

HOUSE No. 00828

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:

Stefano Picciotto

DISTRICT/ADDRESS:

418 Lafayette Street

Salem, MA 01970

HOUSE No. 00828

By Mr. John D Keenan of Salem, petition (accompanied by bill, House, No. 00828) of John D Keenan for legislation to further regulate access to public records. Joint Committee on State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 3002 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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 Be it enacted by the Senate and House of Representatives in General Court assembled, and by
- 2 the authority of the same, as follows:
- 3 SECTION 1. Chapter 66 is hereby repealed and is replaced by the following language:
- 4 CHAPTER 66
- 5 PUBLIC RECORDS
- 6 THE MASSACHUSETTS SUNSHINE BILL
- 7 66 § 1 General state policy on public records.

- 8 66 § 2 Definitions.
- 9 66 § 3 Custodial requirements; maintenance, preservation, and retention of public records.
- 10 66 § 4 Inspection and copying of records; photographing public records; fees; exemptions.
- 11 66 § 5 General exemptions from inspection or copying of public records.
- 12 66 § 6 Executive branch agency exemptions from inspection or copying of public records.
- 13 66 § 7 Executive branch agency-specific exemptions from inspection or copying of public
14 records.
- 15 66 § 8 Local government agency exemptions from inspection or copying of public records.
- 16 66 § 9 Court files; court records; official records.
- 17 66 § 10 Copyright of data processing software created by governmental agencies; sale price and
18 licensing fee.
- 19 66 § 11 Registration by federal employer's registration number.
- 20 66 § 12 Violation of chapter; penalties.
- 21 66 § 13 Protection of victims of crimes or accidents.
- 22 66 § 14 Accelerated hearing; immediate compliance.
- 23 66 § 15 Attorney's fees.
- 24 66 § 16 Legislative review of exemptions from public meeting and public records requirements.
- 25 66 § 1 General state policy on public records

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

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

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

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

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

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

47 (f) Each agency that maintains a public record in an electronic recordkeeping system shall
48 provide to any person, pursuant to this chapter, a copy of any public record in that system which
49 is not exempted by law from public disclosure. An agency must provide a copy of the record in
50 the medium requested if the agency maintains the record in that medium, and the agency may
51 charge a fee in accordance with this chapter. For the purpose of satisfying a public records
52 request, the fee to be charged by an agency if it elects to provide a copy of a public record in a
53 medium not routinely used by the agency, or if it elects to compile information not routinely
54 developed or maintained by the agency or that requires a substantial amount of manipulation or
55 programming, must be in accordance with c. 66 § 4(4).

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

61 66 § 2 Definitions

62 As used in this chapter, the term:

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

65 (2) "Agency" means any state, county, district, authority, or municipal officer, department,
66 division, board, bureau, commission, or other separate unit of government created or established
67 by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service

68 Commission, and the Office of Public Counsel, and any other public or private agency, person,
69 partnership, corporation, or business entity acting on behalf of any public agency.

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

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

77 (c) "Criminal intelligence information" and "criminal investigative information" shall not
78 include:

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

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

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

83 4. The crime charged.

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

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

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

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

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

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

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

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

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

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

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

115 (d) The Department of Corrections.

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

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

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

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

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

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

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

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

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

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

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

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

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

152 66 § 3 Custodial requirements; maintenance, preservation, and retention of public records

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

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

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

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

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

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

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

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

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

175 (d) The division may ascertain the condition of public records and shall give advice and
176 assistance to public officials to solve problems related to the preservation, creation, filing, and
177 public accessibility of public records in their custody. Public officials shall assist the division by
178 preparing an inclusive inventory of categories of public records in their custody. The division
179 shall establish a time period for the retention or disposal of each series of records. Upon the
180 completion of the inventory and schedule, the division shall, subject to the availability of
181 necessary space, staff, and other facilities for such purposes, make space available in its records
182 center for the filing of semicurrent records so scheduled and in its archives for noncurrent
183 records of permanent value, and shall render such other assistance as needed, including the
184 microfilming of records so scheduled.

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

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

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

197 66 § 4 Inspection and copying of records; photographing public records; fees; exemptions

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

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

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

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

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

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

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

227 (h) Even if an assertion is made by the custodian of public records that a requested record is not a
228 public record subject to public inspection or copying under this subsection, the requested record
229 shall, nevertheless, not be disposed of for a period of 30 days after the date on which a written
230 request to inspect or copy the record was served on or otherwise made to the custodian of public

231 records by the person seeking access to the record. If a civil action is instituted within the 30-day
232 period to enforce the provisions of this section with respect to the requested record, the custodian
233 of public records may not dispose of the record except by order of a court of competent
234 jurisdiction after notice to all affected parties.

