

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

John D. Keenan (BY REQUEST)

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

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

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

PETITION OF:

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

The Commonwealth of Massachusetts

—————
In the Year Two Thousand and Nine
—————

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

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

1
2 SECTION 1. Chapter 66 is hereby repealed and is replaced by the following language:
3

4
5
6 **CHAPTER 66**
7 **PUBLIC RECORDS**

8
9 **THE MASSACHUSETTS SUNSHINE BILL**

10
11 66 § 1 General state policy on public records.

12
13 66 § 2 Definitions.

14

15 66 § 3 Custodial requirements; maintenance, preservation, and retention of public records.

16

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18

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22

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25

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27

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29

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31 licensing fee.

32

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34

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36

37 66 § 13 Protection of victims of crimes or accidents.

38

39 66 § 14 Accelerated hearing; immediate compliance.

40

41 66 § 15 Attorney's fees.

42

43 66 § 16 Legislative review of exemptions from public meeting and public records requirements.

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45

46

47 **66 § 1 General state policy on public records**

48

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

52

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

57

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

61

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

66

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

70

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

75

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

85

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

91

92

93 **66 § 2 Definitions**

94

95 As used in this chapter, the term:

96

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

100

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

107

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

111

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

117

118 (c) "Criminal intelligence information" and "criminal investigative information" shall not
119 include:

120

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

122

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

125

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

127

128 4. The crime charged.

129

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

135

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

138

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

140

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

145

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

147

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

151

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

155

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

160

161 (4) "Criminal justice agency" means:

162

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

164

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

166

167 (c) Any agency having custody of criminal intelligence information or criminal investigative
168 information for the purpose of assisting such law enforcement agencies in the conduct of active
169 criminal investigation or prosecution or for the purpose of litigating civil actions under the
170 Racketeer Influenced and Corrupt Organization Act, during the time that such agencies are in
171 possession of criminal intelligence information or criminal investigative information pursuant to
172 their criminal law enforcement duties; or

173

174 (d) The Department of Corrections.

175

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

179

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

184

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

189

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

192

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

195

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

201

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

204

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

209

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

213

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

217

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

219

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

222

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

224

225

226 **66 § 3 Custodial requirements; maintenance, preservation, and retention of public records**

227

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

229

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

231

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

235

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

238

239 2. Whenever any state, county, or municipal records are in need of repair, restoration, or
240 rebinding, the head of the concerned state agency, department, board, or commission; the

241 board of county commissioners of such county; or the governing body of such municipality may
242 authorize that such records be removed from the building or office in which such records are
243 ordinarily kept for the length of time required to repair, restore, or rebind them.

244

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

248

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

251

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

255

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

259

260 (d) The division may ascertain the condition of public records and shall give advice and
261 assistance to public officials to solve problems related to the preservation, creation, filing, and
262 public accessibility of public records in their custody. Public officials shall assist the division by
263 preparing an inclusive inventory of categories of public records in their custody. The division
264 shall establish a time period for the retention or disposal of each series of records. Upon the
265 completion of the inventory and schedule, the division shall, subject to the availability of
266 necessary space, staff, and other facilities for such purposes, make space available in its records
267 center for the filing of semicurrent records so scheduled and in its archives for noncurrent
268 records of permanent value, and shall render such other assistance as needed, including the
269 microfilming of records so scheduled.

270

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

275

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

280

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

285

286

287 **66 § 4 Inspection and copying of records; photographing public records; fees; exemptions**

288

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

292

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

297

298 (c) A custodian of public records and his or her designee must acknowledge requests to inspect
299 or copy records promptly and respond to such requests in good faith. A good faith response
300 includes making reasonable efforts to determine from other officers or employees within the

301 agency whether such a record exists and, if so, the location at which the record can be
302 accessed.

