

**HOUSE . . . . . No. 3002**

---

**The Commonwealth of Massachusetts**

PRESENTED BY:

**John D. Keenan (BY REQUEST)**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to the Public Records Law "The Massachusetts Sunshine Bill".

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stefano Picciotto	418 Lafayette Street Salem, MA 01970
Melita Picciotto	418 Lafayette Street Salem, MA 01970

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATIVE TO THE PUBLIC RECORDS LAW "THE MASSACHUSETTS SUNSHINE BILL".

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 SECTION 1. Chapter 66 is hereby repealed and is replaced by the following language:
- 2 **CHAPTER 66**
- 3 **PUBLIC RECORDS**
- 4 **THE MASSACHUSETTS SUNSHINE BILL**
- 5 66 § 1 General state policy on public records.
- 6 66 § 2 Definitions.
- 7 66 § 3 Custodial requirements; maintenance, preservation, and retention of public records.
- 8 66 § 4 Inspection and copying of records; photographing public records; fees; exemptions.
- 9 66 § 5 General exemptions from inspection or copying of public records.
- 10 66 § 6 Executive branch agency exemptions from inspection or copying of public records.
- 11 66 § 7 Executive branch agency-specific exemptions from inspection or copying of public
- 12 records.
- 13 66 § 8 Local government agency exemptions from inspection or copying of public records.
- 14 66 § 9 Court files; court records; official records.
- 15 66 § 10 Copyright of data processing software created by governmental agencies; sale price and
- 16 licensing fee.

- 17 66 § 11 Registration by federal employer's registration number.
- 18 66 § 12 Violation of chapter; penalties.
- 19 66 § 13 Protection of victims of crimes or accidents.
- 20 66 § 14 Accelerated hearing; immediate compliance.
- 21 66 § 15 Attorney's fees.
- 22 66 § 16 Legislative review of exemptions from public meeting and public records requirements.

23 **66 § 1 General state policy on public records**

24 (1) It is the policy of this state that all state, county, and municipal records are open for personal  
25 inspection and copying by any person. Providing access to public records is a duty of each  
26 agency.

27 (2)(a) Automation of public records must not erode the right of access to those records. As each  
28 agency increases its use of and dependence on electronic recordkeeping, each agency must  
29 provide reasonable public access to records electronically maintained and must ensure that  
30 exempt or confidential records are not disclosed except as otherwise permitted by law.

31 (b) When designing or acquiring an electronic recordkeeping system, an agency must consider  
32 whether such system is capable of providing data in some common format such as, but not  
33 limited to, the American Standard Code for Information Interchange.

34 (c) An agency may not enter into a contract for the creation or maintenance of a public records  
35 database if that contract impairs the ability of the public to inspect or copy the public records of  
36 the agency, including public records that are online or stored in an electronic recordkeeping  
37 system used by the agency.

38 (d) Subject to the restrictions of copyright and trade secret laws and public records exemptions,  
39 agency use of proprietary software must not diminish the right of the public to inspect and copy a  
40 public record.

41 (e) Providing access to public records by remote electronic means is an additional method of  
42 access that agencies should strive to provide to the extent feasible. If an agency provides access  
43 to public records by remote electronic means, such access should be provided in the most cost-  
44 effective and efficient manner available to the agency providing the information.

45 (f) Each agency that maintains a public record in an electronic recordkeeping system shall  
46 provide to any person, pursuant to this chapter, a copy of any public record in that system which  
47 is not exempted by law from public disclosure. An agency must provide a copy of the record in  
48 the medium requested if the agency maintains the record in that medium, and the agency may

49 charge a fee in accordance with this chapter. For the purpose of satisfying a public records  
50 request, the fee to be charged by an agency if it elects to provide a copy of a public record in a  
51 medium not routinely used by the agency, or if it elects to compile information not routinely  
52 developed or maintained by the agency or that requires a substantial amount of manipulation or  
53 programming, must be in accordance with c. 66 § 4(4).

54 (3) If public funds are expended by an agency in payment of dues or membership contributions  
55 for any person, corporation, foundation, trust, association, group, or other organization, all the  
56 financial, business, and membership records of that person, corporation, foundation, trust,  
57 association, group, or other organization which pertain to the public agency are public records  
58 and subject to the provisions of c. 66 § 4.

## 59 **66 § 2 Definitions**

60 As used in this chapter, the term:

61 (1) "Actual cost of duplication" means the cost of the material and supplies used to duplicate the  
62 public record, but does not include labor cost or overhead cost associated with such duplication.

63 (2) "Agency" means any state, county, district, authority, or municipal officer, department,  
64 division, board, bureau, commission, or other separate unit of government created or established  
65 by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service  
66 Commission, and the Office of Public Counsel, and any other public or private agency, person,  
67 partnership, corporation, or business entity acting on behalf of any public agency.

68 (3)(a) "Criminal intelligence information" means information with respect to an identifiable  
69 person or group of persons collected by a criminal justice agency in an effort to anticipate,  
70 prevent, or monitor possible criminal activity.

71 (b) "Criminal investigative information" means information with respect to an identifiable person  
72 or group of persons compiled by a criminal justice agency in the course of conducting a criminal  
73 investigation of a specific act or omission, including, but not limited to, information derived  
74 from laboratory tests, reports of investigators or informants, or any type of surveillance.

75 (c) "Criminal intelligence information" and "criminal investigative information" shall not  
76 include:

77 1. The time, date, location, and nature of a reported crime.

78 2. The name, sex, age, and address of a person arrested or of the victim of a crime except as  
79 provided in c. 66 § 5(2)(h).

80 3. The time, date, and location of the incident and of the arrest.

81 4. The crime charged.

82 5. Documents given or required by law or agency rule to be given to the person arrested, except  
83 as provided in c. 66 § 5(2)(h), and, except that the court in a criminal case may order that certain  
84 information required by law or agency rule to be given to the person arrested be maintained in a  
85 confidential manner and exempt from the provisions of c. 66 § 4(1) until released at trial if it is  
86 found that the release of such information would:

87 a. Be defamatory to the good name of a victim or witness or would jeopardize the safety of such  
88 victim or witness; and

89 b. Impair the ability of a state attorney to locate or prosecute a codefendant.

90 6. Informations and indictments except as ordered by the court, a grand juror, reporter,  
91 stenographer, interpreter, or officer of the court shall not disclose that an indictment for a felony  
92 has been found against a person not in custody or under recognizance, except by issuing or  
93 executing process on the indictment, until the person has been arrested.

94 (a) The word "active" shall have the following meaning:

95 1. Criminal intelligence information shall be considered "active" as long as it is related to  
96 intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection  
97 of ongoing or reasonably anticipated criminal activities.

98 2. Criminal investigative information shall be considered "active" as long as it is related to an  
99 ongoing investigation which is continuing with a reasonable, good faith anticipation of securing  
100 an arrest or prosecution in the foreseeable future.

101 In addition, criminal intelligence and criminal investigative information shall be considered  
102 "active" while such information is directly related to pending prosecutions or appeals. The word  
103 "active" shall not apply to information in cases which are barred from prosecution under the  
104 provisions of the statute of limitation.

105 (4) "Criminal justice agency" means: (a) Any law enforcement agency, court, or prosecutor;

106 (b) Any other agency charged by law with criminal law enforcement duties;

107 (c) Any agency having custody of criminal intelligence information or criminal investigative  
108 information for the purpose of assisting such law enforcement agencies in the conduct of active  
109 criminal investigation or prosecution or for the purpose of litigating civil actions under the  
110 Racketeer Influenced and Corrupt Organization Act, during the time that such agencies are in  
111 possession of criminal intelligence information or criminal investigative information pursuant to  
112 their criminal law enforcement duties; or

113 (d) The Department of Corrections.

114 (5) "Custodian of public records" means the elected or appointed state, county, or municipal  
115 officer charged with the responsibility of maintaining the office having public records, or his or  
116 her designee.

117 (6) "Data processing software" means the programs and routines used to employ and control the  
118 capabilities of data processing hardware, including, but not limited to, operating systems,  
119 compilers, assemblers, utilities, library routines, maintenance routines, applications, and  
120 computer networking programs.

121 (7) "Duplicated copies" means new copies produced by the process of reproducing an image or  
122 images from an original to a final substrate through the electrophotographic, xerographic, laser,  
123 or offset process or any combination of these processes, by which an operator can make more  
124 than one copy without rehandling the original.

125 (8) "Exemption" means a provision of general law which provides that a specified record or  
126 meeting, or portion thereof, is not subject to the access requirements of c. 66 § 4(1).

127 (9) "Information technology resources" means data processing hardware and software and  
128 services, communications, supplies, personnel, facility resources, maintenance, and training.

129 (10) "Paratransit" means those elements of public transit which provide service between specific  
130 origins and destinations selected by the individual user with such service being provided at a  
131 time that is agreed upon by the user and provider of the service. Paratransit service is provided  
132 by taxis, limousines, "dial-a-ride," buses, and other demand-responsive operations that are  
133 characterized by their nonscheduled, nonfixed route nature.

134 (11) "Proprietary software" means data processing software that is protected by copyright or  
135 trade secret laws.

136 (12) "Public records" means all documents, papers, letters, maps, books, tapes, photographs,  
137 films, sound recordings, data processing software, or other material, regardless of the physical  
138 form, characteristics, or means of transmission, made or received pursuant to law or ordinance or  
139 in connection with the transaction of official business by any agency.

140 (13) "Redact" means to conceal from a copy of an original public record, or to conceal from an  
141 electronic image that is available for public viewing, that portion of the record containing exempt  
142 or confidential information.

143 (14) "Sensitive," for purposes of defining agency-produced software that is sensitive, means only  
144 those portions of data processing software, including the specifications and documentation,  
145 which are used to:

146 (a) Collect, process, store, and retrieve information that is exempt from c. 66 § 4(1);

147 (b) Collect, process, store, and retrieve financial management information of the agency, such as  
148 payroll and accounting records; or

149 (c) Control and direct access authorizations and security measures for automated systems.

150 **66 § 3 Custodial requirements; maintenance, preservation, and retention of public records**

151 (1) Public records shall be maintained and preserved as follows:

152 (a) All public records should be kept in the buildings in which they are ordinarily used.

