

SENATE No. 01563

The Commonwealth of Massachusetts

PRESENTED BY:

Frederick E. Berry, (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 St.

Salem, MA 01970

SENATE No. 01563

By Mr. Berry, petition (accompanied by bill, Senate, No. 1563) of [petitioners] for legislation relative to the public records law "The Massachusetts Sunshine Bill" [Joint Committee on State Administration and Regulatory Oversight].

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 SECTION 1. Chapter 66 is hereby repealed and is replaced by the following language:

2 CHAPTER 66

3 PUBLIC RECORDS

4 THE MASSACHUSETTS SUNSHINE BILL

5 66 § 1 General state policy on public records.

6 66 § 2 Definitions.

7 66 § 3 Custodial requirements; maintenance, preservation, and retention of public records.

8 66 § 4 Inspection and copying of records; photographing public records; fees; exemptions.

9 66 § 5 General exemptions from inspection or copying of public records.

10 66 § 6 Executive branch agency exemptions from inspection or copying of public records.

11 66 § 7 Executive branch agency-specific exemptions from inspection or copying of public
12 records.

13 66 § 8 Local government agency exemptions from inspection or copying of public records.

14 66 § 9 Court files; court records; official records.

15 66 § 10 Copyright of data processing software created by governmental agencies; sale price and
16 licensing fee.

17 66 § 11 Registration by federal employer's registration number.

18 66 § 12 Violation of chapter; penalties.

19 66 § 13 Protection of victims of crimes or accidents.

20 66 § 14 Accelerated hearing; immediate compliance.

21 66 § 15 Attorney's fees.

22 66 § 16 Legislative review of exemptions from public meeting and public records requirements.

23 66 § 1 General state policy on public records

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

27 (2)(a) Automation of public records must not erode the right of access to those records. As each
28 agency increases its use of and dependence on electronic recordkeeping, each agency must

29 provide reasonable public access to records electronically maintained and must ensure that
30 exempt or confidential records are not disclosed except as otherwise permitted by law.

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

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

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

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

45 (f) Each agency that maintains a public record in an electronic recordkeeping system shall
46 provide to any person, pursuant to this chapter, a copy of any public record in that system which
47 is not exempted by law from public disclosure. An agency must provide a copy of the record in
48 the medium requested if the agency maintains the record in that medium, and the agency may
49 charge a fee in accordance with this chapter. For the purpose of satisfying a public records
50 request, the fee to be charged by an agency if it elects to provide a copy of a public record in a

51 medium not routinely used by the agency, or if it elects to compile information not routinely
52 developed or maintained by the agency or that requires a substantial amount of manipulation or
53 programming, must be in accordance with c. 66 § 4(4).

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

59 66 § 2 Definitions

60 As used in this chapter, the term:

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

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

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

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

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

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

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

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

81 4. The crime charged.

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

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

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

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

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

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

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

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

105 (4) "Criminal justice agency" means:

106 (a) Any law enforcement agency, court, or prosecutor;

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

108 (c) Any agency having custody of criminal intelligence information or criminal investigative
109 information for the purpose of assisting such law enforcement agencies in the conduct of active
110 criminal investigation or prosecution or for the purpose of litigating civil actions under the

111 Racketeer Influenced and Corrupt Organization Act, during the time that such agencies are in
112 possession of criminal intelligence information or criminal investigative information pursuant to
113 their criminal law enforcement duties; or

114 (d) The Department of Corrections.

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

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

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

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

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

130 (10) "Paratransit" means those elements of public transit which provide service between specific
131 origins and destinations selected by the individual user with such service being provided at a

132 time that is agreed upon by the user and provider of the service. Paratransit service is provided
133 by taxis, limousines, "dial-a-ride," buses, and other demand-responsive operations that are
134 characterized by their nonscheduled, nonfixed route nature.