303

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

308

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

313

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

317

318 (g) In any civil action in which an exemption to this section is asserted, if the exemption is
319 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
320 record or part thereof in question shall be submitted to the court for an inspection in camera. If
321 an exemption is alleged to exist under or by virtue of c. 66 § 5(2)(c), an inspection in camera is
322 discretionary with the court. If the court finds that the asserted exemption is not applicable, it
323 shall order the public record or part thereof in question to be immediately produced for
324 inspection or copying as requested by the person seeking such access.

325

326 (h) Even if an assertion is made by the custodian of public records that a requested record is not
327 a public record subject to public inspection or copying under this subsection, the requested
328 record shall, nevertheless, not be disposed of for a period of 30 days after the date on which a
329 written request to inspect or copy the record was served on or otherwise made to the
330 custodian of public records by the person seeking access to the record. If a civil action is
331 instituted within the 30-day period to enforce the provisions of this section with respect to the

332 requested record, the custodian of public records may not dispose of the record except by
333 order of a court of competent jurisdiction after notice to all affected parties.

334

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

340

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

344

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

349

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

354

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

358

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

363

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

367

368 (d) Photographing of public records shall be done in the room where the public records are
369 kept. If, in the judgment of the custodian of public records, this is impossible or impracticable,
370 photographing shall be done in another room or place, as nearly adjacent as possible to the
371 room where the public records are kept, to be determined by the custodian of public records.
372 Where provision of another room or place for photographing is required, the expense of
373 providing the same shall be paid by the person desiring to photograph the public record
374 pursuant to paragraph

375

376 (4)(e).

377

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

381

382 (a)1. Up to 15 cents per one-sided copy for duplicated copies of not more than 14 inches by 8¹/₂
383 inches;

384

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

386

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

388

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

392

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

394

395 (d) If the nature or volume of public records requested to be inspected or copied pursuant to
396 this subsection is such as to require extensive use of information technology resources or
397 extensive clerical or supervisory assistance by personnel of the agency involved, or both, the
398 agency may charge, in addition to the actual cost of duplication, a special service charge, which
399 shall be reasonable and shall be based on the cost incurred for such extensive use of
400 information technology resources or the labor cost of the personnel providing the service that
401 is actually incurred by the agency or attributable to the agency for the clerical and supervisory
402 assistance required, or both.

403

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

407

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

412

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

419

420 (6) An exemption contained in this chapter or in any other general or special law shall not limit
421 the access of the Auditor General, the Office of Program Policy Analysis and Government
422 Accountability, or any state, county, municipal, university, board of community college, school
423 district, or special district internal auditor to public records when such person states in writing

424 that such records are needed for a properly authorized audit, examination, or investigation.
425 Such person shall maintain the exempt or confidential status of that public record and shall be
426 subject to the same penalties as the custodian of that record for public disclosure of such
427 record.

428

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

434

435

436 **66 § 5 General exemptions from inspection or copying of public records**

437

438 (1) AGENCY ADMINISTRATION

439

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

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

444

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

449

450 b. If an agency rejects all bids or proposals submitted in response to an invitation to bid or
451 request for proposals and the agency concurrently provides notice of its intent to reissue the
452 invitation to bid or request for proposals, the rejected bids or proposals remain exempt from c.

453 66 § 4(1) until such time as the agency provides notice of a decision or intended decision
454 concerning the reissued invitation to bid or request for proposals or until the agency withdraws
455 the reissued invitation to bid or request for proposals. This sub-subparagraph is subject to the
456 Public Record Law in accordance with c. 66 § 16.

457

458 2.a. A competitive sealed reply in response to an invitation to negotiate, is exempt from c. 66 §
459 4(1) until such time as the agency provides notice of a decision or intended decision or until 20
460 days after the final competitive sealed replies are all opened, whichever occurs earlier.

