

# 10 Child Support Data Practices Nuances

October 4, 2016  
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## #1: Federal Law as Well as State Law Governs Child Support Data

- ▶ **Federal Law: 42 U.S.C. § 654, 45 C.F.R. § 303.21 and 45 C.F.R. § 307.13**
  - State Plan requirement to safeguard confidential information
  - Special safeguarding requirements apply to PRISM
- ▶ **State Law: Minn. Stat. § 13.46, subd. 2**
  - Child support data on individuals collected, maintained, used, or disseminated by the welfare system are private data on individuals, and shall not be disclosed

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## #2: Certain Data Is Subject To Additional Safeguards

- ▶ Federal Tax Information (FTI)
- ▶ Federal Parent Locator Service (FPLS) Data
- ▶ Financial Institution Data Match (FIDM) Data
- ▶ Protected Health Information Subject to HIPPA
- ▶ Data on cases where there is or may be domestic abuse

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## FTI

- ▶ What is FTI?
  - Only includes information received directly from the IRS or SSA (not tax returns and SSNs supplied by the parties themselves)
  - Cannot be disclosed outside the administration of the IV-D program – cannot disclose to MFIP, Medical Assistance/MNCare, SNAP, Child Protection, Foster Care, Adoption or Child Care
  - Extra safeguards do not apply if public authority is able to “independently verify”

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## When/What FTI Can be Disclosed?

- ▶ FTI to the CP: You can tell the CP the amount and date of a federal tax refund offset, including the source of the payment and that the payment can be held for up to six months. The CP may not be told the reason for the hold or any other FTI relating to the NCP.
- ▶ FTI to the NCP: Any FTI maintained about him/her in the child support agency’s files can be provided to the NCP.
- ▶ FTI to the Court: FTI may not be disclosed in state court proceedings. Federal tax offset payment amounts may be disclosed in court proceedings **provided that all payment sources** are not disclosed orally or in writing.

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## FPLS Data

- ▶ What is FPLS?
  - FPLS includes National Directory of New Hire (NDNH), Debtor File, and Federal Case Registry (FCR)
  - Authorized requests are those made solely to locate a parent for the purpose of establishing paternity, securing child support, or where applicable to locate a parent in a kidnapping case, establish or enforce a child custody or visitation order
  - NDHN and FCR information cannot be disclosed to Medical Assistance/MNSure

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## FIDM Data

- ▶ What is FIDM?
  - Data received from data matching with financial institutions and/or any private information received from financial institutions
  - Cannot be disclosed outside the administration of the IV-D program – cannot share with MFIP, Medical Assistance/MNCare, SNAP, Child Protection, Foster Care, Adoption or Child Care

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## HIPPA

- ▶ What is HIPPA?
  - **Health Insurance Portability and Accountability Act.** The primary goal of HIPPA is to make it easier for people to keep health insurance, protect the confidentiality and security of healthcare information and help the healthcare industry control administrative costs.
- ▶ Does HIPPA apply to child support data?
  - Medical records provided by the CP/NCP **No**
  - Genetic test information **No**
  - Birth Record Information on MRNC **No**
  - Information received from the MA Program ie. information on pregnancy and birthing expenses **Maybe**

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## Domestic Violence

- ▶ Federal Law: Special additional restrictions on data to prevent disclosure about the whereabouts of an individual protected by a temporary restraining order or whenever the IV-D agency had a reason to believe that disclosure could be harmful to the party or child
- ▶ State Law: The public authority cannot release private data on the location of a party when the public authority has knowledge that a protective order with respect to the other party has been entered or the public authority has reason to believe the release of the information may result in physical or emotional harm to the other party

\*Address information can be released to process servers but make sure the affidavit of service being filed with the court is redacted.

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### Child Support Data as Welfare Data Under State Law

- ▶ Welfare data is a broad data subset that includes data from a number of agencies, programs and boards.
  - The Department of Human Services, local social services agencies, county welfare agencies, private licensing agencies, the public authority responsible for child support enforcement, human services boards, community mental health center boards, state hospitals, state nursing homes, the ombudsman for mental health and developmental disabilities, and persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract.

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### #3: Data Sharing Between Personnel in Same Program

- ▶ Disclosure permitted between personnel of the welfare system working in the same program:
  - Child Support data can be shared within the IV-D child support program
    - County to County IV-D agency
    - County to State IV-D agency and vice-versa
    - Contractors of the State or County IV-D agency hired to perform child support services. Private data in the hands of a contractor remains "private data" and the contractor is required to safeguard it the same as the IV-D agency.