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

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

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

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

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

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

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

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

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

271 (a)1. Up to 15 cents per one-sided copy for duplicated copies of not more than 14 inches by 8 1/2
272 inches;

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

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

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

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

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

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

290 2. The custodian of public records may charge the person making the photographs for
291 supervision services at a rate of compensation to be agreed upon by the person desiring to make

292 the photographs and the custodian of public records. If they fail to agree as to the appropriate
293 charge, the charge shall be determined by the custodian of public records.

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

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

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

312 66 § 5 General exemptions from inspection or copying of public records

313 (1) AGENCY ADMINISTRATION

314 (a) Examination questions and answer sheets of examinations administered by a

315 governmental

316 agency for the purpose of licensure, certification, or employment are exempt from c. 66 § 4(1).

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

318 examination.

319 (b)1.a. Sealed bids or proposals received by an agency pursuant to invitations to bid or requests

320 for proposals are exempt from c. 66 § 4(1) until such time as the agency provides notice of a

321 decision or intended decision or within 10 days after bid or proposal opening, whichever is

322 earlier.

323 b. If an agency rejects all bids or proposals submitted in response to an invitation to bid or

324 request for proposals and the agency concurrently provides notice of its intent to reissue the

325 invitation to bid or request for proposals, the rejected bids or proposals remain exempt from c. 66

326 § 4(1) until such time as the agency provides notice of a decision or intended decision

327 concerning the reissued invitation to bid or request for proposals or until the agency withdraws

328 the reissued invitation to bid or request for proposals. This sub-subparagraph is subject to the

329 Public Record Law in accordance with c. 66 § 16.

330 2.a. A competitive sealed reply in response to an invitation to negotiate, is exempt from c. 66 §

331 4(1) until such time as the agency provides notice of a decision or intended decision or until 20

332 days after the final competitive sealed replies are all opened, whichever occurs earlier.

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

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

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

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

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

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

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

370 (g)1. United States Census Bureau address information, which includes maps showing structure
371 location points, agency records verifying addresses, and agency records identifying address
372 errors or omissions, held by an agency pursuant to the Local Update of Census Addresses
373 Program, Title 13, United States Code, Pub. L. No. 103-430, is confidential and exempt from c.
374 66 § 4(1).

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

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

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

382 (2) AGENCY INVESTIGATIONS

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

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

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

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

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

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

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

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

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

417 (g)1.a. All complaints and other records in the custody of any agency which relate to a complaint
418 of discrimination relating to race, color, religion, sex, national origin, age, handicap, or marital

419 status in connection with hiring practices, position classifications, salary, benefits, discipline,
420 discharge, employee performance, evaluation, or other related activities are exempt from c. 66 §
421 4(1) until a finding is made relating to probable cause, the investigation of the complaint
422 becomes inactive, or the complaint or other record is made part of the official record of any
423 hearing or court proceeding.

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

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

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

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

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

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

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

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

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

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

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

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

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

453 (j)1. Any document that reveals the identity, home or employment telephone number, home or
454 employment address, or personal assets of the victim of a crime and identifies that person as the
455 victim of a crime, which document is received by any agency that regularly receives information
456 from or concerning the victims of crime, is exempt from c. 66 § 4(1). Any information not
457 otherwise held confidential or exempt from c. 66 § 4(1) which reveals the home or employment
458 telephone number, home or employment address, or personal assets of a person who has been the
459 victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated
460 battery, or domestic violence is exempt from c. 66 § 4(1), upon written request by the victim,

461 which must include official verification that an applicable crime has occurred. Such information
462 shall cease to be exempt 5 years after the receipt of the written request. Any state or federal
463 agency that is authorized to have access to such documents by any provision of law shall be
464 granted such access in the furtherance of such agency's statutory duties, notwithstanding this
465 section.

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

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

483 (3) SECURITY

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

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

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

489 c. Threat response plans;

490 d. Emergency evacuation plans;

491 e. Sheltering arrangements; or

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

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

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

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

496 66 § 4(1). This exemption is remedial in nature, and it is the intent of the Legislature that this

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

498 of this paragraph.

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

500 custodian of public records to:

501 a. The property owner or leaseholder; or

502 b. Another state or federal agency to prevent, detect, guard against, respond to, investigate, or
503 manage the consequences of any attempted or actual act of terrorism, or to prosecute those
504 persons who are responsible for such attempts or acts.

505 (b)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary,
506 and final formats, which depict the internal layout and structural elements of a building, arena,
507 stadium, water treatment facility, or other structure owned or operated by an agency are exempt
508 from c. 66 § 4(1).

509 2. This exemption applies to building plans, blueprints, schematic drawings, and diagrams,
510 including draft, preliminary, and final formats, which depict the internal layout and structural
511 elements of a building, arena, stadium, water treatment facility, or other structure owned or
512 operated by an agency before, on, or after the effective date of this act.