461

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

470

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

472

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

476

477 (d)1. A public record that was prepared by an agency attorney (including an attorney employed
478 or retained by the agency or employed or retained by another public officer or agency to
479 protect or represent the interests of the agency having custody of the record) or prepared at
480 the attorney's express direction, that reflects a mental impression, conclusion, litigation
481 strategy, or legal theory of the attorney or the agency, and that was prepared exclusively for
482 civil or criminal litigation or for adversarial administrative proceedings, or that was prepared in
483 anticipation of imminent civil or criminal litigation or imminent adversarial administrative
484 proceedings, is exempt from c. 66 § 4(1) until the conclusion of the litigation or adversarial

485 administrative proceedings. For purposes of capital collateral litigation, the Attorney General's
486 office is entitled to claim this exemption for those public records prepared for direct appeal as
487 well as for all capital collateral litigation after direct appeal until execution of sentence or
488 imposition of a life sentence.

489

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

497

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

501

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

507

508 (g)1. United States Census Bureau address information, which includes maps showing structure
509 location points, agency records verifying addresses, and agency records identifying address
510 errors or omissions, held by an agency pursuant to the Local Update of Census Addresses
511 Program, Title 13, United States Code, Pub. L. No. 103-430, is confidential and exempt from c.
512 66 § 4(1).

513

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

517

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

522

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

524

525 (2) AGENCY INVESTIGATIONS

526

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

529

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

535

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

538

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

544

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

551

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

555

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

563

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

567

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

570

571 (g)1.a. All complaints and other records in the custody of any agency which relate to a
572 complaint of discrimination relating to race, color, religion, sex, national origin, age, handicap,
573 or marital status in connection with hiring practices, position classifications, salary, benefits,
574 discipline, discharge, employee performance, evaluation, or other related activities are exempt
575 from c. 66 § 4(1) until a finding is made relating to probable cause, the investigation of the

576 complaint becomes inactive, or the complaint or other record is made part of the official record
577 of any hearing or court proceeding.

578

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

582

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

586

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

589

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

592

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

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

597

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

600

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

602

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

607

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

609

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

613

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

615

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

619

620 (j)1. Any document that reveals the identity, home or employment telephone number, home or
621 employment address, or personal assets of the victim of a crime and identifies that person as
622 the victim of a crime, which document is received by any agency that regularly receives
623 information from or concerning the victims of crime, is exempt from c. 66 § 4(1). Any
624 information not otherwise held confidential or exempt from c. 66 § 4(1) which reveals the
625 home or employment telephone number, home or employment address, or personal assets of
626 a person who has been the victim of sexual battery, aggravated child abuse, aggravated
627 stalking, harassment, aggravated battery, or domestic violence is exempt from c. 66 § 4(1),
628 upon written request by the victim, which must include official verification that an applicable
629 crime has occurred. Such information shall cease to be exempt 5 years after the receipt of the
630 written request. Any state or federal agency that is authorized to have access to such
631 documents by any provision of law shall be granted such access in the furtherance of such
632 agency's statutory duties, notwithstanding this section.

633

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

644

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

652

653 (3) SECURITY

654

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

656

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

660

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

662

663 c. Threat response plans;

664

665 d. Emergency evacuation plans;

666

667 e. Sheltering arrangements; or

668

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

670

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

672

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

674

675 b. Any privately owned or leased property held by an agency is confidential and exempt from c.
676 66 § 4(1). This exemption is remedial in nature, and it is the intent of the Legislature that this
677 exemption apply to security system plans held by an agency before, on, or after the effective
678 date of this paragraph.

679

680 3. Information made confidential and exempt by this paragraph may be disclosed by the
681 custodian of public records to:

682

683 a. The property owner or leaseholder; or

684

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

688

689 (b)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary,
690 and final formats, which depict the internal layout and structural elements of a building, arena,

691 stadium, water treatment facility, or other structure owned or operated by an agency are
692 exempt from c. 66 § 4(1).

693

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

698

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

700

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

703

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

707

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

709

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

712

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

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

724

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

728

729 a. For single-performance facilities:

730

731 (I) Provides single-performance facilities; or

732

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

734

735 b. For serial-performance facilities:

736

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

738

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

740

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

749

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

753

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

755

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

757

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

760

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

765

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

767

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

769

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

773

774 6. "Hotel or motel development" means any hotel or motel development that accommodates
775 350 or more units.