153 (b) Insofar as practicable, a custodian of public records of vital, permanent, or archival records  
154 shall keep them in fireproof and waterproof safes, vaults, or rooms fitted with noncombustible  
155 materials and in such arrangement as to be easily accessible for convenient use.

156 (c)1. Record books should be copied or repaired, renovated, or rebound if worn, mutilated,  
157 damaged, or difficult to read.

158 2. Whenever any state, county, or municipal records are in need of repair, restoration, or  
159 rebinding, the head of the concerned state agency, department, board, or commission; the board  
160 of county commissioners of such county; or the governing body of such municipality may  
161 authorize that such records be removed from the building or office in which such records are  
162 ordinarily kept for the length of time required to repair, restore, or rebind them.

163 3. Any public official who causes a record book to be copied shall attest and certify under oath  
164 that the copy is an accurate copy of the original book. The copy shall then have the force and  
165 effect of the original.

166 (2)(a) The Division of Library and Information Services of the Department of State shall adopt  
167 rules to establish retention schedules and a disposal process for public records.

168 (b) Each agency shall comply with the rules establishing retention schedules and disposal  
169 processes for public records which are adopted by the records and information management  
170 program of the division.

171 (c) Each public official shall systematically dispose of records no longer needed, subject to the  
172 consent of the records and information management program of the division Secretary of State.

173 (d) The division may ascertain the condition of public records and shall give advice and  
174 assistance to public officials to solve problems related to the preservation, creation, filing, and  
175 public accessibility of public records in their custody. Public officials shall assist the division by  
176 preparing an inclusive inventory of categories of public records in their custody. The division  
177 shall establish a time period for the retention or disposal of each series of records. Upon the  
178 completion of the inventory and schedule, the division shall, subject to the availability of  
179 necessary space, staff, and other facilities for such purposes, make space available in its records

180 center for the filing of semicurrent records so scheduled and in its archives for noncurrent  
181 records of permanent value, and shall render such other assistance as needed, including the  
182 microfilming of records so scheduled.

183 (3) Agency orders that comprise final agency action and that must be indexed or listed pursuant  
184 to the Secretary of State have continuing legal significance; therefore, notwithstanding any other  
185 provision of this chapter, each agency shall permanently maintain records of such orders  
186 pursuant to the applicable rules of the Secretary of State.

187 (4)(a) Whoever has custody of any public records shall deliver, at the expiration of his or her  
188 term of office, to his or her successor or, if there be none, to the records and information  
189 management program of the Secretary of State all public records kept or received by him or her  
190 in the transaction of official business.

191 (b) Whoever is entitled to custody of public records shall demand them from any person having  
192 illegal possession of them, who must forthwith deliver the same to him or her. Any person  
193 unlawfully possessing public records must within 10 days deliver such records to the lawful  
194 custodian of public records unless just cause exists for failing to deliver such records.

195 **66 § 4 Inspection and copying of records; photographing public records; fees; exemptions**

196 (1)(a) Every person who has custody of a public record shall permit the record to be inspected  
197 and copied by any person desiring to do so, at any reasonable time, under reasonable conditions,  
198 and under supervision by the custodian of the public records.

199 (b) A custodian of public records or a person having custody of public records may designate  
200 another officer or employee of the agency to permit the inspection and copying of public records,  
201 but must disclose the identity of the designee to the person requesting to inspect or copy public  
202 records.

203 (c) A custodian of public records and his or her designee must acknowledge requests to inspect  
204 or copy records promptly and respond to such requests in good faith. A good faith response  
205 includes making reasonable efforts to determine from other officers or employees within the  
206 agency whether such a record exists and, if so, the location at which the record can be accessed.

207 (d) A person who has custody of a public record who asserts that an exemption applies to a part  
208 of such record shall redact that portion of the record to which an exemption has been asserted  
209 and validly applies, and such person shall produce the remainder of such record for inspection  
210 and copying.

211 (e) If the person who has custody of a public record contends that all or part of the record is  
212 exempt from inspection and copying, he or she shall state the basis of the exemption that he or  
213 she contends is applicable to the record, including the statutory citation to an exemption created  
214 or afforded by statute.



215 (f) If requested by the person seeking to inspect or copy the record, the custodian of public  
216 records shall state in writing and with particularity the reasons for the conclusion that the record  
217 is exempt or confidential.

218 (g) In any civil action in which an exemption to this section is asserted, if the exemption is  
219 alleged to exist under or by virtue of c. 66 § 5(1)(d) or (f), (2)(d),(e), or (f), or (4)(c), the public  
220 record or part thereof in question shall be submitted to the court for an inspection in camera. If  
221 an exemption is alleged to exist under or by virtue of c. 66 § 5(2)(c), an inspection in camera is  
222 discretionary with the court. If the court finds that the asserted exemption is not applicable, it  
223 shall order the public record or part thereof in question to be immediately produced for  
224 inspection or copying as requested by the person seeking such access.

225 (h) Even if an assertion is made by the custodian of public records that a requested record is not a  
226 public record subject to public inspection or copying under this subsection, the requested record  
227 shall, nevertheless, not be disposed of for a period of 30 days after the date on which a written  
228 request to inspect or copy the record was served on or otherwise made to the custodian of public  
229 records by the person seeking access to the record. If a civil action is instituted within the 30-day  
230 period to enforce the provisions of this section with respect to the requested record, the custodian  
231 of public records may not dispose of the record except by order of a court of competent  
232 jurisdiction after notice to all affected parties.

233 (i) The absence of a civil action instituted for the purpose stated in paragraph (g) does not relieve  
234 the custodian of public records of the duty to maintain the record as a public record if the record  
235 is in fact a public record subject to public inspection and copying under this subsection and does  
236 not otherwise excuse or exonerate the custodian of public records from any unauthorized or  
237 unlawful disposition of such record.

238 (2)(a) As an additional means of inspecting or copying public records, a custodian of public  
239 records may provide access to public records by remote electronic means, provided exempt or  
240 confidential information is not disclosed.

241 (b) The custodian of public records shall provide safeguards to protect the contents of public  
242 records from unauthorized remote electronic access or alteration and to prevent the disclosure or  
243 modification of those portions of public records which are exempt or confidential from  
244 subsection (1).

245 (c) Unless otherwise required by law, the custodian of public records may charge a fee for  
246 remote electronic access, granted under a contractual arrangement with a user, which fee may  
247 include the direct and indirect costs of providing such access. Fees for remote electronic access  
248 provided to the general public shall be in accordance with the provisions of this section.

249 (3)(a) Any person shall have the right of access to public records for the purpose of making  
250 photographs of the record while such record is in the possession, custody, and control of the  
251 custodian of public records.

252 (b) This subsection applies to the making of photographs in the conventional sense by use of a  
253 camera device to capture images of public records but excludes the duplication of microfilm in  
254 the possession of the clerk of the circuit court where a copy of the microfilm may be made  
255 available by the clerk.

256 (c) Photographing public records shall be done under the supervision of the custodian of public  
257 records, who may adopt and enforce reasonable rules governing the photographing of such  
258 records.

259 (d) Photographing of public records shall be done in the room where the public records are kept.  
260 If, in the judgment of the custodian of public records, this is impossible or impracticable,  
261 photographing shall be done in another room or place, as nearly adjacent as possible to the room  
262 where the public records are kept, to be determined by the custodian of public records. Where  
263 provision of another room or place for photographing is required, the expense of providing the  
264 same shall be paid by the person desiring to photograph the public record pursuant to paragraph

265 (4)(e).

266 (4) The custodian of public records shall furnish a copy or a certified copy of the record upon  
267 payment of the fee prescribed by law. If a fee is not prescribed by law, the following fees are  
268 authorized:

269 (a)1. Up to 15 cents per one-sided copy for duplicated copies of not more than 14 inches by 8<sup>1</sup>/<sub>2</sub>  
270 inches;

271 2. No more than an additional 5 cents for each two-sided copy; and

272 3. For all other copies, the actual cost of duplication of the public record.

273 (b) The charge for copies of county maps or aerial photographs supplied by county constitutional  
274 officers may also include a reasonable charge for the labor and overhead associated with their  
275 duplication.

276 (c) An agency may charge up to \$1 per copy for a certified copy of a public record.

277 (d) If the nature or volume of public records requested to be inspected or copied pursuant to this  
278 subsection is such as to require extensive use of information technology resources or extensive  
279 clerical or supervisory assistance by personnel of the agency involved, or both, the agency may  
280 charge, in addition to the actual cost of duplication, a special service charge, which shall be  
281 reasonable and shall be based on the cost incurred for such extensive use of information  
282 technology resources or the labor cost of the personnel providing the service that is actually

283 incurred by the agency or attributable to the agency for the clerical and supervisory assistance  
284 required, or both.

285 (e)1. Where provision of another room or place is necessary to photograph public records, the  
286 expense of providing the same shall be paid by the person desiring to photograph the public  
287 records.

288 2. The custodian of public records may charge the person making the photographs for  
289 supervision services at a rate of compensation to be agreed upon by the person desiring to make  
290 the photographs and the custodian of public records. If they fail to agree as to the appropriate  
291 charge, the charge shall be determined by the custodian of public records.

292 (5) When ballots are produced under this section for inspection or examination, no persons other  
293 than the supervisor of elections or the supervisor's employees shall touch the ballots. If the  
294 ballots are being examined before the end of the contest period, the supervisor of elections shall  
295 make a reasonable effort to notify all candidates by telephone or otherwise of the time and place  
296 of the inspection or examination. All such candidates, or their representatives, shall be allowed to  
297 be present during the inspection or examination.

298 (6) An exemption contained in this chapter or in any other general or special law shall not limit  
299 the access of the Auditor General, the Office of Program Policy Analysis and Government  
300 Accountability, or any state, county, municipal, university, board of community college, school  
301 district, or special district internal auditor to public records when such person states in writing  
302 that such records are needed for a properly authorized audit, examination, or investigation. Such  
303 person shall maintain the exempt or confidential status of that public record and shall be subject  
304 to the same penalties as the custodian of that record for public disclosure of such record.

305 (7) The provisions of this section are not intended to expand or limit the provisions of  
306 Mass. Rules of Criminal Procedure, regarding the right and extent of discovery by the state or  
307 by a defendant in a criminal prosecution or in collateral postconviction proceedings. This section  
308 may not be used by any inmate as the basis for failing to timely litigate any postconviction  
309 action.