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

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

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

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

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

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

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

151 66 § 3 Custodial requirements; maintenance, preservation, and retention of public records

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

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

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

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

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

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

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

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

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

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

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

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

192 (b) Whoever is entitled to custody of public records shall demand them from any person having
193 illegal possession of them, who must forthwith deliver the same to him or her. Any person

194 unlawfully possessing public records must within 10 days deliver such records to the lawful
195 custodian of public records unless just cause exists for failing to deliver such records.

196 66 § 4 Inspection and copying of records; photographing public records; fees; exemptions

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

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

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

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

212 (e) If the person who has custody of a public record contends that all or part of the record is
213 exempt from inspection and copying, he or she shall state the basis of the exemption that he or

214 she contends is applicable to the record, including the statutory citation to an exemption created
215 or afforded by statute.

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

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

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

234 (i) The absence of a civil action instituted for the purpose stated in paragraph (g) does not relieve
235 the custodian of public records of the duty to maintain the record as a public record if the record

236 is in fact a public record subject to public inspection and copying under this subsection and does
237 not otherwise excuse or exonerate the custodian of public records from any unauthorized or
238 unlawful disposition of such record.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

311 66 § 5 General exemptions from inspection or copying of public records

312 (1) AGENCY ADMINISTRATION

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

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

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

318 (b)1.a. Sealed bids or proposals received by an agency pursuant to invitations to bid or requests
319 for proposals are exempt from c. 66 § 4(1) until such time as the agency provides notice of a

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

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

329 2.a. A competitive sealed reply in response to an invitation to negotiate, is exempt from c. 66 §
330 4(1) until such time as the agency provides notice of a decision or intended decision or until 20
331 days after the final competitive sealed replies are all opened, whichever occurs earlier.

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

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

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

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

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

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

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

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

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

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

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

381 (2) AGENCY INVESTIGATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

465 2. a. Any information in a videotaped statement of a minor who is alleged to be or who is a
466 victim of sexual battery, lewd acts, or other sexual misconduct, which reveals that minor's

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

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

482 (3) SECURITY

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

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

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

488 c. Threat response plans;

489 d. Emergency evacuation plans;

490 e. Sheltering arrangements; or

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

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

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

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

495 66 § 4(1). This exemption is remedial in nature, and it is the intent of the Legislature that this

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

497 of this paragraph.

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

499 custodian of public records to:

500 a. The property owner or leaseholder; or

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

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

503 persons who are responsible for such attempts or acts.

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

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

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

507 from c. 66 § 4(1).

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

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

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

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

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

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

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

529 responsibilities; to the owner or owners of the structure in question or the owner's legal
530 representative; or upon a showing of good cause before a court of competent jurisdiction. As
531 used in this paragraph, the term:

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

535 a. For single-performance facilities:

536 (I) Provides single-performance facilities; or

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

538 b. For serial-performance facilities:

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

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

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

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

- 552 a. Provides onsite parking for more than 250 motor vehicles;
- 553 b. Encompasses 500,000 square feet or more of gross floor area; or
- 554 c. Occupies a site of 100 acres or more, but excluding wholesale facilities or plants that primarily
555 serve or deal onsite with the general public.

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

- 559 a. Encompasses more than 400,000 square feet of gross floor area; or
- 560 b. Provides parking spaces for more than 2,500 motor vehicles.

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

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

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

569 (4) AGENCY PERSONNEL INFORMATION

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

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

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

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

586 (d)1.a. The home addresses, telephone numbers, social security numbers, and photographs of
587 active or former law enforcement personnel, including correctional and correctional probation
588 officers, personnel of the Department of Children and Family Services whose duties include the
589 investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of