776

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

780

781 (4) AGENCY PERSONNEL INFORMATION

782

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

785

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

794

795 (b) Medical information pertaining to a prospective, current, or former officer or employee of
796 an agency which, if disclosed, would identify that officer or employee is exempt from c. 66 §
797 4(1). However, such information may be disclosed if the person to whom the information
798 pertains or the person's legal representative provides written permission or pursuant to court
799 order.

800

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

803

804 (d)1.a. The home addresses, telephone numbers, social security numbers, and photographs of
805 active or former law enforcement personnel, including correctional and correctional probation
806 officers, personnel of the Department of Children and Family Services whose duties include the

807 investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel
808 of the Department of Health whose duties are to support the investigation of child abuse or
809 neglect, and personnel of the Department of Revenue or local governments whose
810 responsibilities include revenue collection and enforcement or child support enforcement; the
811 home addresses, telephone numbers, social security numbers, photographs, and places of
812 employment of the spouses and children of such personnel; and the names and locations of
813 schools and day care facilities attended by the children of such personnel are exempt from c. 66
814 § 4(1). The home addresses, telephone numbers, and photographs of firefighters; the home
815 addresses, telephone numbers, photographs, and places of employment of the spouses and
816 children of such firefighters; and the names and locations of schools and day care facilities
817 attended by the children of such firefighters are exempt from c. 66 § 4(1). The home addresses
818 and telephone numbers of justices of the Supreme Judicial Court, Appeals Court, Superior
819 Courts, District Courts, Boston Municipal Court, Family and Probate Courts, Land Courts,
820 Housing Courts, justices and judges; the home addresses, telephone numbers, and places of
821 employment of the spouses and children of justices and judges; and the names and locations of
822 schools and day care facilities attended by the children of justices and judges are exempt from
823 c. 66 § 4(1). The home addresses, telephone numbers, social security numbers, and
824 photographs of current or former state attorneys, assistant state attorneys, statewide
825 prosecutors, or assistant statewide prosecutors; the home addresses, telephone numbers,
826 social security numbers, photographs, and places of employment of the spouses and children of
827 current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant
828 statewide prosecutors; and the names and locations of schools and day care facilities attended
829 by the children of current or former state attorneys, assistant state attorneys, statewide
830 prosecutors, or assistant statewide prosecutors are exempt from c. 66 § 4(1).

831

832 b. The home addresses and telephone numbers of general magistrates, special magistrates,
833 judges of compensation claims, administrative law judges of the Workmens Compensation
834 Board, Massachusetts Commission Against Discrimination, and child support enforcement
835 hearing officers; the home addresses, telephone numbers, and places of employment of the
836 spouses and children of general magistrates, special magistrates, judges of compensation
837 claims, administrative law judges of the Workmens Compensation Board, and child support
838 enforcement hearing officers; and the names and locations of schools and day care facilities
839 attended by the children of general magistrates, special magistrates, judges of compensation
840 claims, administrative law judges of the Workmens Compensation Board, and child support
841 enforcement hearing officers are exempt from c. 66 § 4(1) if the general magistrate, special
842 magistrate, judge of compensation claims, administrative law judge of the Workmens
843 Compensation Board, or child support hearing officer provides a written statement that the

844 general magistrate, special magistrate, judge of compensation claims, administrative law judge
845 of the Workmens Compensation Board, Massachusetts Commission of Discrimination, or child
846 support hearing officer has made reasonable efforts to protect such information from being
847 accessible through other means available to the public. This sub-subparagraph is subject to the
848 Public Record Law in accordance with c. 66 § 16.

849

850 2. The home addresses, telephone numbers, and photographs of current or former human
851 resource, labor relations, or employee relations directors, assistant directors, managers, or
852 assistant managers of any local government agency or water management district whose duties
853 include hiring and firing employees, labor contract negotiation, administration, or other
854 personnel-related duties; the names, home addresses, telephone numbers, and places of
855 employment of the spouses and children of such personnel; and the names and locations of
856 schools and day care facilities attended by the children of such personnel are exempt from c. 66
857 § 4(1).