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

514 a. To another governmental entity if disclosure is necessary for the receiving entity to perform its
515 duties and responsibilities;

516 b. To a licensed architect, engineer, or contractor who is performing work on or related to the
517 building, arena, stadium, water treatment facility, or other structure owned or operated by an
518 agency; or

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

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

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

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

536 a. For single-performance facilities:

537 (I) Provides single-performance facilities; or

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

539 b. For serial-performance facilities:

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

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

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

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

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

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

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

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

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

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

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

565 6. "Hotel or motel development" means any hotel or motel development that accommodates 350
566 or more units.

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

570 (4) AGENCY PERSONNEL INFORMATION

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

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

581 (b) Medical information pertaining to a prospective, current, or former officer or employee of an
582 agency which, if disclosed, would identify that officer or employee is exempt from c. 66 § 4(1).

583 However, such information may be disclosed if the person to whom the information pertains or
584 the person's legal representative provides written permission or pursuant to court order.

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

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

605 the children of justices and judges are exempt from c. 66 § 4(1). The home addresses, telephone
606 numbers, social security numbers, and photographs of current or former state attorneys, assistant
607 state attorneys, statewide prosecutors, or assistant statewide prosecutors; the home addresses,
608 telephone numbers, social security numbers, photographs, and places of employment of the
609 spouses and children of current or former state attorneys, assistant state attorneys, statewide
610 prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day
611 care facilities attended by the children of current or former state attorneys, assistant state
612 attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from c. 66 § 4(1).

613 b. The home addresses and telephone numbers of general magistrates, special magistrates,
614 judges of compensation claims, administrative law judges of the Workmens Compensation
615 Board, Massachusetts Commission Against Discrimination, and child support enforcement
616 hearing officers; the home addresses, telephone numbers, and places of employment of the
617 spouses and 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; and the names and locations of schools and day care facilities attended by the
620 children of general magistrates, special magistrates, judges of compensation claims,
621 administrative law judges of the Workmens Compensation Board, and child support enforcement
622 hearing officers are exempt from c. 66 § 4(1) if the general magistrate, special magistrate, judge
623 of compensation claims, administrative law judge of the Workmens Compensation Board, or
624 child support hearing officer provides a written statement that the general magistrate, special
625 magistrate, judge of compensation claims, administrative law judge of the Workmens
626 Compensation Board, Massachusetts Commission of Discrimination, or child support hearing
627 officer has made reasonable efforts to protect such information from being accessible through

628 other means available to the public. This sub-subparagraph is subject to the Public Record Law
629 in accordance with c. 66 § 16.

630 2. The home addresses, telephone numbers, and photographs of current or former human
631 resource, labor relations, or employee relations directors, assistant directors, managers, or
632 assistant managers of any local government agency or water management district whose duties
633 include hiring and firing employees, labor contract negotiation, administration, or other
634 personnel-related duties; the names, home addresses, telephone numbers, and places of
635 employment of the spouses and children of such personnel; and the names and locations of
636 schools and day care facilities attended by the children of such personnel are exempt from c. 66 §
637 4(1).

638 3. The home addresses, telephone numbers, social security numbers, and photographs of current
639 or former United States attorneys and assistant United States attorneys; the home addresses,
640 telephone numbers, social security numbers, photographs, and places of employment of the
641 spouses and children of current or former United States attorneys and assistant United States
642 attorneys; and the names and locations of schools and day care facilities attended by the children
643 of current or former United States attorneys and assistant United States attorneys are exempt
644 from c. 66 § 4(1). This subparagraph is subject to the Public Record Law in accordance with c.
645 66 §16. .

646 4. The home addresses, telephone numbers, social security numbers, and photographs of current
647 or former judges of United States Courts of Appeal, United States district judges, and United
648 States magistrate judges; the home addresses, telephone numbers, social security numbers,
649 photographs, and places of employment of the spouses and children of current or former judges

650 of United States Courts of Appeal, United States district judges, and United States magistrate
651 judges; and the names and locations of schools and day care facilities attended by the children of
652 current or former judges of United States Courts of Appeal, United States district judges, and
653 United States magistrate judges are exempt from c. 66 § 4(1) and s. 24(a), Art. I of the State
654 Constitution. This subparagraph is subject to the Public Record Law in accordance with c. 66 §
655 16.

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

660 6. The home addresses, telephone numbers, places of employment, and photographs of current or
661 former guardians ad litem, and the names, home addresses, telephone numbers, and places of
662 employment of the spouses and children of such persons, are exempt from c. 66 § 4(1), if the
663 guardian ad litem provides a written statement that the guardian ad litem has made reasonable
664 efforts to protect such information from being accessible through other means available to the
665 public. This subparagraph is subject to the Public Record Law in accordance with s. 66 § 16.