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### #4: Data Sharing With Other Programs In Welfare System

- ▶ Disclosure permitted to personnel of the welfare system who require the data to verify an individual's identity; determine eligibility, amount of assistance, and the need to provide services to an individual or family across programs; evaluate the effectiveness of programs; assess parental contribution amounts; and investigate suspected fraud
  - MFIP (IV-A)
  - MA/MNCARE (Chapter 256B)
  - Child Care Assistance (Chapter 119B)

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### Data Sharing With Other Programs (cont.)

- ▶ Direct Access to PRISM
  - Is available to personnel of public assistance programs as defined in section [256.741](#), for the purpose of administration, including monitoring and evaluation of those public assistance programs:
    - MFIP
    - MA/MNCARE
    - Child Care Assistance

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### Child Support Data Can be Disclosed to IV-B and IV-E!

- State Law: child support data on the child, the parents, and relatives of the child may be disclosed to agencies administering programs under titles IV-B and IV-E of the Social Security Act (Foster Care/Adoption Assistance and Child Welfare), as authorized by federal law
- Federal Law: child support data on the child, the parents, and relatives of the child may be disclosed to the extent necessary for them to carry out program responsibilities

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### Data Sharing with IV-B/IV-E

- ▶ Why we should be sharing data with IV-B and IV-E:
  - *In Re the Petition of K.P.W. and J.L.H. to Adopt S.Q-B*, 2014 WL 802557

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### Mechanisms For Data Sharing with IV-B/IV-B

- ▶ Shared Master Index (SMI): a DHS computer system that links client data across the various social service programs to provide state, county and tribal workers with a more holistic view of services a family or individual may be receiving, contains PRISM data
- ▶ Face-to-Face or Telephone Communication
  - Including State Staff, CSOs, Social Workers and County Attorneys

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### #5: Sharing with Tribal and Other State IV-D Agencies

- ▶ Permitted to share data with other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program
  - State Plan requirement to state IV-D programs to extend their full range of services to IV-D tribal programs
    - Data Sharing is accomplished through Data Sharing Agreement

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### #6: Additional Exceptions Permitting Disclosure

- ▶ Welfare Fraud
- ▶ Law Enforcement
- ▶ Statutory Exceptions Specific to Child Support

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### Welfare Fraud

- ▶ Permitted to disclose to personnel of the welfare system to investigate suspected fraud
- ▶ Permitted to disclose to an agent of the welfare system and an investigator acting on behalf of a county, the state, or the federal government, including a law enforcement person or attorney in the investigation or prosecution of a criminal, civil, or administrative proceeding relating to the administration of a program

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### Law Enforcement

Permitted to disclose data to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons

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### Disclosure to Child Support Program Participants

- ▶ You may disclose:
  - Data on child support payments made by a child support obligor and data on the distribution of those payments excluding identifying information on obligees may be disclosed to all obligees to whom the obligor owes support
  - Data on enforcement actions undertaken by the public authority and the status of those actions to either party
  - Data on the income of the obligor or obligee to either party

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### #7: Pending Litigation Does not Authorize Disclosure

- ▶ A parent is not entitled to all the information the public authority has about the other parent even when litigation is pending.
- ▶ Discovery Requests: not sufficient, a court order is needed.
- ▶ Subpoena: not sufficient, a court order is needed.
- ▶ But... under Minn. Stat. § 518A.46, subd. 6: "The public authority may share available and relevant information on the parties in order to perform its duties under this section or under Supreme Court rules governing the expedited child support hearing process under section [484.702](#), subject to the limitations of sections [256.87, subdivision 8](#); [257.70](#); and [518.005, subdivision 5](#)."

