies of documents that are kept solely for convenience or reference are not considered government records. If you choose to keep convenience/reference copies, please note the following:

- If MDH receives a request for information related to the topic of your convenience/reference copy, your copy may be provided as part of that request.
- You may delete your convenience/reference copy at any time.
- If you save your convenience/reference copy on your desktop, it will not be backed up.
- Convenience/reference copies must not include not public data.

Records Transferred to Archives

Minnesota Statutes, section 138.17, subdivision 1c

When government records are “archived,” the records are transferred to the State Archives at the Minnesota Historical Society (MHS). At this point the ownership of the records is transferred to MHS and the records are classified as public unless the archives determines according to law that the information should remain not public. Examples of data that would remain not public are certain law enforcement data, security information, proprietary information, trade secret information, and data that when disclosed would constitute a clearly unwarranted invasion of personal privacy.

Records Destruction

Minnesota Statutes, section 138.17

You may destroy government records only according to a records retention schedule approved by the records disposition panel. Public paper records may be recycled. Not public paper records must be shredded. Public electronic records may be deleted or erased by reformatting the media containing the records. Not public electronic records must be destroyed using methods that will not allow the records to be recovered. Contact your computer staff if you need to destroy records stored electronically. Documentation of all government records destroyed must be kept.

Section II: Data Practices

The Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13, requires public agencies to:

- safeguard the privacy rights of data subjects about whom state and local governments collect, store, and use data; and
- facilitate access to all government data which should be rightfully disclosed.

All Office of Vital Records (OVR) and local issuance office staff must comply with the Minnesota Government Data Practices Act. Chapter 13 applies to all government programs that collect data. In addition, OVR has specific statutory authority or requirements pertaining to data practices. How you use and maintain the data will vary depending on how the data are classified. Your supervisor is responsible for the security of data your program collects and maintains. When the statutes allow it, your supervisor may authorize data access to you, other local issuance or OVR staff, and the staff of other agencies or private entities. As staff who may be responsible for program data, you must familiarize yourself with how data are classified and when and to whom data can be released.

Government Data Classifications

Classification	Definition	Access	Examples
<i>Data on individuals:</i>			
Public	All government data unless otherwise specified by law	Anyone for any reason	Public legal and demographic birth record data; all death record data
Private	Not public; accessible to data subject	Data subject or authorized representative; employees with “need to know”	Health information and social security numbers on birth records
Confidential*	Not public and not accessible to data subject	Employees with a “need to know”	Original birth records replaced by adoption or paternity establishment
<i>Data not on individuals:</i>			
Public	All government data unless otherwise specified by law	Anyone for any reason	Names and locations of local issuance offices
Nonpublic	Not public and not accessible to data subject (if any)	Employees with a “need to know”	Specific security information about MR&C
Protected nonpublic	Not public and not accessible to data subject	Employees with a “need to know”	Data on agencies that is part of an open investigation

Reference: Minnesota Statutes, section 13.02

*Even though some current birth records are classified as confidential, the data may still be released to specific individuals named in Minnesota Statutes, section 144.225.

General Data Practices Requirements

- All data collected, created, received, maintained, or disseminated by OVR and local issuance offices are public unless otherwise classified by statute.
- Before collecting private and confidential data on individuals, you must inform them of their rights using a Tennessean warning.
- You must only release private, confidential, nonpublic, and protected nonpublic data under the conditions described in this document. If you receive not public data that you did not request or is not required, you must destroy it or return it to the person or entity who submitted it.
- If you violate the provisions of the Minnesota Government Data Practices Act you may be subject to disciplinary action and/or civil penalties.
- You must complete data practices training as directed by your supervisor. Your training will include specific information about the data maintained by your program – this will be provided by OVR staff. Other county staff, the Department of Administration and the Office of the Attorney General may also provide training opportunities.
- You must refer non-routine data practices questions to your supervisor. Don't guess – get a second or third opinion if you are in doubt of the status of the data in question.
- Your section or program must maintain a list of the data you collect or maintain that are private or confidential. The list must include statutory references defining it as private or confidential. The document must also contain copies of the forms you use to collect this data.