666 7. The home addresses, telephone numbers, and photographs of current or former juvenile
667 probation officers, juvenile probation supervisors, detention superintendents, assistant detention
668 superintendents, senior juvenile detention officers, juvenile detention officer supervisors,
669 juvenile detention officers, house parents I and II, house parent supervisors, group treatment
670 leaders, group treatment leader supervisors, rehabilitation therapists, and social services
671 counselors; the names, home addresses, telephone numbers, and places of employment of

672 spouses and children of such personnel; and the names and locations of schools and day care
673 facilities attended by the children of such personnel are exempt from c. 66 § 4(1). This
674 subparagraph is subject to the Public Record Law in accordance with s. 66 § 16.

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

683 (5) OTHER PERSONAL INFORMATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

730 (I) Be verified

731 (a) Under oath or affirmation taken or administered before an officer authorized under s.
732 92.50 to administer oaths; or

733 (b) By the signing of the written declaration prescribed in subsection (2).

734 (2) A written declaration means the following statement: "Under penalties of perjury, I declare
735 that I have read the foregoing [document] and that the facts stated in it are true," followed by the

736 signature of the person making the declaration, except when a verification on information or
737 belief is permitted by law, in which case the words "to the best of my knowledge and belief" may
738 be added. The written declaration shall be printed or typed at the end of or immediately below
739 the document being verified and above the signature of the person making the declaration.

740 (3) A person who knowingly makes a false declaration under subsection (2) is guilty of the
741 crime of perjury by false written declaration, a felony of the third degree, punishable by law

742 (II) Be legibly signed by an authorized officer, employee, or agent of the commercial entity;

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

745 (IV) Contain a statement of the specific purposes for which it needs the social security numbers
746 and how the social security numbers will be used in the performance of a commercial activity.

747 The aggregate of these requests shall serve as the basis for the agency report required in
748 subparagraph 9.

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

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

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

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

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

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

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

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

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

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

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

773 (c) Any information that would identify or help to locate a child who participates in government-
774 sponsored recreation programs or camps or the parents or guardians of such child, including, but
775 not limited to, the name, home address, telephone number, social security number, or photograph
776 of the child; the names and locations of schools attended by such child; and the names, home
777 addresses, and social security numbers of parents or guardians of such child is exempt from c. 66

778 § 4(1). Information made exempt pursuant to this paragraph may be disclosed by court order
779 upon a showing of good cause. This exemption applies to records held before, on, or after the
780 effective date of this exemption.

781 (d) All records supplied by a telecommunications company, to an agency which contain the
782 name, address, and telephone number of subscribers are confidential and exempt from c. 66 §
783 4(1).

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

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

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

798 a. Any record of friction ridge detail;

799 b. Fingerprints;

800 c. Palm prints; and

801 d. Footprints.

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

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

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

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

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

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

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

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

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

816 66 § 6 Executive branch agency exemptions from inspection or copying of public records

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

835 66 § 7 Executive branch agency-specific exemptions from inspection or copying of public
836 records

837 (1) DEPARTMENT OF HEALTH

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

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

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

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

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

858 (2) DEPARTMENT OF REGISTRY OF MOTOR VEHICLES

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

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

870 1. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle
871 emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of
872 motor vehicles and dealers by motor vehicle manufacturers; and removal of nonowner records
873 from the original owner records of motor vehicle manufacturers, to carry out the purposes of
874 Titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act
875 (15 U.S.C. ss. 1231 et seq.), the Clean Air Act (42 U.S.C. ss. 7401 et seq.), and chapters 301,
876 305, and 321-331 of Title 49, United States Code.

877 2. For use by any government agency, including any court or law enforcement agency, in
878 carrying out its functions, or any private person or entity acting on behalf of a federal, state, or
879 local agency in carrying out its functions.

880 3. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle
881 emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of
882 motor vehicles, motor vehicle parts, and dealers; motor vehicle market research activities,
883 including survey research; and removal of nonowner records from the original owner records of
884 motor vehicle manufacturers.

885 4. For use in the normal course of business by a legitimate business or its agents, employees, or
886 contractors, but only:

887 a. To verify the accuracy of personal information submitted by the individual to the business or
888 its agents, employees, or contractors; and

889 b. If such information as so submitted is not correct or is no longer correct, to obtain the correct
890 information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or
891 recovering on a debt or security interest against, the individual.

892 5. For use in connection with any civil, criminal, administrative, or arbitral proceeding in any
893 court or agency or before any self-regulatory body for:

894 a. Service of process by any certified process server, special process server, or other person
895 authorized to serve process in this state.