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### #8 Certain Confidential/Private Data is Required in Child Support Pleadings

- ▶ Certain private information is required to be in all child support establishment and modification pleadings under the statutes
  - Name, address and birth dates of parties
  - Social security numbers of the parties and the minor child(ren) of the parties
  - Other support obligations of the obligor
  - Names and addresses of parties' employers
  - Gross incomes of the parties as calculated pursuant to statute
  - Health insurance coverage of the parties
  - Types and amounts of public assistance received by the parties
  - Any other information relevant to the computation of support

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### Restrictive Identifiers Required

- ▶ Restrictive identifiers are required on child support pleadings (SSN, EIN, and Fin. Account #s)
  - MN General Rules of Practice require you to only disclose the confidential information that is "germane and necessary" for the court's consideration.
  - A document filed with the court "constitutes a certification by the filer" that the document filed contains no restricted identifiers except as permitted under the rules and violations may result in sanctions to the filer under the MN General Rules of Practice. A violation may also result in a sanction for attorneys under Rule 11 of the Minnesota Rules of Civil Procedure.
  - Use Confidential Information Forms but these forms do not need to be served on the parties.

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### #9 The Court Classifies Data Differently Than Child Support

- ▶ Court refers to files and court documents in files as “public”, “sealed” “confidential”
- ▶ Generally all child support actions **except initial actions to determine paternity** are “public”, however, the child support file may contain confidential documents which are available to the parties to the action but are not available to the public.

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### #10: NCPs Are Entitled to Data on their Children

- ▶ Although a NCP may not be entitled to all the private information that public authority has on the CP, he/she may be able to obtain some of that information by making a request for the private data of the minor joint child.

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### NCP’s Right to Data on Joint Child(ren)

- ▶ “Individual” defined under the MGDPA, in the case of a minor child includes a parent or guardian or an individual acting as a parent or guardian in the absence of a parent or guardian, except that the responsible authority shall withhold data from parents or guardians, or individuals acting as parents or guardians in the absence of parents or guardians, upon request by the minor if the responsible authority determines that withholding the data would be in the best interest of the minor. Minn. Stat. § 13.02, subd. 8
- ▶ Minn. Stat. 518.317, subd. 3(b) requires the court to grant rights to each of the parties in a custody case, unless specific findings are made why a particular right should not be granted/should be limited. These rights include: the right of access to, and to receive copies of, school, medical, dental, religious training, police reports, and other important records and information about the minor children;

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## Contact Information

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## Questions?



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### Pop Quiz Question #1

- ▶ NCP informed you that he/she lost his job. When CP calls you later wondering where his/her monthly support payment is, can you tell CP that NCP is unemployed?

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### Pop Quiz Question #2

- ▶ During a contempt review hearing, the judge asks the county the source of the large irregular payment the NCP made during the last three months, can you tell the judge, the payment was the result of a federal tax offset?

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### Pop Quiz Question #3

- ▶ A NCP provides you with his complete medical record from his primary care doctor. Is this data subject to HIPPA safeguarding requirements?

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### Pop Quiz Question #4

- ▶ A NCP who has no legal custody, physical custody or parenting time requests the child's current address from the child support office, can this information be disclosed?

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### Pop Quiz Question #5

- ▶ The child support office received a subpoena demanding disclosure of child support income information on a child support participant for a unrelated personal injury lawsuit, should the child support office comply with the subpoena and disclose the information?

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 Information Policy Analysis Division

**Data Practices Top 10**

 October 2016

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**#1: Government Data Practices Laws**

- Data Practices Act
  - Presumes government data are public
  - Classifies data that are not public
  - Provides rights for the public and data subjects
  - Requires that data on individuals are accurate, complete, current, and secure
  - Limitation on collection and use (“minimum necessary”)
- Data Practices Rules

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**Government Data Practices Laws, cont.**

- Official Records Act
- Records Management Statute



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## #2: What are *government data*?

- Government data are “all data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or conditions of use.”




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## #3: Classification of Government Data

Classification	Meaning of Classification	Examples
Public	Available to anyone for any reason	-- Employee name -- Employee salary -- Final disposition of discipline
Private/Nonpublic	Available to: <ul style="list-style-type: none"> <li>• Data subject</li> <li>• Those in the entity whose work requires access</li> <li>• Entities authorized by law</li> <li>• Those authorized by data subject</li> </ul>	-- Employee home address/phone -- Substance of complaint when no discipline -- Employee reason for leaving job (unless discipline related)
Confidential/Protected nonpublic	Available to: <ul style="list-style-type: none"> <li>• Those in the entity whose work requires access</li> <li>• Entities authorized by law</li> </ul> Not available to data subject	-- Data collected as part of an active civil legal action

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## #4: Government Entity Obligations

- Responsible authority
  - County
    - Elected officials
    - Data outside offices of elected officials
    - County social services agency
- Data practices compliance official
- Required policies & procedures
- Data inventory




