13.2 WHO IS COVERED BY THE DATA PRACTICES ACT

The Data Practices Act has broad application to government in the state of Minnesota. All state agencies, political subdivisions, and statewide systems are subject to the Data Practices Act under the definition of "government entity."[1] "State agency" is defined as "the state, the University of Minnesota, and any office, officer, department, division, bureau, board, commission, authority, district or agency of the state."[2] A "political subdivision" is defined to include:

> [A]ny county, statutory or home rule charter city, school district, special district, any town . . . in the metropolitan area, . . . and any board, commission, district or authority created pursuant to law, local ordinance or charter provision. It includes any nonprofit corporation which is a community action agency organized pursuant to the economic opportunity act of 1964 (P.L. 88–452) as amended, to qualify for public funds, or any nonprofit social service agency which performs services under contract to a government entity, to the extent that the nonprofit social service agency or nonprofit corporation collects, stores, disseminates, and uses data on individuals because of a contractual relationship with a government entity.[3]

A "statewide system" is defined to include "any record-keeping system in which government data is collected, stored, disseminated and used by means of a system common to one or more state agencies or more than one of its political subdivisions or any combination of state agencies and political subdivisions."[4]

In addition to its application to government entities, some or all of its provisions may be applicable to non-government entities under contract with government entities.[5] A government entity entering into a contract with a private party to perform any of its functions must include a notice that the data collected by the private person is subject to the Data Practices Act. Failure to include the notice in the contract does not invalidate the application of the statute.[6]

The statute specifically exempts the judiciary in Minnesota from the provisions of the Data Practices Act.[7] The court system is governed by the Rules of Public Access to Records of the Judicial Branch adopted by the Minnesota Supreme Court.[8]

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[1] MINN. STAT. § 13.01, subd. 1.

[2] *Id.* § 13.02, subd. 17.

[3] *Id.*, subd. 11.

[4] *Id.*, subd. 18.

[5] *Id.* §§ 13.02, subd. 11, .05, subds. 6, 11, .46 subds. 1, 5.

[6] *Id.* § 13.05, subd. 11; *see also* Helmberger v. Johnson Controls, Inc., 839 N.W.2d 527, 533-34 (Minn. 2013). The court's decision in *Helmberger* was subsequently addressed by legislative action. 2014 Minn. Laws, ch. 293, § 2, at 1 (appending the quoted text to subd. 11).

[7] MINN. STAT. § 13.90 (2014).

[8] MINNESOTA R. PUB. ACCESS TO RECS. OF JUD. BRANCH 1-11.