Sanctions

Minnesota Statutes, sections 13.08, 13.09, and 144.227

There are consequences if staff does not comply with the Minnesota Government Data Practices Act including:

- The individual may recover actual damages, costs and attorney's fees.
- For willful violations, the individual may recover exemplary damages up to \$10,000 per violation.
- Willful violations of the Act are misdemeanors.
- A willful violation of the Act by any public employee constitutes just cause for suspension without pay or dismissal.
- Minnesota Statutes, section 144.227, describe penalties for making false statements and fraud applicable to the processing of vital records.

Data Protection and Security

To comply with the Minnesota Government Data Practices Act and adequately protect OVR and your local issuance office data assets, you must:

- Put away not public data when you leave your desk and close files that contain not public data when being visited. Not public data and files include information that describes not public data such as documentation or data dictionaries.
- Make copies of not public data only when necessary and shred copies when they are no longer needed. Please check with your administrative support staff regarding shredding procedures.
- Comply with the network and data handling security policies established by OVR and your county.
- Keep not public data behind two locks, such as behind a security door and a locked file cabinet or password. For especially sensitive data, additional safeguards may be warranted.
- Use applicable data classifications and statutes to determine if and how data can be released.
- Seek advice from your supervisor when in doubt about data classification or security.

Storing Data

Minnesota Statutes, section 13.03, subdivisions 1 and 3

Remember that all the data we store could be requested. You must store data in a manner that will facilitate retrieval. To determine the appropriate media, consider the characteristics of your data and the size and frequency of the requests you expect to receive. Paper, microfilm, microfiche, or electronic media may be appropriate. It depends on the data.

Use current reliable documentation or applicable statutes to determine data classification and retention schedule and store data accordingly. If in doubt about data classification, retention schedule, or required security, seek advice from your supervisor. Remember that you will not be able to charge for the separation of *not* public data from public data when the data are requested.

Paper Files

- Keep files that contain not public data behind two locks, such as a locked entrance door and a locked file cabinet.
- Put away not public data when you leave your desk. Close files that contain not public data when being visited.
- Pick up print outs and faxes that contain not public data immediately.
- Print or copy not public data only when necessary and shred copies when they are no longer needed. Please check with your administrative support staff regarding shredding procedures.

Electronic Files

- Limit your access to data that you need to do your daily work. Cooperate with OVR and others in your county in defining the appropriate level of access.

- Store files in a manner that reduces the possibility of errors, file corruption, and unauthorized access.
- Store data in a manner appropriate to their classification. For example, data sets that include not public data must have additional password protection. For especially sensitive data, additional safeguards may be warranted.
- Store data in a software format (e.g., database, spreadsheet, analysis tool) that will facilitate secure storage and efficient processing.
- Limit the number of copies of a data set or partial data set. Ensure that all changes to data sets are documented and made on the appropriate version.
- Document data so the potential uses and limitations of the data are clear.
- Use passwords that meet or exceed the standards set by MDH. If you have questions about these standards, please contact your computer support staff.
- Store files in the appropriate location on network drives so that access to the data will be controlled and the data will be backed up and secure. Do not store not public data on your desktop, disks or flash drives, or on any personal drive.
- Use file transfer methods that meet or exceed the standards set by MDH. If you have file transfer needs, please contact your computer support staff.
- If you take a laptop out of the office, know what files are stored on the laptop and the level of security you must maintain.
- If you use a smart phone, comply with the use policies set by your county.

Viewing Public Vital Records Data

Minnesota Statutes, section 13.03, subdivisions 2 and 3, section 13.05, subdivision 12, and section 144.225, subdivision 1

A requester must be allowed to view public data without charge. A requester is not required to give identifying information. OVR and local issuance staff must:

- regulate physical access to vital records in order to protect vital records from loss, mutilation or destruction and to prevent improper disclosure of vital records which are confidential or private data on individuals;
- establish procedures, consistent with Minnesota Statutes, chapter 13 to insure that requests for government data are received and complied in an appropriate and prompt manner. A person must be able to view public government data at reasonable times and places and staff must be available to answer questions about the data;
- prepare written public access procedures and update them no later than August 1 of each year as necessary to reflect any changes in personnel or circumstances that might affect public access to government data; and
- make copies of the written public access procedures easily available to the public through distribution or posting a copy of the procedures in a conspicuous public place.