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### #5: Requests for Government Data

	Member of the Public	Data Subject
<b>Inspection and Copies of Data</b>	Appropriate and prompt, reasonable amount of time	Immediately, if possible, or within 10 business days


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### #6: Charging for Government Data

	Member of the Public	Data Subject
<b>Inspection</b>	No charge or fee allowed	No charge or fee allowed
<b>Copies</b>	<ul style="list-style-type: none"> <li>❖ 25¢ per page</li> <li>100 or fewer, black and white, legal/letter size paper copies</li> <li>❖ Actual cost                             <ul style="list-style-type: none"> <li>-- All other copies</li> <li>-- No charge to separate public from not public data</li> <li>-- Note: electronic data</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>❖ Actual cost                             <ul style="list-style-type: none"> <li>-- No charge to search for and retrieve data</li> <li>-- No charge to separate public from not public data</li> <li>-- No charge to redact private or confidential data about others</li> </ul> </li> </ul>


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### #7: Data Subject Rights

- Tennessen warning
  - ✓ State the purpose and intended use of data
  - ✓ Inform the individual whether s/he may refuse or is legally required to provide the data
  - ✓ Explain known consequences of supplying or refusing to supply the data
  - ✓ Identify other persons or entities with statutory authority to get access to the data
- Examples: SSN, home address, dependent information


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**Data Subject Rights, cont.**

- **Informed consent**
  - Permission for a new use or release of private government data
  - Informed consent must be in writing and cannot be coerced
  - Informed consent is necessary when:
    - ✓ The individual asks the entity to release private data to another entity or person
    - ✓ The entity wants to release private data to another entity or person without statutory authority
    - ✓ The entity wants to use private data in a way that is different than what was explained in the Tennessee warning


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**#8: Safe at Home Program**

- **Data protection for victims of violence**
  - Address confidentiality
    - “Location data” and “identity data” are private with certain exceptions
  - Participants may notify government entities about program participation
    - Entity must accept designated address
    - Contents of notice are private
    - Real property exceptions
  - No duty to independently determine program participants, unless:
    - A data subject participant requests data, or
    - A participant submits notice of certification


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**#9: Data Breaches**

- **Data Security Breaches** (Minn. Stat. § 13.055)
  - Data breach requirements apply to all government entities
  - RA must investigate and create report detailing data breaches
  - Annual security assessment on “personal information”
- **Penalties** (Minn. Stat. § 13.09)
  - Penalty for knowing access to not public data without a work reason
- **Creation of Procedures for Not Public Data** (Minn. Stat. § 13.05, subd. 5)
  - Requires RA to establish procedures ensuring that only those who have a work assignment can access not public data


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## #10: Penalties & Remedies

- Remedies (Minn. Stat. §13.08)
  - Action to compel compliance
  - Action for damages, costs, and attorneys fees
- Administrative remedy (Minn. Stat. §13.085)
  - Administrative hearing within 2 years of alleged violation
  - Action to compel compliance
- Penalties (Minn. Stat. §13.09)
  - Willful violation or knowing unauthorized acquisition of not public data = misdemeanor
  - Dismissal or suspension
- Advisory opinions (Minn. Stat. §13.072)


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## IPAD's Role

- Information Policy Analysis Division (IPAD)
  - ✓ Informal advice
  - ✓ Commissioner of Administration advisory opinions
  - ✓ Website and information materials
  - ✓ Listserv and newsletters
  - ✓ Legislative assistance
  - ✓ Training


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### QUESTIONS?


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## Outline - Statutory Cites for Child Support Data Practices Presentation

### I. General Laws Governing Child Support Data

- A. 42 U.S.C. § 654, 45 C.F.R. § 303.21, and 45 C.F.R. § 307.13
- B. M.S. § 13.46

### II. Types of child support data subject to additional protections

- A. Federal Tax Information (26 U.S.C. § 6103)
- B. Federal Parent Locator Service (FPLS) Data (42 U.S.C. § 653)
- C. Financial Institution Data Match (FIDM) (42 USC § 469A, 45 C.F.R. § 303.21),
- D. Protected Health Information (PHI) (HIPPA: 42 USC § 300gg, 29 USC §1181 *et seq.* and 42 USC § 1320d *et seq.*, 45 CF § 144, 45 CFR § 146, 45 CFR § 160, 45 CFR §162, 45 CFR §164)
- E. Cases with Domestic Violence Concerns: Good Cause Exception to requirement to cooperate with the child support agency (Minn. Stat. § 256.741); Domestic Violence Indicator (7 C.F.R. § 273.11)