858

859 3. The home addresses, telephone numbers, social security numbers, and photographs of
860 current or former United States attorneys and assistant United States attorneys; the home
861 addresses, telephone numbers, social security numbers, photographs, and places of
862 employment of the spouses and children of current or former United States attorneys and
863 assistant United States attorneys; and the names and locations of schools and day care facilities
864 attended by the children of current or former United States attorneys and assistant United
865 States attorneys are exempt from c. 66 § 4(1). This subparagraph is subject to the Public
866 Record Law in accordance with c. 66 §16. .

867

868 4. The home addresses, telephone numbers, social security numbers, and photographs of
869 current or former judges of United States Courts of Appeal, United States district judges, and
870 United States magistrate judges; the home addresses, telephone numbers, social security
871 numbers, photographs, and places of employment of the spouses and children of current or
872 former judges of United States Courts of Appeal, United States district judges, and United
873 States magistrate judges; and the names and locations of schools and day care facilities
874 attended by the children of current or former judges of United States Courts of Appeal, United
875 States district judges, and United States magistrate judges are exempt from c. 66 § 4(1) and s.
876 24(a), Art. I of the State Constitution. This subparagraph is subject to the Public Record Law in
877 accordance with c. 66 § 16.

878

879 5. The home addresses, telephone numbers, and photographs of current or former code
880 enforcement officers; the names, home addresses, telephone numbers, and places of
881 employment of the spouses and children of such personnel; and the names and locations of
882 schools and day care facilities attended by the children of such personnel are exempt from c. 66
883 § 4(1).

884

885 6. The home addresses, telephone numbers, places of employment, and photographs of
886 current or former guardians ad litem, and the names, home addresses, telephone numbers,
887 and places of employment of the spouses and children of such persons, are exempt from c. 66 §
888 4(1), if the guardian ad litem provides a written statement that the guardian ad litem has made
889 reasonable efforts to protect such information from being accessible through other means
890 available to the public. This subparagraph is subject to the Public Record Law in accordance
891 with s. 66 § 16.

892

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

902

903 8. An agency that is the custodian of the personal information specified in subparagraph 1.,
904 subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., subparagraph 6., or
905 subparagraph 7, and that is not the employer of the officer, employee, justice, judge, or other
906 person specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4.,
907 subparagraph 5., subparagraph 6., or subparagraph 7. shall maintain the exempt status of the
908 personal information only if the officer, employee, justice, judge, other person, or employing
909 agency of the designated employee submits a written request for maintenance of the
910 exemption to the custodial agency.

911

912 (5) OTHER PERSONAL INFORMATION

913

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

919

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

924

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

927

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

930

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

932

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

935

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

938

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

941

942 4.a. Each agency shall review whether its collection of social security numbers is in compliance
943 with subparagraph 2. If the agency determines that collection of a social security number is not
944 in compliance with subparagraph 2., the agency shall immediately discontinue the collection of
945 social security numbers for that purpose.

946

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

949

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

953

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

957

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

959

960 (l) "Commercial activity" means the provision of a lawful product or service by a commercial
961 entity. Commercial activity includes verification of the accuracy of personal information
962 received by a commercial entity in the normal course of its business; use for insurance
963 purposes; use in identifying and preventing fraud; use in matching, verifying, or retrieving
964 information; and use in research activities. It does not include the display or bulk sale of social
965 security numbers to the public or the distribution of such numbers to any customer that is not
966 identifiable by the commercial entity.

967

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

971

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

976

977 (I) Be verified

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

980

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

982

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

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

991

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

993

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

996

997 (IV) Contain a statement of the specific purposes for which it needs the social security numbers
998 and how the social security numbers will be used in the performance of a commercial activity.
999 The aggregate of these requests shall serve as the basis for the agency report required in
1000 subparagraph 9.

1001

1002 c. An agency may request any other information reasonably necessary to verify the identity of a
1003 commercial entity requesting the social security numbers and the specific purposes for which
1004 the numbers will be used.