Public Access Procedures for Viewing Public Birth and Death Information

If a person wants to view public birth and death records, use of a public viewing station is recommended. This requires a specific MR&C username and password that will provide access to all public information in the system. This would be the summary page for birth records and the full record, including medical information, for death records. MR&C does not allow unfinished records to be viewed by a public user, which includes all pre-1997 deaths.

If your office does not have a public viewing station, you may evaluate each request and determine if you have the staff, time, and ability to provide a view of a public birth or death record.

If a person wants to view historical paper records in books or ledgers, you must ensure that no private or confidential data is included. This means births to unmarried parents and any medical information contained on birth records. Again, you may evaluate each request to determine your capacity to sufficiently monitor the individual to ensure that the records are protected from damage or loss. You may require that an appointment be made.

Photos or other reproductions of vital records are not allowed as part of the viewing procedure. If a person wants a copy of a record or multiple records, those copies must be issued in accordance with Minnesota Statutes, section 144.225 and Minnesota Rules, part 4601.2600.

Releasing Vital Record Data

Minnesota Statutes, sections 144.211 to 144.227 (Vital Statistics Act), and Minnesota Rules, chapter 4601

Births

Each birth record has two parts. One part is civil registration information, which is needed to register the birth in Minnesota. Civil registration information includes the child's name, the parents' names, and information about the date and place of birth in addition to some demographic information about the parents (race, ethnicity, education). The second part of the birth record contains health information collected for each birth for statistical and public health use. This information includes data about the mother's prenatal care, pregnancy and delivery.

Birth records are classified according to Minnesota Statutes, section 144.225. For most births, the civil registration information on the birth record is public. However, for births to unmarried parents, the civil registration information on the birth record is confidential, unless the mother has designated the record as public. Subdivision 2 allows release of the confidential birth record:

1. to a parent or guardian of the child;
2. to the child when the child is 16 years of age or older; or
3. pursuant to a court order.

Under certain circumstances, confidential birth records may be released to the Department of Human Services. Additionally, the name and address of a mother and the child's date of birth may be disclosed to the county social services or public health member of a family service collaborative.

Unless the child is adopted, data pertaining to the birth of a child become public data if 100 years have elapsed since the birth of the child who is the data subject. Or, if the data subject has died or is presumed dead, then the data may be released 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.

The health information part of the birth record is classified as private data by Minnesota Statutes, section 144.225, subdivision 2a. The mother is generally considered to be the data subject of the health information. Limited information may be released to the registrant or to the father. In certain circumstances, health information may also be shared with local health agencies and the Department of Human Services.

Birth Certificates

Certified birth records (i.e., birth certificates) are used for legal purposes such as to enroll in school, to prove identity to obtain a driver's license or passport, or to apply to the Social Security Administration for retirement benefits. To help protect each person's identity, there are restrictions on the release of birth certificates in addition to the release allowed by the classification of the data. Minnesota Statutes, section 144.225, subdivision 7, require evidence of tangible interest before a birth certificate can be released.

A person has a tangible interest if the person is:

1. the subject of the vital record;
2. a child of the subject;
3. the spouse of the subject;
4. a parent of the subject;
5. the grandparent or grandchild of the subject;
6. the party responsible for filing the birth record;
7. the legal custodian or guardian or conservator, or health care agent of the subject; or
8. a licensed attorney.

Persons may also be considered to have tangible interest if they can demonstrate that they need the certificate for the administration of an estate or for the determination or protection of a personal or property right. Organizations such as adoptions agencies and government agencies may also be considered to have tangible interest in certain circumstances.

The right to get a birth certificate for a confidential record is limited to those who are allowed access to confidential data.