896 b. Investigation in anticipation of litigation by an attorney licensed to practice law in this state or
897 the agent of the attorney; however, the information may not be used for mass commercial
898 solicitation of clients for litigation against motor vehicle dealers.

899 c. Investigation by any person in connection with any filed proceeding; however, the information
900 may not be used for mass commercial solicitation of clients for litigation against motor vehicle
901 dealers.

902 d. Execution or enforcement of judgments and orders.

903 e. Compliance with an order of any court.

904 6. For use in research activities and for use in producing statistical reports, so long as the
905 personal information is not published, redisclosed, or used to contact individuals.

906 7. For use by any insurer or insurance support organization, or by a self-insured entity, or its
907 agents, employees, or contractors, in connection with claims investigation activities, anti-fraud
908 activities, rating, or underwriting.

909 8. For use in providing notice to the owners of towed or impounded vehicles.

910 9. For use by any licensed private investigative agency or licensed security service for any
911 purpose permitted under this subsection. Personal information obtained based on an exempt
912 driver's record may not be provided to a client who cannot demonstrate a need based on a police
913 report, court order, or business or personal relationship with the subject of the investigation.

914 10. For use by an employer or its agent or insurer to obtain or verify information relating to a
915 holder of a commercial driver's license that is required under 49 U.S.C. ss. 31301 et seq.

916 11. For use in connection with the operation of private toll transportation facilities.

917 12. For bulk distribution for surveys, marketing, or solicitations when the department has
918 obtained the express consent of the person to whom such personal information pertains.

919 13. For any use if the requesting person demonstrates that he or she has obtained the written
920 consent of the person who is the subject of the motor vehicle record.

921 14. For any other use specifically authorized by state law, if such use is related to the operation
922 of a motor vehicle or public safety.

923 15. For any other use if the person to whom the information pertains has given express consent in
924 a format prescribed by the department. Such consent shall remain in effect until it is revoked by
925 the person on a form prescribed by the department.

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

929 1. Social security numbers may be released only as provided in subparagraphs (b)2., 5., 7., and
930 10.

931 2. An individual's photograph or image may be released only for state departmental
932 administrative purposes; for the issuance of duplicate licenses; in response to law enforcement
933 agency requests; to the Registry of Motor Vehicles pursuant to an interagency agreement to
934 facilitate determinations of eligibility of voter registration applicants and registered voters in
935 accordance; to the Department of Revenue pursuant to an interagency agreement for use in
936 establishing paternity and establishing, modifying, or enforcing support obligations in Title IV-D
937 cases; to the Department of Social Services pursuant to an interagency agreement to conduct
938 protective investigations; or to the Office of the State Treasurer, pursuant to an interagency
939 agreement to facilitate the location of owners of unclaimed property, the validation of unclaimed
940 property claims, and the identification of fraudulent or false claims.

941 3. Medical disability information is exempt from disclosure.

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

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

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

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

960 3. Any authorized recipient who resells or rediscloses personal information shall maintain, for a
961 period of 5 years, records identifying each person or entity that receives the personal information

962 and the permitted purpose for which it will be used. Such records shall be made available for
963 inspection upon request by the department.

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

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

975 66 § 8 Local government agency exemptions from inspection or copying of public records

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

984 furtherance of such agency's statutory duties. This subsection shall not be construed to modify or
985 repeal any special or local act.

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

994 (3) Any data, record, or document used directly or solely by a municipally owned utility to
995 prepare and submit a bid relative to the sale, distribution, or use of any service, commodity, or
996 tangible personal property to any customer or prospective customer is exempt from c. 66 § 4(1).
997 This exemption commences when a municipal utility identifies in writing a specific bid to which
998 it intends to respond. This exemption no longer applies when the contract for sale, distribution,
999 or use of the service, commodity, or tangible personal property is executed, a decision is made
1000 not to execute such contract, or the project is no longer under active consideration. The
1001 exemption in this subsection includes the bid documents actually furnished in response to the
1002 request for bids. However, the exemption for the bid documents submitted no longer applies after
1003 the bids are opened by the customer or prospective customer.

1004 66 § 9 Court files; court records; official records

1005 (1) COURT FILES

1006 Nothing in this chapter shall be construed to exempt from c. 66 § 4(1) a public record that was
1007 made a part of a court file and that is not specifically closed by order of court, except:

1008 (a) A public record that was prepared by an agency attorney or prepared at the attorney's express
1009 direction as provided in c. 66 § 5(1)(d).

1010 (b) Data processing software as provided in c. 66 § 5(1)(f).

1011 (c) Any information revealing surveillance techniques or procedures or personnel as provided in
1012 c. 66 § 5(2)(d).