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

612 b. The home addresses and telephone numbers of general magistrates, special magistrates,
613 judges of compensation claims, administrative law judges of the Workmens Compensation
614 Board, Massachusetts Commission Against Discrimination, and child support enforcement
615 hearing officers; the home addresses, telephone numbers, and places of employment of the
616 spouses and children of general magistrates, special magistrates, judges of compensation claims,
617 administrative law judges of the Workmens Compensation Board, and child support enforcement
618 hearing officers; and the names and locations of schools and day care facilities attended by the
619 children of general magistrates, special magistrates, judges of compensation claims,
620 administrative law judges of the Workmens Compensation Board, and child support enforcement
621 hearing officers are exempt from c. 66 § 4(1) if the general magistrate, special magistrate, judge
622 of compensation claims, administrative law judge of the Workmens Compensation Board, or
623 child support hearing officer provides a written statement that the general magistrate, special
624 magistrate, judge of compensation claims, administrative law judge of the Workmens
625 Compensation Board, Massachusetts Commission of Discrimination, or child support hearing
626 officer has made reasonable efforts to protect such information from being accessible through
627 other means available to the public. This sub-subparagraph is subject to the Public Record Law
628 in accordance with c. 66 § 16.

629 2. The home addresses, telephone numbers, and photographs of current or former human
630 resource, labor relations, or employee relations directors, assistant directors, managers, or
631 assistant managers of any local government agency or water management district whose duties
632 include hiring and firing employees, labor contract negotiation, administration, or other
633 personnel-related duties; the names, home addresses, telephone numbers, and places of
634 employment of the spouses and children of such personnel; and the names and locations of

635 schools and day care facilities attended by the children of such personnel are exempt from c. 66 §
636 4(1).

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

645 4. The home addresses, telephone numbers, social security numbers, and photographs of current
646 or former judges of United States Courts of Appeal, United States district judges, and United
647 States magistrate judges; the home addresses, telephone numbers, social security numbers,
648 photographs, and places of employment of the spouses and children of current or former judges
649 of United States Courts of Appeal, United States district judges, and United States magistrate
650 judges; and the names and locations of schools and day care facilities attended by the children of
651 current or former judges of United States Courts of Appeal, United States district judges, and
652 United States magistrate judges are exempt from c. 66 § 4(1) and s. 24(a), Art. I of the State
653 Constitution. This subparagraph is subject to the Public Record Law in accordance with c. 66 §
654 16.

655 5. The home addresses, telephone numbers, and photographs of current or former code
656 enforcement officers; the names, home addresses, telephone numbers, and places of employment

657 of the spouses and children of such personnel; and the names and locations of schools and day
658 care facilities attended by the children of such personnel are exempt from c. 66 § 4(1).

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

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

674 8. An agency that is the custodian of the personal information specified in subparagraph 1.,
675 subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., subparagraph 6., or
676 subparagraph 7, and that is not the employer of the officer, employee, justice, judge, or other
677 person specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4.,
678 subparagraph 5., subparagraph 6., or subparagraph 7. shall maintain the exempt status of the

679 personal information only if the officer, employee, justice, judge, other person, or employing
680 agency of the designated employee submits a written request for maintenance of the exemption
681 to the custodial agency.

682 (5) OTHER PERSONAL INFORMATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

720 numbers to the public or the distribution of such numbers to any customer that is not identifiable
721 by the commercial entity.

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

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

729 (I) Be verified

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

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

733 (2) A written declaration means the following statement: "Under penalties of perjury, I declare
734 that I have read the foregoing [document] and that the facts stated in it are true," followed by the
735 signature of the person making the declaration, except when a verification on information or
736 belief is permitted by law, in which case the words "to the best of my knowledge and belief" may
737 be added. The written declaration shall be printed or typed at the end of or immediately below
738 the document being verified and above the signature of the person making the declaration.

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

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

742 (III) Contain the commercial entity's name, business mailing and location addresses, and

743 business telephone number; and

744 (IV) Contain a statement of the specific purposes for which it needs the social security numbers

745 and how the social security numbers will be used in the performance of a commercial activity.

746 The aggregate of these requests shall serve as the basis for the agency report required in

747 subparagraph 9.

748 c. An agency may request any other information reasonably necessary to verify the identity of a

749 commercial entity requesting the social security numbers and the specific purposes for which the

750 numbers will be used.