Documents related to birth records

The classification and release of an affidavit to amend, an application to amend, or documentation for a delayed registration is the same as the classification and release of the record amended or created. For example, an application to amend a public birth record is public and may be released to anyone who requests a copy. If health information on the birth record is amended the affidavit or application to amend is private and may be released to the data subject. Documents related to amending or creating a confidential birth record are confidential and may be released with the same limitations as the confidential birth record.

Establishment of Paternity and Adoption

The Department of Human Services is the lead agency on the statutes, rules, and procedures for the establishment of paternity and adoption. OVR staff process documents related to registering or replacing the birth record such as Recognitions of Parentage, Spouse's Non-parentage Statements, affidavits of disclosure and nondisclosure regarding an adoption, and affidavits to retain parental rights.

A Recognition of Parentage (ROP) and a Spouse's Non-parentage Statement are classified as confidential data related to a birth to unmarried parents. Minnesota Statutes, section 257.73, subdivision 3, which apply to replacement records, classify these data as confidential, released with consent of the court and all interested persons, or a court order. Section 144.225, subdivision 2, allows ROPs and non-parentage statements to be released in the same manner as a confidential birth record.

Minnesota Statutes, section 144.218, classify birth records that are replaced because paternity has been established or because of an adoption as confidential data. Documents related to the replacement are also confidential. The original birth record may be released on consent of the court and the consent of all interested parties or upon a court order. Parents named on the original birth record may give their permission to release information from the original birth record to the registrant.

Fetal Deaths

Fetal death reports are collected primarily for statistical purposes. They contain the same two parts as a birth record: civil registration information, which may be public or confidential depending on the mother's marital status, and health information, which is private data and includes the cause of death of the fetus. A certificate of birth resulting in stillbirth containing the civil registration information may be issued to a parent on request.

Deaths

Each death record has two parts. One part is the fact of death information, which is needed to register the death in Minnesota. Generally, the fact of death information includes the name of the deceased, information about the date, time, and place of death, and other information about the deceased. The second part of the death record is the cause of death. Cause of death information is medical information about the factors that caused or contributed to the person's death.

Death records are classified according to Minnesota Statutes, section 144.225. All death records are public.

Death Certificates

Certified death records (i.e., death certificates) are used for legal purposes such as collecting life insurance or for the administration of an estate. To help reduce fraudulent uses of death certificates, there are restrictions on the release of death certificates. Minnesota Statutes, section 144.225, subdivision 7, require evidence of tangible interest before a death certificate can be released.

A person has a tangible interest if the person is:

1. a child of the deceased;
2. the spouse of the deceased;
3. a parent of the deceased;
4. a sibling of the deceased;
5. the grandparent or grandchild of the deceased;
6. the party responsible for filing the death record;
7. the legal custodian or guardian or conservator of the deceased; and
8. a licensed attorney.

Persons may also be considered to have tangible interest if they have been identified by the funeral director who filed the death record, or if they demonstrate a need for the certificate for the administration of an estate or trust; or for the determination or protection of a personal or property right. Government agencies may also be considered to have tangible interest in certain circumstances.

Subpoenas

Minnesota Rules, part 1205.0100, subpart 5, Minnesota Statutes, section 13.03, subdivision 6, and Minnesota Statutes, section 144.225, subdivision 7, paragraph (a), clause (4)

A subpoena in and of itself is not a court order allowing for the release of not public data. If you are served with a subpoena requesting the release of not public data, the data should not be released. Submit all subpoenas to the head of the local issuance office immediately. The head of the local issuance office, with legal advice, will inform the court about the statutory provision restricting the disclosure of the data.

If you receive a call about a subpoena, tell the caller to address the subpoena as instructed by your supervisor.

Court Orders and Search Warrants

Not public data may be released pursuant to a court order or search warrant. Court orders and search warrants are signed by a judge of either a state or federal court and specify the data to

be released. If presented with a court order or search warrant, contact your supervisor or the head of your issuance office immediately. Your supervisor or the head of your issuance will determine if the data will be released. If there is a basis on which to oppose release of the requested data, your county attorney may provide counsel.