## 310 **66 § 5 General exemptions from inspection or copying of public records**

### 311 (1) AGENCY ADMINISTRATION

312 (a) Examination questions and answer sheets of examinations administered by a governmental  
313 agency for the purpose of licensure, certification, or employment are exempt from c. 66 § 4(1).

314 A person who has taken such an examination has the right to review his or her own completed  
315 examination.

316 (b)1.a. Sealed bids or proposals received by an agency pursuant to invitations to bid or requests  
317 for proposals are exempt from c. 66 § 4(1) until such time as the agency provides notice of a  
318 decision or intended decision or within 10 days after bid or proposal opening, whichever is  
319 earlier.

320 b. If an agency rejects all bids or proposals submitted in response to an invitation to bid or  
321 request for proposals and the agency concurrently provides notice of its intent to reissue the  
322 invitation to bid or request for proposals, the rejected bids or proposals remain exempt from c. 66  
323 § 4(1) until such time as the agency provides notice of a decision or intended decision  
324 concerning the reissued invitation to bid or request for proposals or until the agency withdraws  
325 the reissued invitation to bid or request for proposals. This sub-subparagraph is subject to the  
326 Public Record Law in accordance with c. 66 § 16.

327 2.a. A competitive sealed reply in response to an invitation to negotiate, is exempt from c. 66 §  
328 4(1) until such time as the agency provides notice of a decision or intended decision or until 20  
329 days after the final competitive sealed replies are all opened, whichever occurs earlier.

330 b. If an agency rejects all competitive sealed replies in response to an invitation to negotiate and  
331 concurrently provides notice of its intent to reissue the invitation to negotiate and reissues the  
332 invitation to negotiate within 90 days after the notice of intent to reissue the invitation to  
333 negotiate, the rejected replies remain exempt from c. 66 § 4(1) until such time as the agency  
334 provides notice of a decision or intended decision concerning the reissued invitation to negotiate  
335 or until the agency withdraws the reissued invitation to negotiate. A competitive sealed reply is  
336 not exempt for longer than 12 months after the initial agency notice rejecting all replies.

337 c. This subparagraph is subject to the Public Record Law in accordance with c. 66 § 16.

338 (c) Any financial statement that an agency requires a prospective bidder to submit in order to  
339 prequalify for bidding or for responding to a proposal for a road or any other public works  
340 project is exempt from c. 66 § 4(1).

341 (d)1. A public record that was prepared by an agency attorney (including an attorney employed  
342 or retained by the agency or employed or retained by another public officer or agency to protect  
343 or represent the interests of the agency having custody of the record) or prepared at the attorney's  
344 express direction, that reflects a mental impression, conclusion, litigation strategy, or legal theory  
345 of the attorney or the agency, and that was prepared exclusively for civil or criminal litigation or  
346 for adversarial administrative proceedings, or that was prepared in anticipation of imminent civil  
347 or criminal litigation or imminent adversarial administrative proceedings, is exempt from c. 66 §  
348 4(1) until the conclusion of the litigation or adversarial administrative proceedings. For purposes  
349 of capital collateral litigation, the Attorney General's office is entitled to claim this exemption for  
350 those public records prepared for direct appeal as well as for all capital collateral litigation after  
351 direct appeal until execution of sentence or imposition of a life sentence.

352 2. This exemption is not waived by the release of such public record to another public employee  
353 or officer of the same agency or any person consulted by the agency attorney. When asserting the  
354 right to withhold a public record pursuant to this paragraph, the agency shall identify the  
355 potential parties to any such criminal or civil litigation or adversarial administrative proceedings.  
356 If a court finds that the document or other record has been improperly withheld under this  
357 paragraph, the party seeking access to such document or record shall be awarded reasonable  
358 attorney's fees and costs in addition to any other remedy ordered by the court.

359 (e) Any videotape or video signal that, under an agreement with an agency, is produced, made, or  
360 received by, or is in the custody of, a federally licensed radio or television station or its agent is  
361 exempt from c. 66 § 4(1).

362 (f) Data processing software obtained by an agency under a licensing agreement that prohibits its  
363 disclosure and which software is a trade secret and agency-produced data processing software  
364 that is sensitive are exempt from c. 66 § 4(1) The designation of agency-produced software as  
365 sensitive shall not prohibit an agency head from sharing or exchanging such software with  
366 another public agency.

367 (g)1. United States Census Bureau address information, which includes maps showing structure  
368 location points, agency records verifying addresses, and agency records identifying address  
369 errors or omissions, held by an agency pursuant to the Local Update of Census Addresses  
370 Program, Title 13, United States Code, Pub. L. No. 103-430, is confidential and exempt from c.  
371 66 § 4(1).

372 2. Such information may be released to another agency or governmental entity in the furtherance  
373 of its duties and responsibilities under the Local Update of Census Addresses Program.

374 3. An agency performing duties and responsibilities under the Local Update of Census Addresses  
375 Program shall have access to any other confidential or exempt information held by another  
376 agency if such access is necessary in order to perform its duties and responsibilities under the  
377 program.

378 4. This exemption is subject to the Public Record Law in accordance with c. 66 § 16.

## 379 (2) AGENCY INVESTIGATIONS

380 (a) All criminal intelligence and criminal investigative information received by a criminal justice  
381 agency prior to January 25, 1979, is exempt from c. 66 § 4(1).

382 (b) Whenever criminal intelligence information or criminal investigative information held by a  
383 non- Massachusetts criminal justice agency is available to a Massachusetts criminal justice  
384 agency only on a confidential or similarly restricted basis, the Massachusetts criminal justice  
385 agency may obtain and use such information in accordance with the conditions imposed by the  
386 providing agency.

387 (c)1. Active criminal intelligence information and active criminal investigative information are  
388 exempt from c. 66 § 4(1).

389 2.a. A request made by a law enforcement agency to inspect or copy a public record that is in the  
390 custody of another agency and the custodian's response to the request, and any information that  
391 would identify whether a law enforcement agency has requested or received that public record  
392 are exempt from c. 66 § 4(1) during the period in which the information constitutes active  
393 criminal intelligence information or active criminal investigative information.

394 b. The law enforcement agency that made the request to inspect or copy a public record shall  
395 give notice to the custodial agency when the criminal intelligence information or criminal  
396 investigative information is no longer active so that the request made by the law enforcement  
397 agency, the custodian's response to the request, and information that would identify whether the  
398 law enforcement agency had requested or received that public record are available to the public.

399 c. This exemption is remedial in nature, and it is the intent of the Legislature that the exemption  
400 be applied to requests for information received before, on, or after the effective date of this  
401 paragraph.

402 (d) Any information revealing surveillance techniques or procedures or personnel is exempt from  
403 c. 66 § 4(1). Any comprehensive inventory of state and local law enforcement resources  
404 compiled, and any comprehensive policies or plans compiled by a criminal justice agency  
405 pertaining to the mobilization, deployment, or tactical operations involved in responding to  
406 emergencies, are exempt from c. 66 § 4(1) and unavailable for inspection, except by personnel  
407 authorized by a state or local law enforcement agency, or any other governmental office that has  
408 an official need for access to the inventory or comprehensive policies or plans.

409 (e) Any information revealing the substance of a confession of a person arrested is exempt from  
410 c. 66 § 4(1), until such time as the criminal case is finally determined by adjudication, dismissal,  
411 or other final disposition.

412 (f) Any information revealing the identity of a confidential informant or a confidential source is  
413 exempt from c. 66 § 4(1).

414 (g)1.a. All complaints and other records in the custody of any agency which relate to a complaint  
415 of discrimination relating to race, color, religion, sex, national origin, age, handicap, or marital  
416 status in connection with hiring practices, position classifications, salary, benefits, discipline,  
417 discharge, employee performance, evaluation, or other related activities are exempt from c. 66 §  
418 4(1) until a finding is made relating to probable cause, the investigation of the complaint  
419 becomes inactive, or the complaint or other record is made part of the official record of any  
420 hearing or court proceeding.

421 (h). Any state or federal agency that is authorized to have access to such complaints or records  
422 by any provision of law shall be granted such access in the furtherance of such agency's statutory  
423 duties.

424 2. When the alleged victim chooses not to file a complaint and requests that records of the  
425 complaint remain confidential, all records relating to an allegation of employment discrimination  
426 are confidential and exempt from c. 66 § 4(1).

427 (i)1. The following criminal intelligence information or criminal investigative information is  
428 confidential and exempt from c. 66 § 4(1):

429 a. Any information, including the photograph, name, address, or other fact, which reveals the  
430 identity of the victim of the crime of child abuse.

431 b. Any information which may reveal the identity of a person who is a victim of any sexual  
432 offense.

433 c. A photograph, videotape, or image of any part of the body of the victim of a sexual offense,  
434 regardless of whether the photograph, videotape, or image identifies the victim.

435 2. Criminal investigative information and criminal intelligence information made confidential  
436 and exempt under this paragraph may be disclosed by a law enforcement agency:

437 a. In the furtherance of its official duties and responsibilities.

438 b. For print, publication, or broadcast if the law enforcement agency determines that such release  
439 would assist in locating or identifying a person that such agency believes to be missing or  
440 endangered. The information provided should be limited to that needed to identify or locate the  
441 victim and not include the sexual nature of the offense committed against the person.

442 c. To another governmental agency in the furtherance of its official duties and responsibilities.

443 3. This exemption applies to such confidential and exempt criminal intelligence information or  
444 criminal investigative information held by a law enforcement agency before, on, or after the  
445 effective date of the exemption.

446 4. This paragraph is subject to the Public Record Law in accordance with c. 66 § 16.

447 (i) Any criminal intelligence information or criminal investigative information that reveals the  
448 personal assets of the victim of a crime, other than property stolen or destroyed during the  
449 commission of the crime, is exempt from c. 66 § 4(1).