1013 (d) Any comprehensive inventory of state and local law enforcement resources, and any
1014 comprehensive policies or plans compiled by a criminal justice agency, as provided in c. 66 §
1015 5(2)(d).

1016 (e) Any information revealing the substance of a confession of a person arrested as provided in c.
1017 66 § 5(2)(e).

1018 (f) Any information revealing the identity of a confidential informant or confidential source as
1019 provided in c. 66 § 5(2)(f).

1020 (g) Any information revealing undercover personnel of any criminal justice agency as provided
1021 in c. 66 § 5(4)(c).

1022 (h) Criminal intelligence information or criminal investigative information that is confidential
1023 and exempt as provided in c. 66 § 5(2)(h).

1024 (i) Social security numbers as provided in c. 66 § 5(5)(a).

1025 (j) Bank account numbers and debit, charge, and credit card numbers as provided in c. 66 §
1026 5(5)(b).

1027 (2) COURT RECORDS

1028 (a) Until January 1, 2011, if a social security number or a bank account, debit, charge, or credit
1029 card number is included in a court file, such number may be included as part of the court record
1030 available for public inspection and copying unless redaction is requested by the holder of such
1031 number or by the holder's attorney or legal guardian.

1032 (b) A request for redaction must be a signed, legibly written request specifying the case name,
1033 case number, document heading, and page number. The request must be delivered by mail,
1034 facsimile, electronic transmission, or in person to the clerk of the court. The clerk of the court
1035 does not have a duty to inquire beyond the written request to verify the identity of a person
1036 requesting redaction.

1037 (c) A fee may not be charged for the redaction of a social security number or a bank account,
1038 debit, charge, or credit card number pursuant to such request.

1039 (d) The clerk of the court has no liability for the inadvertent release of social security numbers,
1040 or bank account, debit, charge, or credit card numbers, unknown to the clerk of the court in court
1041 records filed on or before January 1, 2011.

1042 (e)1. On January 1, 2011, and thereafter, the clerk of the court must keep social security numbers
1043 confidential and exempt as provided for in c. 66 § 5(5)(a), and bank account, debit, charge, and
1044 credit card numbers exempt as provided for in c. 66 § 5(5)(b), without any person having to
1045 request redaction.

1046 2. Section 66 § 5(5)(a)7 and 8 does not apply to the clerks of the court with respect to court
1047 records.

1048 (3) OFFICIAL RECORDS

1049 (a) Any person who prepares or files a record for recording in the official records may not
1050 include in that record a social security number or a bank account, debit, charge, or credit card
1051 number unless otherwise expressly required by law.

1052 (b)1. If a social security number or a bank account, debit, charge, or credit card number is
1053 included in an official record, such number may be made available as part of the official records
1054 available for public inspection and copying unless redaction is requested by the holder of such
1055 number or by the holder's attorney or legal guardian.

1056 2. If such record is in electronic format, on January 1, 2011, and thereafter, the county recorder
1057 must use his or her best effort, as provided in paragraph (h), to keep social security numbers
1058 confidential and exempt as provided for in c. 66 § 5(5)(a), and to keep complete bank account,
1059 debit, charge, and credit card numbers exempt as provided for in c. 66 § 5(5)(b), without any
1060 person having to request redaction.

1061 3. Section 66 § 5(5)(a)7 and 8 does not apply to the county recorder with respect to official
1062 records.

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

1067 public records, or otherwise made electronically available to the public, his or her social security
1068 number or bank account, debit, charge, or credit card number contained in that official record.

1069 (d) A request for redaction must be a signed, legibly written request and must be delivered by
1070 mail, facsimile, electronic transmission, or in person to the county recorder. The request must
1071 specify the identification page number of the record that contains the number to be redacted.

1072 (e) The county recorder does not have a duty to inquire beyond the written request to verify the
1073 identity of a person requesting redaction.

1074 (f) A fee may not be charged for redacting a social security number or a bank account, debit,
1075 charge, or credit card number.

1076 (g) A county recorder shall immediately and conspicuously post signs throughout his or her
1077 offices for public viewing, and shall immediately and conspicuously post on any Internet website
1078 or remote electronic site made available by the county recorder and used for the ordering or
1079 display of official records or images or copies of official records, a notice stating, in substantially
1080 similar form, the following:

1081 1. On or after October 1, 2002, any person preparing or filing a record for recordation in the
1082 official records may not include a social security number or a bank account, debit, charge, or
1083 credit card number in such document unless required by law.

1084 2. Any person has a right to request a county recorder to remove from an image or copy of an
1085 official record placed on a county recorder's publicly available Internet website or on a publicly
1086 available Internet website used by a county recorder to display public records, or otherwise made
1087 electronically available to the general public, any social security number contained in an official

1088 record. Such request must be made in writing and delivered by mail, facsimile, or electronic
1089 transmission, or delivered in person, to the county recorder. The request must specify the
1090 identification page number that contains the social security number to be redacted. A fee may not
1091 be charged for the redaction of a social security number pursuant to such a request.