1005

1006 8.a. Any person who makes a false representation in order to obtain a social security number
1007 pursuant to this paragraph, or any person who willfully and knowingly violates this paragraph,
1008 commits a felony of the third degree punishable by law.

1009

1010 b. Any public officer who violates this paragraph commits a noncriminal infraction, punishable
1011 by a fine not exceeding \$500 per violation.

1012

1013 9.a. Every agency shall file a report with the Executive Office of the Governor, the President of
1014 the Senate, and the Speaker of the House of Representatives by January 31 of each year.

1015

1016 b. The report required under sub-subparagraph a. shall list:

1017

1018 (I) The identity of all commercial entities that have requested social security numbers during
1019 the preceding calendar year; and

1020

1021 (II) The specific purpose or purposes stated by each commercial entity regarding its need for
1022 social security numbers.

1023

1024 c. If no disclosure requests were made, the agency shall so indicate.

1025

1026 10. Any affected person may petition the circuit court for an order directing compliance with
1027 this paragraph.

1028

1029 11. This paragraph does not supersede any other applicable public records exemptions existing
1030 prior to May 13, 2002, or created thereafter.

1031

1032 (b) Bank account numbers and debit, charge, and credit card numbers held by an agency are
1033 exempt from c. 66 § 4(1). This exemption applies to bank account numbers and debit, charge,
1034 and credit card numbers held by an agency before, on, or after the effective date of this
1035 exemption.

1036

1037 (c) Any information that would identify or help to locate a child who participates in
1038 government-sponsored recreation programs or camps or the parents or guardians of such child,
1039 including, but not limited to, the name, home address, telephone number, social security
1040 number, or photograph of the child; the names and locations of schools attended by such child;
1041 and the names, home addresses, and social security numbers of parents or guardians of such
1042 child is exempt from c. 66 § 4(1). Information made exempt pursuant to this paragraph may be
1043 disclosed by court order upon a showing of good cause. This exemption applies to records held
1044 before, on, or after the effective date of this exemption.

1045

1046 (d) All records supplied by a telecommunications company, to an agency which contain the
1047 name, address, and telephone number of subscribers are confidential and exempt from c. 66 §
1048 4(1).

1049

1050 (e) Any information provided to an agency for the purpose of forming ridesharing
1051 arrangements, which information reveals the identity of an individual who has provided his or
1052 her name for ridesharing, is exempt from c. 66 § 4(1).

1053

1054 (f) Medical history records and information related to health or property insurance provided to
1055 a state agency, a municipality, or a local housing finance agency by an applicant for or a
1056 participant in a federal, state, or local housing assistance program are confidential and exempt
1057 from c. 66 § 4(1). Governmental entities or their agents shall have access to such confidential
1058 and exempt records and information for the purpose of auditing federal, state, or local housing
1059 programs or housing assistance programs. Such confidential and exempt records and

1060 information may be used in any administrative or judicial proceeding, provided such records are
1061 kept confidential and exempt unless otherwise ordered by a court.

1062

1063 (g)1. Biometric identification information held by an agency before, on, or after the effective
1064 date of this exemption is exempt from c. 66 § 4(1). As used in this paragraph, the term
1065 "biometric identification information" means:

1066

1067 a. Any record of friction ridge detail;

1068

1069 b. Fingerprints;

1070

1071 c. Palm prints; and

1072

1073 d. Footprints.

1074

1075 2. This paragraph is subject to the Public Record Law in accordance with c. 66 § 16.

1076

1077 (h)1. Personal identifying information of an applicant for or a recipient of paratransit services
1078 which is held by an agency is confidential and exempt from c. 66 § 4(1).

1079

1080 2. This exemption applies to personal identifying information of an applicant for or a recipient
1081 of paratransit services which is held by an agency before, on, or after the effective date of this
1082 exemption.