751 8.a. Any person who makes a false representation in order to obtain a social security number

752 pursuant to this paragraph, or any person who willfully and knowingly violates this paragraph,

753 commits a felony of the third degree punishable by law.

754 b. Any public officer who violates this paragraph commits a noncriminal infraction, punishable

755 by a fine not exceeding \$500 per violation.

756 9.a. Every agency shall file a report with the Executive Office of the Governor, the President of

757 the Senate, and the Speaker of the House of Representatives by January 31 of each year.

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

759 (I) The identity of all commercial entities that have requested social security numbers during the

760 preceding calendar year; and

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

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

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

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

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

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

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

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

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

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

797 a. Any record of friction ridge detail;

798 b. Fingerprints;

799 c. Palm prints; and

800 d. Footprints.

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

802 (h)1. Personal identifying information of an applicant for or a recipient of paratransit services

803 which is held by an agency is confidential and exempt from c. 66 § 4(1).

804 2. This exemption applies to personal identifying information of an applicant for or a recipient of

805 paratransit services which is held by an agency before, on, or after the effective date of this

806 exemption.

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

808 a. With the express written consent of the individual or the individual's legally authorized

809 representative;

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

811 the individual;

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

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

814 4. This paragraph is subject to the Public Record Law in accordance with c. 66 § 16. 66 § 6

815 Executive branch agency exemptions from inspection or copying of public recordsWhen an

816 agency of the executive branch of state government seeks to acquire real property by purchase or

817 through the exercise of the power of eminent domain, all appraisals, other reports relating to

818 value, offers, and counteroffers must be in writing and are exempt from c. 66 § 4(1) until

819 execution of a valid option contract or a written offer to sell that has been conditionally accepted

820 by the agency, at which time the exemption shall expire. The agency shall not finally accept the

821 offer for a period of 30 days in order to allow public review of the transaction. The agency may

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

834 66 § 7 Executive branch agency-specific exemptions from inspection or copying of public
835 records

836 (1) DEPARTMENT OF HEALTH

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

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

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

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

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

857 (2) DEPARTMENT OF REGISTRY OF MOTOR VEHICLES

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

865 means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor
866 vehicle registration, or identification card issued by the Registry of Motor Vehicles.

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

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

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

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

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

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

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

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

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

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

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

901 d. Execution or enforcement of judgments and orders.

902 e. Compliance with an order of any court.

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

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

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

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

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

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

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

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

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

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

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

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

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

940 3. Medical disability information is exempt from disclosure.

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

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

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

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

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

963 (f) The department may adopt rules to carry out the purposes of this subsection and the federal
964 Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq. Rules adopted by the
965 department may provide for the payment of applicable fees and, prior to the disclosure of
966 personal information pursuant to this subsection, may require the meeting of conditions by the
967 requesting person for the purposes of obtaining reasonable assurance concerning the identity of

968 such requesting person, and, to the extent required, assurance that the use will be only as
969 authorized or that the consent of the person who is the subject of the personal information has
970 been obtained. Such conditions may include, but need not be limited to, the making and filing of
971 a written application in such form and containing such information and certification requirements
972 as the department requires.

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

974 66 § 8 Local government agency exemptions from inspection or copying of public records

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

985 (2) The audit report of an internal auditor prepared for or on behalf of a unit of local government
986 becomes a public record when the audit becomes final. As used in this subsection, the term "unit
987 of local government" means a county, municipality, special district, local agency, authority,
988 consolidated city-county government, or any other local governmental body or public body
989 corporate or politic authorized or created by general or special law. An audit becomes final when

990 the audit report is presented to the unit of local government. Audit workpapers and notes related
991 to such audit report are confidential and exempt from c. 66 § 4(1) until the audit is completed
992 and the audit report becomes final.

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

1003 66 § 9 Court files; court records; official records

1004 (1) COURT FILES

1005 Nothing in this chapter shall be construed to exempt from c. 66 § 4(1) a public record that was
1006 made a part of a court file and that is not specifically closed by order of court, except:

1007 (a) A public record that was prepared by an agency attorney or prepared at the attorney's express
1008 direction as provided in c. 66 § 5(1)(d).