1092 (h) If the county recorder accepts or stores official records in an electronic format, the county
1093 recorder must use his or her best efforts to redact all social security numbers and bank account,
1094 debit, charge, or credit card numbers from electronic copies of the official record. The use of an
1095 automated program for redaction shall be deemed to be the best effort in performing the
1096 redaction and shall be deemed in compliance with the requirements of this subsection.

1097 (i) The county recorder is not liable for the inadvertent release of social security numbers, or
1098 bank account, debit, charge, or credit card numbers, filed with the county recorder.

1099 66 § 10 Copyright of data processing software created by governmental agencies; sale price and
1100 licensing fee

1101 (1) As used in this section, "agency" has the same meaning as in c. 66 § 2(2), except that the term
1102 does not include any private agency, person, partnership, corporation, or business entity.

1103 (2) An agency is authorized to acquire and hold a copyright for data processing software created
1104 by the agency and to enforce its rights pertaining to such copyright, provided that the agency
1105 complies with the requirements of this subsection.

1106 (a) An agency that has acquired a copyright for data processing software created by the agency
1107 may sell or license the copyrighted data processing software to any public agency or private
1108 person. The agency may establish a price for the sale and a licensing fee for the use of such data

1109 processing software that may be based on market considerations. However, the prices or fees for
1110 the sale or licensing of copyrighted data processing software to an individual or entity solely for
1111 application to information maintained or generated by the agency that created the copyrighted
1112 data processing software shall be determined pursuant to c. 66 § 4(4).

1113 (b) Proceeds from the sale or licensing of copyrighted data processing software shall be
1114 deposited by the agency into a trust fund for the agency's appropriate use for authorized
1115 purposes. Counties, municipalities, and other political subdivisions of the state may designate
1116 how such sale and licensing proceeds are to be used.

1117 (c) The provisions of this subsection are supplemental to, and shall not supplant or repeal, any
1118 other provision of law that authorizes an agency to acquire and hold copyrights.

1119 66 § 11 Registration by federal employer's registration number

1120 Each state agency which registers or licenses corporations, partnerships, or other business
1121 entities shall include, by July 1, 1978, within its numbering system, the federal employer's
1122 identification number of each corporation, partnership, or other business entity registered or
1123 licensed by it. Any state agency may maintain a dual numbering system in which the federal
1124 employer's identification number or the state agency's own number is the primary identification
1125 number; however, the records of such state agency shall be designed in such a way that the
1126 record of any business entity is subject to direct location by the federal employer's identification
1127 number. The Department of State shall keep a registry of federal employer's identification
1128 numbers of all business entities, registered with the Division of Corporations, which registry of
1129 numbers may be used by all state agencies.

1130 66 § 12 Violation of chapter; penalties

1131 (1) Any public officer who:

1132 (a) Violates any provision of this chapter commits a noncriminal infraction, punishable by fine

1133 not exceeding \$500.

1134 (b) Knowingly violates the provisions of c. 66 § 4(1) is subject to suspension and removal or

1135 impeachment and, in addition, commits a misdemeanor of the first degree, punishable by law.

1136 (2) Any person who willfully and knowingly violates:

1137 (a) Any of the provisions of this chapter commits a misdemeanor of the first degree, punishable

1138 by law.

1139 (b) Section 66 § 13 commits a felony of the third degree, punishable by law.

1140 66 § 13 Protection of victims of crimes or accidents

1141 Police reports are public records except as otherwise made exempt or confidential. Every person

1142 is allowed to examine nonexempt or nonconfidential police reports. A person who comes into

1143 possession of exempt or confidential information contained in police reports may not use that

1144 information for any commercial solicitation of the victims or relatives of the victims of the

1145 reported crimes or accidents and may not knowingly disclose such information to any third party

1146 for the purpose of such solicitation during the period of time that information remains exempt or

1147 confidential. This section does not prohibit the publication of such information to the general

1148 public by any news media legally entitled to possess that information or the use of such

1149 information for any other data collection or analysis purposes by those entitled to possess that

1150 information.

1151 66 § 14 Accelerated hearing; immediate compliance

1152 (1) Whenever an action is filed to enforce the provisions of this chapter, the court shall set an
1153 immediate hearing, giving the case priority over other pending cases.

1154 (2) Whenever a court orders an agency to open its records for inspection in accordance with this
1155 chapter, the agency shall comply with such order within 48 hours, unless otherwise provided by
1156 the court issuing such order, or unless the appellate court issues a stay order within such 48-hour
1157 period.