Changing Vital Records Data

Minnesota Statutes, sections 144.215, subdivision 3, 144.218, and 144.2181, and Minnesota Rules, parts 4601.1000, 4601.1300, 4601.2100, and 4601.2200, subpart 4

Birth Records

Minnesota Statutes, section 144.2181 and Minnesota Rules, part 4601.1000, govern corrections and amendments to birth records. Civil registration information may be corrected until a certificate is issued or up to one year after the birth, whichever occurs first. A correction request can come from a parent listed on the record or the facility that filed the record. The health information may be corrected at any time.

An amendment request is required to change civil registration information after a certificate is issued, or more than one year after the birth. The request may be made by the record subject over the age of 18 or an emancipated minor, or by the subject's parent, legal guardian, or legal representative. The person requesting the amendment must demonstrate tangible interest in the birth record to be amended according to Minnesota Rules, part 4601.2600, and Minnesota Statutes, section 144.225, subdivision 7.

Changes related to adoptions, establishment or revocation of paternity, subsequent marriage of the biological parents, or other court ordered replacements are made by creating a replacement record. Creation of a replacement record is governed by Minnesota Statutes, section 144.218, subdivisions 1, 3, 4, and 5, section 144.215, subdivision 3, and Minnesota Rules, part 4601.1300.

Death Records

Minnesota Rules, part 4601.2100, governs corrections and amendments to death records. The fact of death information that prints on a certificate may be corrected until a certificate is issued or up to one year after the death, whichever occurs first. Most of these requests come directly from the funeral home that filed the record. Corrections to information not appearing on a certificate and to cause of death information may be done at any time. Requests to correct cause of death information must come from the physician that originally provided the information or from a coroner or medical examiner of the county where the death occurred.

Any person can request an amendment to the fact of death information on a death record after a certificate is issued or more than one year after the death. The person requesting this type of amendment may choose from the options set forth in Minnesota Rules, part 4601.2100, subparts 2 to 6. Subparts 2 to 6 describe the processes to be used when amending a death record through the funeral establishment, the informant, local registrar or state registrar. All

requests for amendments more than 5 years after the date of death must be reviewed and approved by the state registrar.

Fetal Death Reports

Correcting information as reported on fetal death reports is governed by Minnesota Rules, part 4601.2200, subpart 4. Subpart 4 allows the mother named on the report or the facility that filed the report to request the state registrar to correct the information on a fetal death report.

Denying Access to Data

Minnesota Statutes, section 13.03, subdivision 3, and section 13.072

If the requested data are classified in such a way that the requestor must be denied access, you must inform the requestor in writing that the data cannot be released and the statutory provision that prohibits the release of the data. You may do this either at the time of the request or in writing as soon after as possible. Your supervisor or the head of your issuance office can assist you in preparing this response. A requestor who disagrees with the determination may appeal the decision by writing to the Commissioner, Department of Administration, 50 Sherburne Avenue, 200 Administration Building, St Paul, MN 55155.

If the requested data have been destroyed according to a retention schedule, give the requester a copy of the retention schedule and, if needed, evidence that the data has been destroyed.

Data Practices Disputes and Questions

Statutory Reference: Minnesota Statutes, section 13.072.

Government entities or individuals seeking resolution of disputes relating to Minnesota Statutes, chapter 13 and other statutes regulating government data practices may request an advisory opinion from the Commissioner of Administration. Advisory opinions may also be requested on any question concerning access to government data, the rights of data subjects, or the classification of data.

An advisory opinion is not binding. However, a court must give deference to the opinion in a proceeding that involves the data dispute and a government entity or individual that conforms to an opinion will not be liable for damages

To request an advisory opinion, send a written request to:
Commissioner of Administration
c/o Information Policy Analysis Division
50 Sherburne Avenue
201 Administration Building
St. Paul, Minnesota 55155

Info.ipad@state.mn.us

More information on advisory opinions and access to government data can be found on the [IPAD website \(www.ipad.state.mn.us\)](http://www.ipad.state.mn.us).