1009 (b) Data processing software as provided in c. 66 § 5(1)(f).

1010 (c) Any information revealing surveillance techniques or procedures or personnel as provided in
1011 c. 66 § 5(2)(d).

1012 (d) Any comprehensive inventory of state and local law enforcement resources, and any
1013 comprehensive policies or plans compiled by a criminal justice agency, as provided in c. 66 §
1014 5(2)(d).

1015 (e) Any information revealing the substance of a confession of a person arrested as provided in c.
1016 66 § 5(2)(e).

1017 (f) Any information revealing the identity of a confidential informant or confidential source as
1018 provided in c. 66 § 5(2)(f).

1019 (g) Any information revealing undercover personnel of any criminal justice agency as provided
1020 in c. 66 § 5(4)(c).

1021 (h) Criminal intelligence information or criminal investigative information that is confidential
1022 and exempt as provided in c. 66 § 5(2)(h).

1023 (i) Social security numbers as provided in c. 66 § 5(5)(a).

1024 (j) Bank account numbers and debit, charge, and credit card numbers as provided in c. 66 §
1025 5(5)(b).

1026 (2) COURT RECORDS

1027 (a) Until January 1, 2011, if a social security number or a bank account, debit, charge, or credit
1028 card number is included in a court file, such number may be included as part of the court record

1029 available for public inspection and copying unless redaction is requested by the holder of such
1030 number or by the holder's attorney or legal guardian.

1031 (b) A request for redaction must be a signed, legibly written request specifying the case name,
1032 case number, document heading, and page number. The request must be delivered by mail,
1033 facsimile, electronic transmission, or in person to the clerk of the court. The clerk of the court
1034 does not have a duty to inquire beyond the written request to verify the identity of a person
1035 requesting redaction.

1036 (c) A fee may not be charged for the redaction of a social security number or a bank account,
1037 debit, charge, or credit card number pursuant to such request.

1038 (d) The clerk of the court has no liability for the inadvertent release of social security numbers,
1039 or bank account, debit, charge, or credit card numbers, unknown to the clerk of the court in court
1040 records filed on or before January 1, 2011.

1041 (e)1. On January 1, 2011, and thereafter, the clerk of the court must keep social security numbers
1042 confidential and exempt as provided for in c. 66 § 5(5)(a), and bank account, debit, charge, and
1043 credit card numbers exempt as provided for in c. 66 § 5(5)(b), without any person having to
1044 request redaction.

1045 2. Section 66 § 5(5)(a)7 and 8 does not apply to the clerks of the court with respect to court
1046 records.

1047 (3) OFFICIAL RECORDS

1048 (a) Any person who prepares or files a record for recording in the official records may not
1049 include in that record a social security number or a bank account, debit, charge, or credit card
1050 number unless otherwise expressly required by law.

1051 (b)1. If a social security number or a bank account, debit, charge, or credit card number is
1052 included in an official record, such number may be made available as part of the official records
1053 available for public inspection and copying unless redaction is requested by the holder of such
1054 number or by the holder's attorney or legal guardian.

1055 2. If such record is in electronic format, on January 1, 2011, and thereafter, the county recorder
1056 must use his or her best effort, as provided in paragraph (h), to keep social security numbers
1057 confidential and exempt as provided for in c. 66 § 5(5)(a), and to keep complete bank account,
1058 debit, charge, and credit card numbers exempt as provided for in c. 66 § 5(5)(b), without any
1059 person having to request redaction.

1060 3. Section 66 § 5(5)(a)7 and 8 does not apply to the county recorder with respect to official
1061 records.

1062 (c) The holder of a social security number or a bank account, debit, charge, or credit card
1063 number, or the holder's attorney or legal guardian, may request that a county recorder redact
1064 from an image or copy of an official record placed on a county recorder's publicly available
1065 Internet website or on a publicly available Internet website used by a county recorder to display
1066 public records, or otherwise made electronically available to the public, his or her social security
1067 number or bank account, debit, charge, or credit card number contained in that official record.