### III. A NCP's ability to make data requests on behalf of his/her minor children

- A. Individual" defined under the MGDPA, in the case of a minor child includes a parent or guardian or an individual acting as a parent or guardian in the absence of a parent or guardian, except that the responsible authority shall withhold data from parents or guardians, or individuals acting as parents or guardians in the absence of parents or guardians, upon request by the minor if the responsible authority determines that withholding the data would be in the best interest of the minor. (Minn. Stat. § 13.02, subd. 8)
- B. Minn. Stat. § 518.17, subd. 3 (parental rights) – rights parents have to minor child(ren)'s data

### III. Exceptions to general prohibition on disclosure of welfare (child support) data

- A. Within IV-D: other county and state IV-D child support staff (Minn. Stat. §13.46, sud. 2(a)(7) and other state IV-D agencies (Minn. Stat. §13.46, subd. 2(a)(25)) and anyone the county or state as contracted with to perform child support services (45 C.F.R. 303.21 (b))
- B. To Tribal IV-D agencies: (Minn. Stat. § 13.46, subd. 2 (25))
- C. To IV-B (child welfare) and IV-E (foster care and adoption) - child support data on the child, the parents, and relatives of the child may be disclosed to the extent

- necessary for them to carry out program responsibilities (Minn. Stat. § 13.46, subd. 2(a)(30), 45 CFR § 303.21 and 45 C.F.R. § 307.13, DHS Bulletin #14-75-01 )
- D. To IV-A (MFIP), Child Care Assistance (119B) and Medical Assistance (256B) and MNCARE (Minn. Stat. § 13.46, subd. 2(a)(26)) : to personnel of the welfare system who require the data to verify an individual's identity; determine eligibility, amount of assistance, and the need to provide services to an individual or family across programs; evaluate the effectiveness of programs; assess parental contribution amounts; and investigate suspected fraud; to personnel of public assistance programs as defined in section [256.741](#), for access to the child support system database for the purpose of administration, including monitoring and evaluation of those public assistance programs (only provision giving wholesale PRISM access)
  - E. For help in a welfare fraud investigation (Minn. Stat. §13.46, subd. 2(a)(4)(5))
  - F. To appropriate parties in connection with an emergency to protect the health or safety of the individual or other individuals or persons (Minn. Stat. 13.46, subd. 2(10))
  - G. To parties in a child support case: data on child support payments made by a child support obligor and data on the distribution of those payments excluding identifying information on obligees may be disclosed to all obligees to whom the obligor owes support, and data on the enforcement actions undertaken by the public authority, the status of those actions, and data on the income of the obligor or obligee may be disclosed to the other party (Minn. Stat. §13.46, subd. 2(a)(21))

#### IV. Required Disclosure Under Statute/Rule

- A. Minn. Stat. § 518A.46/Gen Rules of Practice Rules 11.01 and 11.02: require certain private information to be in all child support establishment and modification pleadings but rules provide for keeping “restrictive identifiers” out of public portion of the court file
- B. Gen Rule of Practice Rule 14 defines court docs as “public”, “confidential” and “sealed”
- C. Gen Rule of Public Access Rule 4 specifies which paternity records are confidential in the court file
- D. Minn. Stat. § 257.70 (a): paternity hearings shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the state Department of Human Services or elsewhere, are subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.
- E. Minn. Stat. § 518A.28: requires parties to serve and file a financial affidavit and include relevant supporting documentation, including tax returns, 1099s, W-2s
- F. Disclosure of SSNs
  - 1. Minn. Stat. § 257.66, subd. 3 a paternity order must contain the Social Security number of the mother, father, and child, if known at the time of adjudication

2. Minn. Stat. § 518.10, subd. 2: in a dissolution where child support or spousal maintenance issues will be addressed, the dissolution petition under be accompanied by a separate document that contains the Social Security numbers of the petitioner and the respondent. The Social Security number document must be maintained in a portion of the court file or records that are not accessible to the general public

3. Minn. Stat. § 518.148, subd. 2: a certificate of dissolution must contain the Social Security number of the parties to the dissolution and the Social Security number of any living minor or dependent children identified in the judgment and decree.