450 (j)1. Any document that reveals the identity, home or employment telephone number, home or  
451 employment address, or personal assets of the victim of a crime and identifies that person as the  
452 victim of a crime, which document is received by any agency that regularly receives information

453 from or concerning the victims of crime, is exempt from c. 66 § 4(1). Any information not  
454 otherwise held confidential or exempt from c. 66 § 4(1) which reveals the home or employment  
455 telephone number, home or employment address, or personal assets of a person who has been the  
456 victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated  
457 battery, or domestic violence is exempt from c. 66 § 4(1), upon written request by the victim,  
458 which must include official verification that an applicable crime has occurred. Such information  
459 shall cease to be exempt 5 years after the receipt of the written request. Any state or federal  
460 agency that is authorized to have access to such documents by any provision of law shall be  
461 granted such access in the furtherance of such agency's statutory duties, notwithstanding this  
462 section.

463 2. a. Any information in a videotaped statement of a minor who is alleged to be or who is a  
464 victim of sexual battery, lewd acts, or other sexual misconduct, which reveals that minor's  
465 identity, including, but not limited to, the minor's face; the minor's home, school, church, or  
466 employment telephone number; the minor's home, school, church, or employment address; the  
467 name of the minor's school, church, or place of employment; or the personal assets of the minor;  
468 and which identifies that minor as the victim of a crime described in this subparagraph, held by a  
469 law enforcement agency, is confidential and exempt from c. 66 § 4(1) . Any governmental  
470 agency that is authorized to have access to such statements by any provision of law shall be  
471 granted such access in the furtherance of the agency's statutory duties, notwithstanding the  
472 provisions of this section.

473 b. A public employee or officer who has access to a videotaped statement of a minor who is  
474 alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct may not  
475 willfully and knowingly disclose videotaped information that reveals the minor's identity to a  
476 person who is not assisting in the investigation or prosecution of the alleged offense or to any  
477 person other than the defendant, the defendant's attorney, or a person specified in an order  
478 entered by the court having jurisdiction of the alleged offense. A person who violates this  
479 provision commits a misdemeanor of the first degree, punishable as provided by law.

### 480 (3) SECURITY

481 (a)1. As used in this paragraph, the term "security system plan" includes all:

482 a. Records, information, photographs, audio and visual presentations, schematic diagrams,  
483 surveys, recommendations, or consultations or portions thereof relating directly to the physical  
484 security of the facility or revealing security systems;

485 b. Threat assessments conducted by any agency or any private entity;

486 c. Threat response plans;

487 d. Emergency evacuation plans;



488 e. Sheltering arrangements; or

489 f. Manuals for security personnel, emergency equipment, or security training.

490 2. A security system plan or portion thereof for:

491 a. Any property owned by or leased to the state or any of its political subdivisions; or

492 b. Any privately owned or leased property held by an agency is confidential and exempt from c.

493 66 § 4(1). This exemption is remedial in nature, and it is the intent of the Legislature that this

494 exemption apply to security system plans held by an agency before, on, or after the effective date

495 of this paragraph.

496 3. Information made confidential and exempt by this paragraph may be disclosed by the

497 custodian of public records to:

498 a. The property owner or leaseholder; or

499 b. Another state or federal agency to prevent, detect, guard against, respond to, investigate, or

500 manage the consequences of any attempted or actual act of terrorism, or to prosecute those

501 persons who are responsible for such attempts or acts.

502 (b)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary,

503 and final formats, which depict the internal layout and structural elements of a building, arena,

504 stadium, water treatment facility, or other structure owned or operated by an agency are exempt

505 from c. 66 § 4(1).

506 2. This exemption applies to building plans, blueprints, schematic drawings, and diagrams,

507 including draft, preliminary, and final formats, which depict the internal layout and structural

508 elements of a building, arena, stadium, water treatment facility, or other structure owned or

509 operated by an agency before, on, or after the effective date of this act.

510 3. Information made exempt by this paragraph may be disclosed:

511 a. To another governmental entity if disclosure is necessary for the receiving entity to perform its

512 duties and responsibilities;

513 b. To a licensed architect, engineer, or contractor who is performing work on or related to the

514 building, arena, stadium, water treatment facility, or other structure owned or operated by an

515 agency; or

516 c. Upon a showing of good cause before a court of competent jurisdiction.

517 4. The entities or persons receiving such information shall maintain the exempt status of the

518 information.

519 (c) Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary,  
520 and final formats, which depict the internal layout or structural elements of an attractions and  
521 recreation facility, entertainment or resort complex, industrial complex, retail and service  
522 development, office development, or hotel or motel development, which documents are held by  
523 an agency are exempt from c. 66 § 4(1) and s. 24(a), Art. I of the State Constitution. This  
524 exemption applies to any such documents held by an agency before, on, or after the effective  
525 date of this act. Information made exempt by this paragraph may be disclosed to another  
526 governmental entity if disclosure is necessary for the receiving entity to perform its duties and  
527 responsibilities; to the owner or owners of the structure in question or the owner's legal  
528 representative; or upon a showing of good cause before a court of competent jurisdiction. As  
529 used in this paragraph, the term:

530 1. "Attractions and recreation facility" means any sports, entertainment, amusement, or  
531 recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist  
532 attraction, amusement park, or pari-mutuel facility that:

533 a. For single-performance facilities:

534 (I) Provides single-performance facilities; or

535 (II) Provides more than 10,000 permanent seats for spectators.

536 b. For serial-performance facilities:

537 (I) Provides parking spaces for more than 1,000 motor vehicles; or

538 (II) Provides more than 4,000 permanent seats for spectators.

539 2. "Entertainment or resort complex" means a theme park comprised of at least 25 acres of land  
540 with permanent exhibitions and a variety of recreational activities, which has at least 1 million  
541 visitors annually who pay admission fees thereto, together with any lodging, dining, and  
542 recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park,  
543 as long as the owners or operators of the theme park, or a parent or related company or  
544 subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in  
545 privity therewith. Close proximity includes an area within a 5-mile radius of the theme park  
546 complex.

547 3. "Industrial complex" means any industrial, manufacturing, processing, distribution,  
548 warehousing, or wholesale facility or plant, as well as accessory uses and structures, under  
549 common ownership which:

550 a. Provides onsite parking for more than 250 motor vehicles;

551 b. Encompasses 500,000 square feet or more of gross floor area; or

552 c. Occupies a site of 100 acres or more, but excluding wholesale facilities or plants that primarily  
553 serve or deal onsite with the general public.

554 4. "Retail and service development" means any retail, service, or wholesale business  
555 establishment or group of establishments which deals primarily with the general public onsite  
556 and is operated under one common property ownership, development plan, or management that:

557 a. Encompasses more than 400,000 square feet of gross floor area; or

558 b. Provides parking spaces for more than 2,500 motor vehicles.

559 5. "Office development" means any office building or park operated under common ownership,  
560 development plan, or management that encompasses 300,000 or more square feet of gross floor  
561 area.

562 6. "Hotel or motel development" means any hotel or motel development that accommodates 350  
563 or more units.

564 This exemption does not apply to comprehensive plans or site plans, or amendments thereto,  
565 which are submitted for approval or which have been approved under local land development  
566 regulations, local zoning regulations, or development-of-regional-impact review.

#### 567 (4) AGENCY PERSONNEL INFORMATION

568 (a)1. The social security numbers of all current and former agency employees which numbers are  
569 contained in agency employment records are exempt from c. 66 § 4(1).

570 2. An agency that is the custodian of a social security number specified in subparagraph 1, and  
571 that is not the employing agency shall maintain the exempt status of the social security number  
572 only if the employee or the employing agency of the employee submits a written request for  
573 confidentiality to the custodial agency. However, upon a request by a commercial entity as  
574 provided in sub-subparagraph (5)(a)7.b., the custodial agency shall release the last four digits of  
575 the exempt social security number, except that a social security number provided in a lien filed  
576 with the Department of State shall be released in its entirety. This subparagraph is subject to the  
577 Public Record Law in accordance with c. 66 § 16.

578 (b) Medical information pertaining to a prospective, current, or former officer or employee of an  
579 agency which, if disclosed, would identify that officer or employee is exempt from c. 66 § 4(1).  
580 However, such information may be disclosed if the person to whom the information pertains or  
581 the person's legal representative provides written permission or pursuant to court order.

582 (c) Any information revealing undercover personnel of any criminal justice agency is exempt  
583 from c. 66 § 4(1).

584 (d)1.a. The home addresses, telephone numbers, social security numbers, and photographs of  
585 active or former law enforcement personnel, including correctional and correctional probation  
586 officers, personnel of the Department of Children and Family Services whose duties include the  
587 investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of  
588 the Department of Health whose duties are to support the investigation of child abuse or neglect,  
589 and personnel of the Department of Revenue or local governments whose responsibilities include  
590 revenue collection and enforcement or child support enforcement; the home addresses, telephone  
591 numbers, social security numbers, photographs, and places of employment of the spouses and  
592 children of such personnel; and the names and locations of schools and day care facilities  
593 attended by the children of such personnel are exempt from c. 66 § 4(1). The home addresses,  
594 telephone numbers, and photographs of firefighters; the home addresses, telephone numbers,  
595 photographs, and places of employment of the spouses and children of such firefighters; and the  
596 names and locations of schools and day care facilities attended by the children of such  
597 firefighters are exempt from c. 66 § 4(1). The home addresses and telephone numbers of justices  
598 of the Supreme Judicial Court, Appeals Court, Superior Courts, District Courts, Boston  
599 Municipal Court, Family and Probate Courts, Land Courts, Housing Courts, justices and judges;  
600 the home addresses, telephone numbers, and places of employment of the spouses and children  
601 of justices and judges; and the names and locations of schools and day care facilities attended by  
602 the children of justices and judges are exempt from c. 66 § 4(1). The home addresses, telephone  
603 numbers, social security numbers, and photographs of current or former state attorneys, assistant  
604 state attorneys, statewide prosecutors, or assistant statewide prosecutors; the home addresses,  
605 telephone numbers, social security numbers, photographs, and places of employment of the  
606 spouses and children of current or former state attorneys, assistant state attorneys, statewide  
607 prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day  
608 care facilities attended by the children of current or former state attorneys, assistant state  
609 attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from c. 66 § 4(1).