1068 (d) A request for redaction must be a signed, legibly written request and must be delivered by
1069 mail, facsimile, electronic transmission, or in person to the county recorder. The request must
1070 specify the identification page number of the record that contains the number to be redacted.

1071 (e) The county recorder does not have a duty to inquire beyond the written request to verify the
1072 identity of a person requesting redaction.

1073 (f) A fee may not be charged for redacting a social security number or a bank account, debit,
1074 charge, or credit card number.

1075 (g) A county recorder shall immediately and conspicuously post signs throughout his or her
1076 offices for public viewing, and shall immediately and conspicuously post on any Internet website
1077 or remote electronic site made available by the county recorder and used for the ordering or
1078 display of official records or images or copies of official records, a notice stating, in substantially
1079 similar form, the following:

1080 1. On or after October 1, 2002, any person preparing or filing a record for recordation in the
1081 official records may not include a social security number or a bank account, debit, charge, or
1082 credit card number in such document unless required by law.

1083 2. Any person has a right to request a county recorder to remove from an image or copy of an
1084 official record placed on a county recorder's publicly available Internet website or on a publicly
1085 available Internet website used by a county recorder to display public records, or otherwise made
1086 electronically available to the general public, any social security number contained in an official
1087 record. Such request must be made in writing and delivered by mail, facsimile, or electronic
1088 transmission, or delivered in person, to the county recorder. The request must specify the

1089 identification page number that contains the social security number to be redacted. A fee may not
1090 be charged for the redaction of a social security number pursuant to such a request.

1091 (h) If the county recorder accepts or stores official records in an electronic format, the county
1092 recorder must use his or her best efforts to redact all social security numbers and bank account,
1093 debit, charge, or credit card numbers from electronic copies of the official record. The use of an
1094 automated program for redaction shall be deemed to be the best effort in performing the
1095 redaction and shall be deemed in compliance with the requirements of this subsection.

1096 (i) The county recorder is not liable for the inadvertent release of social security numbers, or
1097 bank account, debit, charge, or credit card numbers, filed with the county recorder.

1098 66 § 10 Copyright of data processing software created by governmental agencies; sale price and
1099 licensing fee

1100 (1) As used in this section, "agency" has the same meaning as in c. 66 § 2(2), except that the term
1101 does not include any private agency, person, partnership, corporation, or business entity.

1102 (2) An agency is authorized to acquire and hold a copyright for data processing software created
1103 by the agency and to enforce its rights pertaining to such copyright, provided that the agency
1104 complies with the requirements of this subsection.

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

1110 application to information maintained or generated by the agency that created the copyrighted
1111 data processing software shall be determined pursuant to c. 66 § 4(4).

1112 (b) Proceeds from the sale or licensing of copyrighted data processing software shall be
1113 deposited by the agency into a trust fund for the agency's appropriate use for authorized
1114 purposes. Counties, municipalities, and other political subdivisions of the state may designate
1115 how such sale and licensing proceeds are to be used.

1116 (c) The provisions of this subsection are supplemental to, and shall not supplant or repeal, any
1117 other provision of law that authorizes an agency to acquire and hold copyrights.

1118 66 § 11 Registration by federal employer's registration number

1119 Each state agency which registers or licenses corporations, partnerships, or other business
1120 entities shall include, by July 1, 1978, within its numbering system, the federal employer's
1121 identification number of each corporation, partnership, or other business entity registered or
1122 licensed by it. Any state agency may maintain a dual numbering system in which the federal
1123 employer's identification number or the state agency's own number is the primary identification
1124 number; however, the records of such state agency shall be designed in such a way that the
1125 record of any business entity is subject to direct location by the federal employer's identification
1126 number. The Department of State shall keep a registry of federal employer's identification
1127 numbers of all business entities, registered with the Division of Corporations, which registry of
1128 numbers may be used by all state agencies.