4. Minn. Stat. §518A.41, subd. 2(b): Every order addressing child support must state: the names, last known addresses, and Social Security numbers of the parents and the joint child that is a subject of the order unless the court prohibits the inclusion of an address or Social Security number and orders the parents to provide the address and Social Security number to the administrator of the health plan

#### V. Ability to Share During Pending Litigation:

G. Minn. Stat. § 13.03, subd. 6 and Minn. Admin. R. 1205.0100, subp. 5 Inability to disclose w/ a subpoena or discovery request

H. Minn. Stat. § 518A.46, subd. 6: "The public authority may share available and relevant information on the parties in order to perform its duties under this section or under -Supreme Court rules governing the expedited child support hearing process under section [484.702](#), subject to the limitations of sections [256.87, subdivision 8](#); [257.70](#); and [518.005, subdivision 5](#)."

**Citation Outline: Minnesota Government Data Practices Act and Child Support Data Privacy**  
Minnesota Family Support and Recovery Council Conference  
October 2016

- I. Government Data Practices Laws
  - a. Minnesota Government Data Practices Act (Minnesota Statutes, Chapter 13)
  - b. Data Practices Rules, Minnesota Rules, Chapter 1205
  - c. Official Records Act (Minn. Stat. § 15.17)
  - d. Records Management Statute (Minn. Stat. § 138.17)
  
- II. Relevant data practices provisions
  - a. Government data, generally
    - i. Defined: Minn. Stat. § 13.02, subd. 7
    - ii. Data practices responsible authority: Minn. R. 1205.0200, subp. 14 and Minn. Stat. § 13.46, subd. 10
    - iii. Data practices compliance official: Minn. Stat. § 13.05, subd. 13
    - iv. Government entity obligations (policies, inventory): Minn. Stat. § 13.025
    - v. Requests for data: Minn. Stat. §§ 13.03 and 13.04
    - vi. Tennessean warning: Minn. Stat. § 13.04, subd. 2
    - vii. Informed consent: Minn. Stat. § 13.05, subd. 4(d) and Minn. R. 1205.1400
  - b. Personnel data: Minn. Stat. § 13.43
  - c. Active civil investigative data: Minn. Stat. § 13.39
  - d. Active criminal investigative data: Minn. Stat. § 13.82, subd. 7
  - e. Safe at Home Program data (Chapter 5B): Minn. Stat. § 13.045
  
- III. Relevant advisory opinions (<http://www.ipad.state.mn.us/opinions/>)
  - a. Personal data is not government data
    - i. 01-075: <http://www.ipad.state.mn.us/opinions/2001/01075.html>
  - b. Child support
    - i. Access to child support data
      - 94-017: <http://www.ipad.state.mn.us/opinions/1994/94017.html>
      - 94-058: <http://www.ipad.state.mn.us/opinions/1994/94058.html>
    - ii. Publication of child support obligors in arrears (Minn. Stat. § 13.46, subd. 2(a)(20))
      - 95-055: <http://www.ipad.state.mn.us/opinions/1995/95055.html>
      - 96-041: <http://www.ipad.state.mn.us/opinions/1996/96041.html>
    - iii. Child support worker case notes
      - 96-040: <http://www.ipad.state.mn.us/opinions/1996/96040.html>
    - iv. Interaction of child support data with Minn. Stat. § 13.393 (attorney data)
      - 02-039: <http://www.ipad.state.mn.us/opinions/2002/02039.html>
    - v. Parent access to data about child even if reveals data about other parent
      - 02-042: <http://www.ipad.state.mn.us/opinions/2002/02042.html>

## Child Support Advisory Opinions

### 94-017

***State law trumps a county's policy regarding access to child support data. Child support checks are private data, but the recipient of those checks is a subject of that data, and therefore has the right to access them.***

A resident in Roseville requested access to data maintained by the Ramsey County Attorney's Office of Child Support and Collections (CSC). She requested all checks that had been sent to her from 1986 to 1994, all information about revenue recapture and wage withholding, but did not want information about the payer's identity.

CSC denied the request because they stated it was their policy only to provide specific check information. CSC's policy was to provide a monthly statement with detailed information from the previous month's statements and an account review once a year upon request. The County also responded that the actual checks are not kept on the premises, that welfare data is private, and that the requester was not allowed to see the data about the payer/non-custodial parent.