610 b. The home addresses and telephone numbers of general magistrates, special magistrates,  
611 judges of compensation claims, administrative law judges of the Workmens Compensation  
612 Board, Massachusetts Commission Against Discrimination, and child support enforcement  
613 hearing officers; the home addresses, telephone numbers, and places of employment of the  
614 spouses and children of general magistrates, special magistrates, judges of compensation claims,  
615 administrative law judges of the Workmens Compensation Board, and child support enforcement  
616 hearing officers; and the names and locations of schools and day care facilities attended by the  
617 children of general magistrates, special magistrates, judges of compensation claims,  
618 administrative law judges of the Workmens Compensation Board, and child support enforcement  
619 hearing officers are exempt from c. 66 § 4(1) if the general magistrate, special magistrate, judge  
620 of compensation claims, administrative law judge of the Workmens Compensation Board, or  
621 child support hearing officer provides a written statement that the general magistrate, special  
622 magistrate, judge of compensation claims, administrative law judge of the Workmens  
623 Compensation Board, Massachusetts Commission of Discrimination, or child support hearing

624 officer has made reasonable efforts to protect such information from being accessible through  
625 other means available to the public. This sub-subparagraph is subject to the Public Record Law  
626 in accordance with c. 66 § 16.

627 2. The home addresses, telephone numbers, and photographs of current or former human  
628 resource, labor relations, or employee relations directors, assistant directors, managers, or  
629 assistant managers of any local government agency or water management district whose duties  
630 include hiring and firing employees, labor contract negotiation, administration, or other  
631 personnel-related duties; the names, home addresses, telephone numbers, and places of  
632 employment of the spouses and children of such personnel; and the names and locations of  
633 schools and day care facilities attended by the children of such personnel are exempt from c. 66 §  
634 4(1).

635 3. The home addresses, telephone numbers, social security numbers, and photographs of current  
636 or former United States attorneys and assistant United States attorneys; the home addresses,  
637 telephone numbers, social security numbers, photographs, and places of employment of the  
638 spouses and children of current or former United States attorneys and assistant United States  
639 attorneys; and the names and locations of schools and day care facilities attended by the children  
640 of current or former United States attorneys and assistant United States attorneys are exempt  
641 from c. 66 § 4(1). This subparagraph is subject to the Public Record Law in accordance with c.  
642 66 §16. .

643 4. The home addresses, telephone numbers, social security numbers, and photographs of current  
644 or former judges of United States Courts of Appeal, United States district judges, and United  
645 States magistrate judges; the home addresses, telephone numbers, social security numbers,  
646 photographs, and places of employment of the spouses and children of current or former judges  
647 of United States Courts of Appeal, United States district judges, and United States magistrate  
648 judges; and the names and locations of schools and day care facilities attended by the children of  
649 current or former judges of United States Courts of Appeal, United States district judges, and  
650 United States magistrate judges are exempt from c. 66 § 4(1) and s. 24(a), Art. I of the State  
651 Constitution. This subparagraph is subject to the Public Record Law in accordance with c. 66 §  
652 16.

653 5. The home addresses, telephone numbers, and photographs of current or former code  
654 enforcement officers; the names, home addresses, telephone numbers, and places of employment  
655 of the spouses and children of such personnel; and the names and locations of schools and day  
656 care facilities attended by the children of such personnel are exempt from c. 66 § 4(1).

657 6. The home addresses, telephone numbers, places of employment, and photographs of current or  
658 former guardians ad litem, and the names, home addresses, telephone numbers, and places of  
659 employment of the spouses and children of such persons, are exempt from c. 66 § 4(1), if the  
660 guardian ad litem provides a written statement that the guardian ad litem has made reasonable

661 efforts to protect such information from being accessible through other means available to the  
662 public. This subparagraph is subject to the Public Record Law in accordance with s. 66 § 16.

663 7. The home addresses, telephone numbers, and photographs of current or former juvenile  
664 probation officers, juvenile probation supervisors, detention superintendents, assistant detention  
665 superintendents, senior juvenile detention officers, juvenile detention officer supervisors,  
666 juvenile detention officers, house parents I and II, house parent supervisors, group treatment  
667 leaders, group treatment leader supervisors, rehabilitation therapists, and social services  
668 counselors; the names, home addresses, telephone numbers, and places of employment of  
669 spouses and children of such personnel; and the names and locations of schools and day care  
670 facilities attended by the children of such personnel are exempt from c. 66 § 4(1). This  
671 subparagraph is subject to the Public Record Law in accordance with s. 66 § 16.

672 8. An agency that is the custodian of the personal information specified in subparagraph 1.,  
673 subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., subparagraph 6., or  
674 subparagraph 7, and that is not the employer of the officer, employee, justice, judge, or other  
675 person specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4.,  
676 subparagraph 5., subparagraph 6., or subparagraph 7. shall maintain the exempt status of the  
677 personal information only if the officer, employee, justice, judge, other person, or employing  
678 agency of the designated employee submits a written request for maintenance of the exemption  
679 to the custodial agency.

#### 680 (5) OTHER PERSONAL INFORMATION

681 (a)1.a. The Legislature acknowledges that the social security number was never intended to be  
682 used for business purposes but was intended to be used solely for the administration of the  
683 federal Social Security System. The Legislature is further aware that over time this unique  
684 numeric identifier has been used extensively for identity verification purposes and other  
685 legitimate consensual purposes.

686 b. The Legislature recognizes that the social security number can be used as a tool to perpetuate  
687 fraud against an individual and to acquire sensitive personal, financial, medical, and familial  
688 information, the release of which could cause great financial or personal harm to an individual.

689 c. The Legislature intends to monitor the use of social security numbers held by agencies in order  
690 to maintain a balanced public policy.

691 2.a. An agency may not collect an individual's social security number unless the agency has  
692 stated in writing the purpose for its collection and unless it is:

693 (I) Specifically authorized by law to do so; or

694 (II) Imperative for the performance of that agency's duties and responsibilities as prescribed by  
695 law.

696 b. Social security numbers collected by an agency may not be used by that agency for any  
697 purpose other than the purpose provided in the written statement.

698 3. An agency collecting an individual's social security number shall provide that individual with  
699 a copy of the written statement required in subparagraph 2.

700 4.a. Each agency shall review whether its collection of social security numbers is in compliance  
701 with subparagraph 2. If the agency determines that collection of a social security number is not  
702 in compliance with subparagraph 2., the agency shall immediately discontinue the collection of  
703 social security numbers for that purpose.

704 b. Each agency shall certify to the President of the Senate and the Speaker of the House of  
705 Representatives its compliance with this subparagraph no later than January 31, 2008.

706 5. Social security numbers held by an agency are confidential and exempt from c. 66 § 4(1). This  
707 exemption applies to social security numbers held by an agency before, on, or after the effective  
708 date of this exemption.

709 6. Social security numbers may be disclosed to another agency or governmental entity if  
710 disclosure is necessary for the receiving agency or entity to perform its duties and  
711 responsibilities.

712 7.a. For purposes of this subsection, the term:

713 (I) "Commercial activity" means the provision of a lawful product or service by a commercial  
714 entity. Commercial activity includes verification of the accuracy of personal information  
715 received by a commercial entity in the normal course of its business; use for insurance purposes;  
716 use in identifying and preventing fraud; use in matching, verifying, or retrieving information;  
717 and use in research activities. It does not include the display or bulk sale of social security  
718 numbers to the public or the distribution of such numbers to any customer that is not identifiable  
719 by the commercial entity.

720 (II) "Commercial entity" means any corporation, partnership, limited partnership, proprietorship,  
721 sole proprietorship, firm, enterprise, franchise, or association that performs a commercial activity  
722 in this state.

723 b. An agency may not deny a commercial entity engaged in the performance of a commercial  
724 activity access to social security numbers, provided the social security numbers will be used only  
725 in the performance of a commercial activity and provided the commercial entity makes a written  
726 request for the social security numbers. The written request must:

727 (I) Be verified

728 (a) Under oath or affirmation taken or administered before an officer authorized under s. [92.50](#)  
729 to administer oaths; or

730 (b) By the signing of the written declaration prescribed in subsection (2).  
731 (2) A written declaration means the following statement: "Under penalties of perjury, I declare  
732 that I have read the foregoing [document] and that the facts stated in it are true," followed by the  
733 signature of the person making the declaration, except when a verification on information or  
734 belief is permitted by law, in which case the words "to the best of my knowledge and belief" may  
735 be added. The written declaration shall be printed or typed at the end of or immediately below  
736 the document being verified and above the signature of the person making the declaration.  
737 (3) A person who knowingly makes a false declaration under subsection (2) is guilty of the  
738 crime of perjury by false written declaration, a felony of the third degree, punishable by law  
739 (II) Be legibly signed by an authorized officer, employee, or agent of the commercial entity;

740 (III) Contain the commercial entity's name, business mailing and location addresses, and  
741 business telephone number; and

742 (IV) Contain a statement of the specific purposes for which it needs the social security numbers  
743 and how the social security numbers will be used in the performance of a commercial activity.  
744 The aggregate of these requests shall serve as the basis for the agency report required in  
745 subparagraph 9.

746 c. An agency may request any other information reasonably necessary to verify the identity of a  
747 commercial entity requesting the social security numbers and the specific purposes for which the  
748 numbers will be used.

749 8.a. Any person who makes a false representation in order to obtain a social security number  
750 pursuant to this paragraph, or any person who willfully and knowingly violates this paragraph,  
751 commits a felony of the third degree punishable by law.

752 b. Any public officer who violates this paragraph commits a noncriminal infraction, punishable  
753 by a fine not exceeding \$500 per violation.

754 9.a. Every agency shall file a report with the Executive Office of the Governor, the President of  
755 the Senate, and the Speaker of the House of Representatives by January 31 of each year.

756 b. The report required under sub-subparagraph a. shall list:

757 (I) The identity of all commercial entities that have requested social security numbers during the  
758 preceding calendar year; and

759 (II) The specific purpose or purposes stated by each commercial entity regarding its need for  
760 social security numbers.

761 c. If no disclosure requests were made, the agency shall so indicate.

762 10. Any affected person may petition the circuit court for an order directing compliance with this  
763 paragraph.



764 11. This paragraph does not supersede any other applicable public records exemptions existing  
765 prior to May 13, 2002, or created thereafter.

