



S.F. No. 730 – Data not on individuals held with the Office of the Attorney General

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S.F. 730 addresses a Minnesota Supreme Court opinion, *Energy Policy Advocates v. Ellison*, 980 N.W.2d 146 (Minn. 2022), that held, in part,¹ that [section 13.65, subdivision 1](#), classifies data not on individuals maintained by the Office of the Attorney General (AGO) as private data on individuals. This bill provides that only data on individuals held with the AGO is classified as private data on individuals under section 13.65, subd. 1.

Under the Minnesota Government Data Practices Act, data is presumed public, unless specifically classified as not public.² There are four categories of classified data that are withheld from the public.³ These categories are divided based on data on individuals, data not on individuals, data that the subject may access, and data that even the subject is prohibited from accessing, as follows:⁴

	Data subject may access	Data subject may not access
Data on individuals	Private data on individuals	Confidential data on individuals
Data not on individuals	Nonpublic data	Protected nonpublic data

Under current law, section 13.65, subd. 1, states that, “The following data created, collected and maintained by the Office of the Attorney General are private data on individuals” The court in *Energy Policy Advocates* interpreted this phrase to mean that all data held with the AGO under section 13.65, subd. 1, regardless of whether it was on individuals or not, was classified as private data on individuals.⁵ Therefore, the court concluded that based on the classification of the data as private data on individuals, the requested data not on individuals could not be disclosed to the public.⁶

¹ In addition, the court adopted the common-interest doctrine and extended the attorney-client privilege to internal communications among public law attorneys.

² Minn. Stat. 13.02, subdivision 3.

³ Minn. Stat. 13.02, subdivisions 3, 9, 12, and 13

⁴ *Id.*

⁵ *Energy Policy Advocates*, 980 N.W.2d at 158.

⁶ *Id.*