1158 (3) A stay order shall not be issued unless the court determines that there is a substantial
1159 probability that opening the records for inspection will result in significant damage.

1160 (4) Upon service of a complaint, counterclaim, or cross-claim in a civil action brought to enforce
1161 the provisions of this chapter, the custodian of the public record that is the subject matter of such
1162 civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record
1163 sought to be inspected and examined, notwithstanding the applicability of an exemption or the
1164 assertion that the requested record is not a public record subject to inspection and examination
1165 under c. 66 § 4(1), until the court directs otherwise. The person who has custody of such public
1166 record may, however, at any time permit inspection of the requested record as provided in c. 66 §
1167 4(1) and other provisions of law.

1168 66 § 15 Attorney's fees

1169 If a civil action is filed against an agency to enforce the provisions of this chapter and if the court
1170 determines that such agency unlawfully refused to permit a public record to be inspected or
1171 copied, the court shall assess and award, against the agency responsible, the reasonable costs of
1172 enforcement including reasonable attorneys' fees.

1173 66 § 16 Legislative review of exemptions from public meeting and public records requirements

1174 (1) This section may be cited as the "Public Record Law."

1175 (2) This section provides for the review and repeal or reenactment of an exemption from c. 66 §

1176 4(1). This act does not apply to an exemption that:

1177 (a) Is required by federal law; or

1178 (b) Applies solely to the Legislature or the State Court System.

1179 (3) In the 5th year after enactment of a new exemption or substantial amendment of an existing

1180 exemption, the exemption shall be repealed on October 2nd of the 5th year, unless the

1181 Legislature acts to reenact the exemption.

1182 (4)(a) A law that enacts a new exemption or substantially amends an existing exemption must

1183 state that the record or meeting is:

1184 1. Exempt from the State Constitution;

1185 2. Exempt from c. 66 § 4(1); and

1186 3. Repealed at the end of 5 years and that the exemption must be reviewed by the Legislature

1187 before the scheduled repeal date.

1188 (b) For purposes of this section, an exemption is substantially amended if the amendment

1189 expands the scope of the exemption to include more records or information or to include

1190 meetings as well as records. An exemption is not substantially amended if the amendment

1191 narrows the scope of the exemption.

1192 (c) This section is not intended to repeal an exemption that has been amended following
1193 legislative review before the scheduled repeal of the exemption if the exemption is not
1194 substantially amended as a result of the review.

1195 (5)(a) As part of the review process, the Legislature shall consider the following:

1196 1. What specific records or meetings are affected by the exemption?

1197 2. Whom does the exemption uniquely affect, as opposed to the general public?

1198 3. What is the identifiable public purpose or goal of the exemption?

1199 4. Can the information contained in the records or discussed in the meeting be readily obtained
1200 by alternative means? If so, how?

1201 5. Is the record or meeting protected by another exemption?

1202 6. Are there multiple exemptions for the same type of record or meeting that it would be
1203 appropriate to merge?

1204 (b) An exemption may be created, revised, or maintained only if it serves an identifiable public
1205 purpose, and the exemption may be no broader than is necessary to meet the public purpose it
1206 serves. An identifiable public purpose is served if the exemption meets one of the following
1207 purposes and the Legislature finds that the purpose is sufficiently compelling to override the
1208 strong public policy of open government and cannot be accomplished without the exemption:

1209 1. Allows the state or its political subdivisions to effectively and efficiently administer a
1210 governmental program, which administration would be significantly impaired without the
1211 exemption;

1212 2. Protects information of a sensitive personal nature concerning individuals, the release of
1213 which information would be defamatory to such individuals or cause unwarranted damage to the
1214 good name or reputation of such individuals or would jeopardize the safety of such individuals.
1215 However, in exemptions under this subparagraph, only information that would identify the
1216 individuals may be exempted; or

1217 3. Protects information of a confidential nature concerning entities, including, but not limited to,
1218 a formula, pattern, device, combination of devices, or compilation of information which is used
1219 to protect or further a business advantage over those who do not know or use it, the disclosure of
1220 which information would injure the affected entity in the marketplace.

1221 (6) Records made before the date of a repeal of an exemption under this section may not be made
1222 public unless otherwise provided by law. In deciding whether the records shall be made public,
1223 the Legislature shall consider whether the damage or loss to persons or entities uniquely affected
1224 by the exemption of the type specified in subparagraph (6)(b)2. or subparagraph (6)(b)3 would
1225 occur if the records were made public.

1226 (7) Notwithstanding any other law, neither the state or its political subdivisions nor any other
1227 public body shall be made party to any suit in any court or incur any liability for the repeal or
1228 revival and reenactment of an exemption under this section. The failure of the Legislature to
1229 comply strictly with this section does not invalidate an otherwise valid reenactment.