766 (b) Bank account numbers and debit, charge, and credit card numbers held by an agency are  
767 exempt from c. 66 § 4(1). This exemption applies to bank account numbers and debit, charge,  
768 and credit card numbers held by an agency before, on, or after the effective date of this  
769 exemption.

770 (c) Any information that would identify or help to locate a child who participates in government-  
771 sponsored recreation programs or camps or the parents or guardians of such child, including, but  
772 not limited to, the name, home address, telephone number, social security number, or photograph  
773 of the child; the names and locations of schools attended by such child; and the names, home  
774 addresses, and social security numbers of parents or guardians of such child is exempt from c. 66  
775 § 4(1). Information made exempt pursuant to this paragraph may be disclosed by court order  
776 upon a showing of good cause. This exemption applies to records held before, on, or after the  
777 effective date of this exemption.

778 (d) All records supplied by a telecommunications company, to an agency which contain the  
779 name, address, and telephone number of subscribers are confidential and exempt from c. 66 §  
780 4(1).

781 (e) Any information provided to an agency for the purpose of forming ridesharing arrangements,  
782 which information reveals the identity of an individual who has provided his or her name for  
783 ridesharing, is exempt from c. 66 § 4(1).

784 (f) Medical history records and information related to health or property insurance provided to a  
785 state agency, a municipality, or a local housing finance agency by an applicant for or a  
786 participant in a federal, state, or local housing assistance program are confidential and exempt  
787 from c. 66 § 4(1). Governmental entities or their agents shall have access to such confidential  
788 and exempt records and information for the purpose of auditing federal, state, or local housing  
789 programs or housing assistance programs. Such confidential and exempt records and information  
790 may be used in any administrative or judicial proceeding, provided such records are kept  
791 confidential and exempt unless otherwise ordered by a court.

792 (g)1. Biometric identification information held by an agency before, on, or after the effective  
793 date of this exemption is exempt from c. 66 § 4(1). As used in this paragraph, the term  
794 "biometric identification information" means:

795 a. Any record of friction ridge detail;

796 b. Fingerprints;

797 c. Palm prints; and

798 d. Footprints.

799 2. This paragraph is subject to the Public Record Law in accordance with c. 66 § 16.

800 (h)1. Personal identifying information of an applicant for or a recipient of paratransit services  
801 which is held by an agency is confidential and exempt from c. 66 § 4(1).

802 2. This exemption applies to personal identifying information of an applicant for or a recipient of  
803 paratransit services which is held by an agency before, on, or after the effective date of this  
804 exemption.

805 3. Confidential and exempt personal identifying information shall be disclosed:

806 a. With the express written consent of the individual or the individual's legally authorized  
807 representative;

808 b. In a medical emergency, but only to the extent that is necessary to protect the health or life of  
809 the individual;

810 c. By court order upon a showing of good cause; or

811 d. To another agency in the performance of its duties and responsibilities.

812 4. This paragraph is subject to the Public Record Law in accordance with c. 66 § 16.

813 **66 § 6 Executive branch agency exemptions from inspection or copying of public records**

814 When an agency of the executive branch of state government seeks to acquire real property by  
815 purchase or through the exercise of the power of eminent domain, all appraisals, other reports  
816 relating to value, offers, and counteroffers must be in writing and are exempt from c. 66 § 4(1)  
817 until execution of a valid option contract or a written offer to sell that has been conditionally  
818 accepted by the agency, at which time the exemption shall expire. The agency shall not finally  
819 accept the offer for a period of 30 days in order to allow public review of the transaction. The  
820 agency may give conditional acceptance to any option or offer subject only to final acceptance  
821 by the agency after the 30-day review period. If a valid option contract is not executed, or if a  
822 written offer to sell is not conditionally accepted by the agency, then the exemption shall expire  
823 at the conclusion of the condemnation litigation of the subject property. An agency of the  
824 executive branch may exempt title information, including names and addresses of property  
825 owners whose property is subject to acquisition by purchase or through the exercise of the power  
826 of eminent domain, from c. 66 § 4(1) to the same extent as appraisals, other reports relating to  
827 value, offers, and counteroffers. For the purpose of this subsection, the term "option contract"  
828 means an agreement of an agency of the executive branch of state government to purchase real  
829 property subject to final agency approval. This subsection has no application to other exemptions  
830 from c. 66 § 4(1) which are contained in other provisions of law and shall not be construed to be  
831 an express or implied repeal thereof.

832 **66 § 7 Executive branch agency-specific exemptions from inspection or copying of public**  
833 **records**

834 (1) DEPARTMENT OF HEALTH

835 All personal identifying information contained in records relating to an individual's personal  
836 health or eligibility for health-related services held by the Department of Health is confidential  
837 and exempt from c. 66 § 4(1), except as otherwise provided in this subsection. Information made  
838 confidential and exempt by this subsection shall be disclosed:

839 (a) With the express written consent of the individual or the individual's legally authorized  
840 representative.

841 (b) In a medical emergency, but only to the extent necessary to protect the health or life of the  
842 individual.

843 (c) By court order upon a showing of good cause.

844 (d) To a health research entity, if the entity seeks the records or data pursuant to a research  
845 protocol approved by the department, maintains the records or data in accordance with the  
846 approved protocol, and enters into a purchase and data-use agreement with the department, the  
847 fee provisions of which are consistent with c. 66 § 4(4). The department may deny a request for  
848 records or data if the protocol provides for intrusive follow-back contacts, has not been approved  
849 by a human studies institutional review board, does not plan for the destruction of confidential  
850 records after the research is concluded, is administratively burdensome, or does not have  
851 scientific merit. The agreement must restrict the release of any information that would permit the  
852 identification of persons, limit the use of records or data to the approved research protocol, and  
853 prohibit any other use of the records or data. Copies of records or data issued pursuant to this  
854 paragraph remain the property of the department.

855 (2) DEPARTMENT OF REGISTRY OF MOTOR VEHICLES

856 (a) Personal information contained in a motor vehicle record that identifies an individual is  
857 confidential and exempt from c. 66 § 4(1) except as provided in this subsection. Personal  
858 information includes, but is not limited to, an individual's social security number, driver  
859 identification number or identification card number, name, address, telephone number, medical  
860 or disability information, and emergency contact information. For purposes of this subsection,  
861 personal information does not include information relating to vehicular crashes, driving  
862 violations, and driver's status. For purposes of this subsection, the term "motor vehicle record"  
863 means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor  
864 vehicle registration, or identification card issued by the Registry of Motor Vehicles.

865 (b) Personal information contained in motor vehicle records made confidential and exempt by  
866 this subsection may be released by the department for any of the following uses:

- 867 1. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle  
868 emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of  
869 motor vehicles and dealers by motor vehicle manufacturers; and removal of nonowner records  
870 from the original owner records of motor vehicle manufacturers, to carry out the purposes of  
871 Titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act  
872 (15 U.S.C. ss. 1231 et seq.), the Clean Air Act (42 U.S.C. ss. 7401 et seq.), and chapters 301,  
873 305, and 321-331 of Title 49, United States Code.
- 874 2. For use by any government agency, including any court or law enforcement agency, in  
875 carrying out its functions, or any private person or entity acting on behalf of a federal, state, or  
876 local agency in carrying out its functions.
- 877 3. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle  
878 emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of  
879 motor vehicles, motor vehicle parts, and dealers; motor vehicle market research activities,  
880 including survey research; and removal of nonowner records from the original owner records of  
881 motor vehicle manufacturers.
- 882 4. For use in the normal course of business by a legitimate business or its agents, employees, or  
883 contractors, but only:
- 884 a. To verify the accuracy of personal information submitted by the individual to the business or  
885 its agents, employees, or contractors; and
- 886 b. If such information as so submitted is not correct or is no longer correct, to obtain the correct  
887 information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or  
888 recovering on a debt or security interest against, the individual.
- 889 5. For use in connection with any civil, criminal, administrative, or arbitral proceeding in any  
890 court or agency or before any self-regulatory body for:
- 891 a. Service of process by any certified process server, special process server, or other person  
892 authorized to serve process in this state.
- 893 b. Investigation in anticipation of litigation by an attorney licensed to practice law in this state or  
894 the agent of the attorney; however, the information may not be used for mass commercial  
895 solicitation of clients for litigation against motor vehicle dealers.
- 896 c. Investigation by any person in connection with any filed proceeding; however, the information  
897 may not be used for mass commercial solicitation of clients for litigation against motor vehicle  
898 dealers.
- 899 d. Execution or enforcement of judgments and orders.
- 900 e. Compliance with an order of any court.

- 901 6. For use in research activities and for use in producing statistical reports, so long as the  
902 personal information is not published, redisclosed, or used to contact individuals.
- 903 7. For use by any insurer or insurance support organization, or by a self-insured entity, or its  
904 agents, employees, or contractors, in connection with claims investigation activities, anti-fraud  
905 activities, rating, or underwriting.
- 906 8. For use in providing notice to the owners of towed or impounded vehicles.
- 907 9. For use by any licensed private investigative agency or licensed security service for any  
908 purpose permitted under this subsection. Personal information obtained based on an exempt  
909 driver's record may not be provided to a client who cannot demonstrate a need based on a police  
910 report, court order, or business or personal relationship with the subject of the investigation.
- 911 10. For use by an employer or its agent or insurer to obtain or verify information relating to a  
912 holder of a commercial driver's license that is required under 49 U.S.C. ss. 31301 et seq.
- 913 11. For use in connection with the operation of private toll transportation facilities.
- 914 12. For bulk distribution for surveys, marketing, or solicitations when the department has  
915 obtained the express consent of the person to whom such personal information pertains.
- 916 13. For any use if the requesting person demonstrates that he or she has obtained the written  
917 consent of the person who is the subject of the motor vehicle record.
- 918 14. For any other use specifically authorized by state law, if such use is related to the operation  
919 of a motor vehicle or public safety.
- 920 15. For any other use if the person to whom the information pertains has given express consent in  
921 a format prescribed by the department. Such consent shall remain in effect until it is revoked by  
922 the person on a form prescribed by the department.