1129 66 § 12 Violation of chapter; penalties

1130 (1) Any public officer who:

1131 (a) Violates any provision of this chapter commits a noncriminal infraction, punishable by fine
1132 not exceeding \$500.

1133 (b) Knowingly violates the provisions of c. 66 § 4(1) is subject to suspension and removal or
1134 impeachment and, in addition, commits a misdemeanor of the first degree, punishable by law.

1135 (2) Any person who willfully and knowingly violates:

1136 (a) Any of the provisions of this chapter commits a misdemeanor of the first degree, punishable
1137 by law.

1138 (b) Section 66 § 13 commits a felony of the third degree, punishable by law.

1139 66 § 13 Protection of victims of crimes or accidents

1140 Police reports are public records except as otherwise made exempt or confidential. Every person
1141 is allowed to examine nonexempt or nonconfidential police reports. A person who comes into
1142 possession of exempt or confidential information contained in police reports may not use that
1143 information for any commercial solicitation of the victims or relatives of the victims of the
1144 reported crimes or accidents and may not knowingly disclose such information to any third party
1145 for the purpose of such solicitation during the period of time that information remains exempt or
1146 confidential. This section does not prohibit the publication of such information to the general
1147 public by any news media legally entitled to possess that information or the use of such
1148 information for any other data collection or analysis purposes by those entitled to possess that
1149 information.

1150 66 § 14 Accelerated hearing; immediate compliance

1151 (1) Whenever an action is filed to enforce the provisions of this chapter, the court shall set an
1152 immediate hearing, giving the case priority over other pending cases.

1153 (2) Whenever a court orders an agency to open its records for inspection in accordance with this
1154 chapter, the agency shall comply with such order within 48 hours, unless otherwise provided by
1155 the court issuing such order, or unless the appellate court issues a stay order within such 48-hour
1156 period.

1157 (3) A stay order shall not be issued unless the court determines that there is a substantial
1158 probability that opening the records for inspection will result in significant damage.

1159 (4) Upon service of a complaint, counterclaim, or cross-claim in a civil action brought to enforce
1160 the provisions of this chapter, the custodian of the public record that is the subject matter of such
1161 civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record
1162 sought to be inspected and examined, notwithstanding the applicability of an exemption or the
1163 assertion that the requested record is not a public record subject to inspection and examination
1164 under c. 66 § 4(1), until the court directs otherwise. The person who has custody of such public
1165 record may, however, at any time permit inspection of the requested record as provided in c. 66 §
1166 4(1) and other provisions of law.

1167 66 § 15 Attorney's fees

1168 If a civil action is filed against an agency to enforce the provisions of this chapter and if the court
1169 determines that such agency unlawfully refused to permit a public record to be inspected or
1170 copied, the court shall assess and award, against the agency responsible, the reasonable costs of
1171 enforcement including reasonable attorneys' fees.

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

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

1174 (2) This section provides for the review and repeal or reenactment of an exemption from c. 66 §

1175 4(1). This act does not apply to an exemption that:

1176 (a) Is required by federal law; or

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

1178 (3) In the 5th year after enactment of a new exemption or substantial amendment of an existing

1179 exemption, the exemption shall be repealed on October 2nd of the 5th year, unless the

1180 Legislature acts to reenact the exemption.

1181 (4)(a) A law that enacts a new exemption or substantially amends an existing exemption must

1182 state that the record or meeting is:

1183 1. Exempt from the State Constitution;

1184 2. Exempt from c. 66 § 4(1); and

1185 3. Repealed at the end of 5 years and that the exemption must be reviewed by the Legislature

1186 before the scheduled repeal date.

1187 (b) For purposes of this section, an exemption is substantially amended if the amendment

1188 expands the scope of the exemption to include more records or information or to include

1189 meetings as well as records. An exemption is not substantially amended if the amendment

1190 narrows the scope of the exemption.

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

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

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

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

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

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

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

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

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

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

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

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

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

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