In the Advisory Opinion, the Commissioner of Administration opined that CSC is part of the welfare system, and that checks sent to the requester were private data. As the subject of the data, the requester had the right to view or make copies of that data under Minn. Stat. § 13.04. The County could not simply state that it was their policy to do something if the policy didn't comply with the law. It also was irrelevant where the checks were stored. CSC's collections of money and disbursements of that money were either public or private, and the requester was entitled to access them under Minn. Stat. §§ 13.04 subd. 3 and § 13.03.

### 94-058

***Child support accounting information is either private or public data, which must be provided in full, in a timely manner (according to the requester's relationship with the data), and in a format that's understandable to the requester.***

Legal Aid attorneys requested child support data for their client from Hennepin County's Collection Services Division many times without success until they were given print-outs of unreadable jargon about 8 months later. A year after making the request, they received the data (after requesting an Advisory Opinion), which the Commissioner stated was not a reasonable time for the County to respond.

Child support accounting information could be either private data on individuals about the support obligee or public data not on individuals and were therefore accessible to the requester (who was the obligee), pursuant to § 13.46 subd. 2 and 6. Government entities are required to respond to requests for access to welfare data within specific frameworks according to the requester's relationship with the data. The data must be in a manner that is comprehensive to the person seeking access, or else it must be explained to the requester. When a citizen requests public data, or data where the requester is the subject of the data, government entities are obligated to provide access to all data requested.

95-055

***DHS may publish the names of delinquent child support obligors once a year, but it must not publish them in error and must first give notice to each parent prior to publication.***

A man who paid child support was published in a newspaper announcement of the “most delinquent parents” who were behind on child support payments. He was not in arrears on his child support, so his name was published erroneously.

The government may publish such an announcement, per Minn. Stat. § 518.75, but it must also give notice to all parents who will be listed before publishing it. It did not give notice to the man. Both the failure to notify him and the erroneous publishing were without statutory authority.

96-040

***Case notes are government data subject to the MGDPA. They are not mental impressions and are not automatically protected as attorney work product.***

K requested all data maintained by the Child Support Division of Olmstead County about K’s two child support cases, including notes made by case workers, supervisors, and DHS personnel during and after telephone conversations with K about K’s cases.

K was informed by the county that case notes are classified as “attorney work product” and are privileged/confidential information. Additionally, the county stated later that the notes were mental impressions and were therefore not subject to the MGDPA.

The Commissioner opined that the notes could not be mental impressions because they existed in physical form on an electronic database. Minn. Stat. § 13.02 subd. 7. Therefore, the notes are subject to the same disclosure as any government data.

To the other argument, all data generated by attorneys are not automatically protected by the rules of discovery. If the attorney were actually preparing for trial and the notes were in fact attorney work product, then they would not be subject to disclosure. Otherwise, the notes were private data and K would be allowed access to them.

96-041

***Names of individuals whose driver’s license is suspended for not paying child support are public data.***

The Commissioner of the MN Department of Public Safety requested an opinion regarding the classification of names of individuals who have their driver’s license suspended because they’re in arrears on child support payments. There was seemingly a conflict between Minn. Stat. § 171.12 subd. 1 (3), which provides that the names of individuals who have their driver’s license suspended and the reasons for the suspension are generally public data, and Minn. Stat. § 13.46, which states that data relating to persons paying and receiving child support and/or maintenance are private.

The Advisory Opinion states that because Minn. Stat. § 171.86 requires that when an order for suspension is rescinded, the Commissioner of DPS removes that record from the database that's disclosed to entities and individuals outside of the agency, the Legislature must have intended the data to be public while at DPS.

**02-039**

***The name of a child support obligor that was part of an investigation is public data after it has been submitted in a court proceeding.***

A requester asked Ramsey County's Office of Child Support and Collections for the name of a man who was reported in the Pioneer Press as having paid \$167,000 in back child support after being court ordered to pay it in full or sit time in jail. The Ramsey County Attorney's Office replied to the requester that "any data of that nature" in their possession were not subject to the MGDPA and denied the request.

The Commissioner opined that the data were public. A court referee had made a ruling regarding the obligor, who had subsequently "exhausted his appeals." According to Minn. Stat. § 13.46 subdivision 3, welfare data are public upon submission to an administrative law judge or a court in administrative or judicial proceedings.