923 (c) Notwithstanding paragraph (b), without the express consent of the person to whom such  
924 information applies, the following information contained in motor vehicle records may only be  
925 released as specified in this paragraph:

- 926 1. Social security numbers may be released only as provided in subparagraphs (b)2., 5., 7., and  
927 10.
- 928 2. An individual's photograph or image may be released only for state departmental  
929 administrative purposes; for the issuance of duplicate licenses; in response to law enforcement  
930 agency requests; to the Registry of Motor Vehicles pursuant to an interagency agreement to  
931 facilitate determinations of eligibility of voter registration applicants and registered voters in  
932 accordance; to the Department of Revenue pursuant to an interagency agreement for use in  
933 establishing paternity and establishing, modifying, or enforcing support obligations in Title IV-D

934 cases; to the Department of Social Services pursuant to an interagency agreement to conduct  
935 protective investigations; or to the Office of the State Treasurer, pursuant to an interagency  
936 agreement to facilitate the location of owners of unclaimed property, the validation of unclaimed  
937 property claims, and the identification of fraudulent or false claims.

938 3. Medical disability information is exempt from disclosure.

939 4. Emergency contact information may be released only to law enforcement agencies for  
940 purposes of contacting those listed in the event of an emergency.

941 (d) The restrictions on disclosure of personal information provided by this subsection shall not in  
942 any way affect the use of organ donation information on individual driver licenses or affect the  
943 administration of organ donation initiatives in this state.

944 (e)1. Personal information made confidential and exempt may be disclosed by the Department of  
945 Highway Safety and Motor Vehicles to an individual, firm, corporation, or similar business  
946 entity whose primary business interest is to resell or redisclose the personal information to  
947 persons who are authorized to receive such information. Prior to the department's disclosure of  
948 personal information, such individual, firm, corporation, or similar business entity must first  
949 enter into a contract with the department regarding the care, custody, and control of the personal  
950 information to ensure compliance with the federal Driver's Privacy Protection Act of 1994 and  
951 applicable state laws.

952 2. An authorized recipient of personal information contained in a motor vehicle record, except a  
953 recipient under subparagraph (b)12., may contract with the Department of Highway Safety and  
954 Motor Vehicles to resell or redisclose the information for any use permitted under this section.  
955 However, only authorized recipients of personal information under subparagraph (b)12 may  
956 resell or redisclose personal information pursuant to subparagraph (b)12.

957 3. Any authorized recipient who resells or rediscloses personal information shall maintain, for a  
958 period of 5 years, records identifying each person or entity that receives the personal information  
959 and the permitted purpose for which it will be used. Such records shall be made available for  
960 inspection upon request by the department.

961 (f) The department may adopt rules to carry out the purposes of this subsection and the federal  
962 Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq. Rules adopted by the  
963 department may provide for the payment of applicable fees and, prior to the disclosure of  
964 personal information pursuant to this subsection, may require the meeting of conditions by the  
965 requesting person for the purposes of obtaining reasonable assurance concerning the identity of  
966 such requesting person, and, to the extent required, assurance that the use will be only as  
967 authorized or that the consent of the person who is the subject of the personal information has  
968 been obtained. Such conditions may include, but need not be limited to, the making and filing of

969 a written application in such form and containing such information and certification requirements  
970 as the department requires.

971 (g) This subsection is subject to the Public Record Law in accordance with c. 66 § 16.

972 **66 § 8 Local government agency exemptions from inspection or copying of public records**

973 (1) All complaints and other records in the custody of any unit of local government which relate  
974 to a complaint of discrimination relating to race, color, religion, sex, national origin, age,  
975 handicap, marital status, sale or rental of housing, the provision of brokerage services, or the  
976 financing of housing are exempt from c. 66 § 4(1) until a finding is made relating to probable  
977 cause, the investigation of the complaint becomes inactive, or the complaint or other record is  
978 made part of the official record of any hearing or court proceeding. This provision shall not  
979 affect any function or activity of any state or federal agency that is authorized to have access to  
980 such complaints or records by any provision of law shall be granted such access in the  
981 furtherance of such agency's statutory duties. This subsection shall not be construed to modify or  
982 repeal any special or local act.

983 (2) The audit report of an internal auditor prepared for or on behalf of a unit of local government  
984 becomes a public record when the audit becomes final. As used in this subsection, the term "unit  
985 of local government" means a county, municipality, special district, local agency, authority,  
986 consolidated city-county government, or any other local governmental body or public body  
987 corporate or politic authorized or created by general or special law. An audit becomes final when  
988 the audit report is presented to the unit of local government. Audit workpapers and notes related  
989 to such audit report are confidential and exempt from c. 66 § 4(1) until the audit is completed  
990 and the audit report becomes final.

991 (3) Any data, record, or document used directly or solely by a municipally owned utility to  
992 prepare and submit a bid relative to the sale, distribution, or use of any service, commodity, or  
993 tangible personal property to any customer or prospective customer is exempt from c. 66 § 4(1).  
994 This exemption commences when a municipal utility identifies in writing a specific bid to which  
995 it intends to respond. This exemption no longer applies when the contract for sale, distribution,  
996 or use of the service, commodity, or tangible personal property is executed, a decision is made  
997 not to execute such contract, or the project is no longer under active consideration. The  
998 exemption in this subsection includes the bid documents actually furnished in response to the  
999 request for bids. However, the exemption for the bid documents submitted no longer applies after  
1000 the bids are opened by the customer or prospective customer.

1001 **66 § 9 Court files; court records; official records**

1002 (1) COURT FILES

1003 Nothing in this chapter shall be construed to exempt from c. 66 § 4(1) a public record that was  
1004 made a part of a court file and that is not specifically closed by order of court, except:

1005 (a) A public record that was prepared by an agency attorney or prepared at the attorney's express  
1006 direction as provided in c. 66 § 5(1)(d).

1007 (b) Data processing software as provided in c. 66 § 5(1)(f).

1008 (c) Any information revealing surveillance techniques or procedures or personnel as provided in  
1009 c. 66 § 5(2)(d).

1010 (d) Any comprehensive inventory of state and local law enforcement resources, and any  
1011 comprehensive policies or plans compiled by a criminal justice agency, as provided in c. 66 §  
1012 5(2)(d).

1013 (e) Any information revealing the substance of a confession of a person arrested as provided in c.  
1014 66 § 5(2)(e).

1015 (f) Any information revealing the identity of a confidential informant or confidential source as  
1016 provided in c. 66 § 5(2)(f).

1017 (g) Any information revealing undercover personnel of any criminal justice agency as provided  
1018 in c. 66 § 5(4)(c).

1019 (h) Criminal intelligence information or criminal investigative information that is confidential  
1020 and exempt as provided in c. 66 § 5(2)(h).

1021 (i) Social security numbers as provided in c. 66 § 5(5)(a).

1022 (j) Bank account numbers and debit, charge, and credit card numbers as provided in c. 66 §  
1023 5(5)(b).

## 1024 (2) COURT RECORDS

1025 (a) Until January 1, 2011, if a social security number or a bank account, debit, charge, or credit  
1026 card number is included in a court file, such number may be included as part of the court record  
1027 available for public inspection and copying unless redaction is requested by the holder of such  
1028 number or by the holder's attorney or legal guardian.

1029 (b) A request for redaction must be a signed, legibly written request specifying the case name,  
1030 case number, document heading, and page number. The request must be delivered by mail,  
1031 facsimile, electronic transmission, or in person to the clerk of the court. The clerk of the court  
1032 does not have a duty to inquire beyond the written request to verify the identity of a person  
1033 requesting redaction.

1034 (c) A fee may not be charged for the redaction of a social security number or a bank account,  
1035 debit, charge, or credit card number pursuant to such request.

1036



1037 (d) The clerk of the court has no liability for the inadvertent release of social security numbers,  
1038 or bank account, debit, charge, or credit card numbers, unknown to the clerk of the court in court  
1039 records filed on or before January 1, 2011.

1040 (e)1. On January 1, 2011, and thereafter, the clerk of the court must keep social security numbers  
1041 confidential and exempt as provided for in c. 66 § 5(5)(a), and bank account, debit, charge, and  
1042 credit card numbers exempt as provided for in c. 66 § 5(5)(b), without any person having to  
1043 request redaction.

1044 2. Section 66 § 5(5)(a)7 and 8 does not apply to the clerks of the court with respect to court  
1045 records.

### 1046 (3) OFFICIAL RECORDS

1047 (a) Any person who prepares or files a record for recording in the official records may not  
1048 include in that record a social security number or a bank account, debit, charge, or credit card  
1049 number unless otherwise expressly required by law.

1050 (b)1. If a social security number or a bank account, debit, charge, or credit card number is  
1051 included in an official record, such number may be made available as part of the official records  
1052 available for public inspection and copying unless redaction is requested by the holder of such  
1053 number or by the holder's attorney or legal guardian.

1054 2. If such record is in electronic format, on January 1, 2011, and thereafter, the county recorder  
1055 must use his or her best effort, as provided in paragraph (h), to keep social security numbers  
1056 confidential and exempt as provided for in c. 66 § 5(5)(a), and to keep complete bank account,  
1057 debit, charge, and credit card numbers exempt as provided for in c. 66 § 5(5)(b), without any  
1058 person having to request redaction.

1059 3. Section 66 § 5(5)(a)7 and 8 does not apply to the county recorder with respect to official  
1060 records.

1061 (c) The holder of a social security number or a bank account, debit, charge, or credit card  
1062 number, or the holder's attorney or legal guardian, may request that a county recorder redact  
1063 from an image or copy of an official record placed on a county recorder's publicly available  
1064 Internet website or on a publicly available Internet website used by a county recorder to display  
1065 public records, or otherwise made electronically available to the public, his or her social security  
1066 number or bank account, debit, charge, or credit card number contained in that official record.

1067 (d) A request for redaction must be a signed, legibly written request and must be delivered by  
1068 mail, facsimile, electronic transmission, or in person to the county recorder. The request must  
1069 specify the identification page number of the record that contains the number to be redacted.

1070 (e) The county recorder does not have a duty to inquire beyond the written request to verify the  
1071 identity of a person requesting redaction.

1072 (f) A fee may not be charged for redacting a social security number or a bank account, debit,  
1073 charge, or credit card number.

1074 (g) A county recorder shall immediately and conspicuously post signs throughout his or her  
1075 offices for public viewing, and shall immediately and conspicuously post on any Internet website  
1076 or remote electronic site made available by the county recorder and used for the ordering or  
1077 display of official records or images or copies of official records, a notice stating, in substantially  
1078 similar form, the following:

1079 1. On or after October 1, 2002, any person preparing or filing a record for recordation in the  
1080 official records may not include a social security number or a bank account, debit, charge, or  
1081 credit card number in such document unless required by law.

1082 2. Any person has a right to request a county recorder to remove from an image or copy of an  
1083 official record placed on a county recorder's publicly available Internet website or on a publicly  
1084 available Internet website used by a county recorder to display public records, or otherwise made  
1085 electronically available to the general public, any social security number contained in an official  
1086 record. Such request must be made in writing and delivered by mail, facsimile, or electronic  
1087 transmission, or delivered in person, to the county recorder. The request must specify the  
1088 identification page number that contains the social security number to be redacted. A fee may not  
1089 be charged for the redaction of a social security number pursuant to such a request.

1090 (h) If the county recorder accepts or stores official records in an electronic format, the county  
1091 recorder must use his or her best efforts to redact all social security numbers and bank account,  
1092 debit, charge, or credit card numbers from electronic copies of the official record. The use of an  
1093 automated program for redaction shall be deemed to be the best effort in performing the  
1094 redaction and shall be deemed in compliance with the requirements of this subsection.

1095 (i) The county recorder is not liable for the inadvertent release of social security numbers, or  
1096 bank account, debit, charge, or credit card numbers, filed with the county recorder.

1097 **66 § 10 Copyright of data processing software created by governmental agencies; sale price**  
1098 **and licensing fee**

1099 (1) As used in this section, "agency" has the same meaning as in c. 66 § 2(2), except that the term  
1100 does not include any private agency, person, partnership, corporation, or business entity.

1101 (2) An agency is authorized to acquire and hold a copyright for data processing software created  
1102 by the agency and to enforce its rights pertaining to such copyright, provided that the agency  
1103 complies with the requirements of this subsection.

1104 (a) An agency that has acquired a copyright for data processing software created by the agency  
1105 may sell or license the copyrighted data processing software to any public agency or private  
1106 person. The agency may establish a price for the sale and a licensing fee for the use of such data  
1107 processing software that may be based on market considerations. However, the prices or fees for  
1108 the sale or licensing of copyrighted data processing software to an individual or entity solely for  
1109 application to information maintained or generated by the agency that created the copyrighted  
1110 data processing software shall be determined pursuant to c. 66 § 4(4).

1111 (b) Proceeds from the sale or licensing of copyrighted data processing software shall be  
1112 deposited by the agency into a trust fund for the agency's appropriate use for authorized  
1113 purposes. Counties, municipalities, and other political subdivisions of the state may designate  
1114 how such sale and licensing proceeds are to be used.

1115 (c) The provisions of this subsection are supplemental to, and shall not supplant or repeal, any  
1116 other provision of law that authorizes an agency to acquire and hold copyrights.

1117 **66 § 11 Registration by federal employer's registration number**

1118 Each state agency which registers or licenses corporations, partnerships, or other business  
1119 entities shall include, by July 1, 1978, within its numbering system, the federal employer's  
1120 identification number of each corporation, partnership, or other business entity registered or  
1121 licensed by it. Any state agency may maintain a dual numbering system in which the federal  
1122 employer's identification number or the state agency's own number is the primary identification  
1123 number; however, the records of such state agency shall be designed in such a way that the  
1124 record of any business entity is subject to direct location by the federal employer's identification  
1125 number. The Department of State shall keep a registry of federal employer's identification  
1126 numbers of all business entities, registered with the Division of Corporations, which registry of  
1127 numbers may be used by all state agencies.

1128 **66 § 12 Violation of chapter; penalties**

1129 (1) Any public officer who:

1130 (a) Violates any provision of this chapter commits a noncriminal infraction, punishable by fine  
1131 not exceeding \$500.

1132 (b) Knowingly violates the provisions of c. 66 § 4(1) is subject to suspension and removal or  
1133 impeachment and, in addition, commits a misdemeanor of the first degree, punishable by law.

1134 (2) Any person who willfully and knowingly violates:

1135 (a) Any of the provisions of this chapter commits a misdemeanor of the first degree, punishable  
1136 by law.

1137 (b) Section 66 § 13 commits a felony of the third degree, punishable by law.

1138 **66 § 13 Protection of victims of crimes or accidents**

1139 Police reports are public records except as otherwise made exempt or confidential. Every person  
1140 is allowed to examine nonexempt or nonconfidential police reports. A person who comes into  
1141 possession of exempt or confidential information contained in police reports may not use that  
1142 information for any commercial solicitation of the victims or relatives of the victims of the  
1143 reported crimes or accidents and may not knowingly disclose such information to any third party  
1144 for the purpose of such solicitation during the period of time that information remains exempt or  
1145 confidential. This section does not prohibit the publication of such information to the general  
1146 public by any news media legally entitled to possess that information or the use of such  
1147 information for any other data collection or analysis purposes by those entitled to possess that  
1148 information.

1149 **66 § 14 Accelerated hearing; immediate compliance**

1150 (1) Whenever an action is filed to enforce the provisions of this chapter, the court shall set an  
1151 immediate hearing, giving the case priority over other pending cases.

1152 (2) Whenever a court orders an agency to open its records for inspection in accordance with this  
1153 chapter, the agency shall comply with such order within 48 hours, unless otherwise provided by  
1154 the court issuing such order, or unless the appellate court issues a stay order within such 48-hour  
1155 period.

1156 (3) A stay order shall not be issued unless the court determines that there is a substantial  
1157 probability that opening the records for inspection will result in significant damage.

1158 (4) Upon service of a complaint, counterclaim, or cross-claim in a civil action brought to enforce  
1159 the provisions of this chapter, the custodian of the public record that is the subject matter of such  
1160 civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record  
1161 sought to be inspected and examined, notwithstanding the applicability of an exemption or the  
1162 assertion that the requested record is not a public record subject to inspection and examination  
1163 under c. 66 § 4(1), until the court directs otherwise. The person who has custody of such public  
1164 record may, however, at any time permit inspection of the requested record as provided in c. 66 §  
1165 4(1) and other provisions of law.

1166 **66 § 15 Attorney's fees**

1167 If a civil action is filed against an agency to enforce the provisions of this chapter and if the court  
1168 determines that such agency unlawfully refused to permit a public record to be inspected or  
1169 copied, the court shall assess and award, against the agency responsible, the reasonable costs of  
1170 enforcement including reasonable attorneys' fees.

1171 **66 § 16 Legislative review of exemptions from public meeting and public records**  
1172 **requirements**

1173 (1) This section may be cited as the "Public Record Law."

1174 (2) This section provides for the review and repeal or reenactment of an exemption from c. 66 §  
1175 4(1). This act does not apply to an exemption that:

1176 (a) Is required by federal law; or

1177 (b) Applies solely to the Legislature or the State Court System.

1178 (3) In the 5th year after enactment of a new exemption or substantial amendment of an existing  
1179 exemption, the exemption shall be repealed on October 2nd of the 5th year, unless the  
1180 Legislature acts to reenact the exemption.

1181 (4)(a) A law that enacts a new exemption or substantially amends an existing exemption must  
1182 state that the record or meeting is:

1183 1. Exempt from the State Constitution;

1184 2. Exempt from c. 66 § 4(1); and

1185 3. Repealed at the end of 5 years and that the exemption must be reviewed by the Legislature  
1186 before the scheduled repeal date.

1187 (b) For purposes of this section, an exemption is substantially amended if the amendment  
1188 expands the scope of the exemption to include more records or information or to include  
1189 meetings as well as records. An exemption is not substantially amended if the amendment  
1190 narrows the scope of the exemption.

1191 (c) This section is not intended to repeal an exemption that has been amended following  
1192 legislative review before the scheduled repeal of the exemption if the exemption is not  
1193 substantially amended as a result of the review.

1194 (5)(a) As part of the review process, the Legislature shall consider the following:

1195 1. What specific records or meetings are affected by the exemption?

1196 2. Whom does the exemption uniquely affect, as opposed to the general public?

1197 3. What is the identifiable public purpose or goal of the exemption?

1198 4. Can the information contained in the records or discussed in the meeting be readily obtained  
1199 by alternative means? If so, how?

1200 5. Is the record or meeting protected by another exemption?

1201 6. Are there multiple exemptions for the same type of record or meeting that it would be  
1202 appropriate to merge?

1203 (b) An exemption may be created, revised, or maintained only if it serves an identifiable public  
1204 purpose, and the exemption may be no broader than is necessary to meet the public purpose it  
1205 serves. An identifiable public purpose is served if the exemption meets one of the following  
1206 purposes and the Legislature finds that the purpose is sufficiently compelling to override the  
1207 strong public policy of open government and cannot be accomplished without the exemption:

1208 1. Allows the state or its political subdivisions to effectively and efficiently administer a  
1209 governmental program, which administration would be significantly impaired without the  
1210 exemption;

1211 2. Protects information of a sensitive personal nature concerning individuals, the release of  
1212 which information would be defamatory to such individuals or cause unwarranted damage to the  
1213 good name or reputation of such individuals or would jeopardize the safety of such individuals.  
1214 However, in exemptions under this subparagraph, only information that would identify the  
1215 individuals may be exempted; or

1216 3. Protects information of a confidential nature concerning entities, including, but not limited to,  
1217 a formula, pattern, device, combination of devices, or compilation of information which is used  
1218 to protect or further a business advantage over those who do not know or use it, the disclosure of  
1219 which information would injure the affected entity in the marketplace.

1220 (6) Records made before the date of a repeal of an exemption under this section may not be made  
1221 public unless otherwise provided by law. In deciding whether the records shall be made public,  
1222 the Legislature shall consider whether the damage or loss to persons or entities uniquely affected  
1223 by the exemption of the type specified in subparagraph (6)(b)2. or subparagraph (6)(b)3 would  
1224 occur if the records were made public.

1225 (7) Notwithstanding any other law, neither the state or its political subdivisions nor any other  
1226 public body shall be made party to any suit in any court or incur any liability for the repeal or  
1227 revival and reenactment of an exemption under this section. The failure of the Legislature to  
1228 comply strictly with this section does not invalidate an otherwise valid reenactment.