1083

1084 3. Confidential and exempt personal identifying information shall be disclosed:

1085

1086 a. With the express written consent of the individual or the individual's legally authorized
1087 representative;

1088

1089 b. In a medical emergency, but only to the extent that is necessary to protect the health or life
1090 of the individual;

1091

1092 c. By court order upon a showing of good cause; or

1093

1094 d. To another agency in the performance of its duties and responsibilities.

1095

1096 4. This paragraph is subject to the Public Record Law in accordance with c. 66 § 16.

1097

1098

1099 **66 § 6 Executive branch agency exemptions from inspection or copying of public records**

1100

1101 When an agency of the executive branch of state government seeks to acquire real property by
1102 purchase or through the exercise of the power of eminent domain, all appraisals, other reports
1103 relating to value, offers, and counteroffers must be in writing and are exempt from c. 66 § 4(1)
1104 until execution of a valid option contract or a written offer to sell that has been conditionally
1105 accepted by the agency, at which time the exemption shall expire. The agency shall not finally
1106 accept the offer for a period of 30 days in order to allow public review of the transaction. The
1107 agency may give conditional acceptance to any option or offer subject only to final acceptance
1108 by the agency after the 30-day review period. If a valid option contract is not executed, or if a
1109 written offer to sell is not conditionally accepted by the agency, then the exemption shall expire
1110 at the conclusion of the condemnation litigation of the subject property. An agency of the
1111 executive branch may exempt title information, including names and addresses of property
1112 owners whose property is subject to acquisition by purchase or through the exercise of the
1113 power of eminent domain, from c. 66 § 4(1) to the same extent as appraisals, other reports
1114 relating to value, offers, and counteroffers. For the purpose of this subsection, the term "option
1115 contract" means an agreement of an agency of the executive branch of state government to

1116 purchase real property subject to final agency approval. This subsection has no application to
1117 other exemptions from c. 66 § 4(1) which are contained in other provisions of law and shall not
1118 be construed to be an express or implied repeal thereof.

1119

1120

1121 **66 § 7 Executive branch agency-specific exemptions from inspection or copying of public**
1122 **records**

1123

1124 (1) DEPARTMENT OF HEALTH

1125

1126 All personal identifying information contained in records relating to an individual's personal
1127 health or eligibility for health-related services held by the Department of Health is confidential
1128 and exempt from c. 66 § 4(1), except as otherwise provided in this subsection. Information
1129 made confidential and exempt by this subsection shall be disclosed:

1130

1131 (a) With the express written consent of the individual or the individual's legally authorized
1132 representative.

1133

1134 (b) In a medical emergency, but only to the extent necessary to protect the health or life of the
1135 individual.

1136

1137 (c) By court order upon a showing of good cause.

1138

1139 (d) To a health research entity, if the entity seeks the records or data pursuant to a research
1140 protocol approved by the department, maintains the records or data in accordance with the
1141 approved protocol, and enters into a purchase and data-use agreement with the department,
1142 the fee provisions of which are consistent with c. 66 § 4(4). The department may deny a request
1143 for records or data if the protocol provides for intrusive follow-back contacts, has not been
1144 approved by a human studies institutional review board, does not plan for the destruction of
1145 confidential records after the research is concluded, is administratively burdensome, or does

1146 not have scientific merit. The agreement must restrict the release of any information that
1147 would permit the identification of persons, limit the use of records or data to the approved
1148 research protocol, and prohibit any other use of the records or data. Copies of records or data
1149 issued pursuant to this paragraph remain the property of the department.

1150

1151 (2) DEPARTMENT OF REGISTRY OF MOTOR VEHICLES

1152

1153 (a) Personal information contained in a motor vehicle record that identifies an individual is
1154 confidential and exempt from c. 66 § 4(1) except as provided in this subsection. Personal
1155 information includes, but is not limited to, an individual's social security number, driver
1156 identification number or identification card number, name, address, telephone number,
1157 medical or disability information, and emergency contact information. For purposes of this
1158 subsection, personal information does not include information relating to vehicular crashes,
1159 driving violations, and driver's status. For purposes of this subsection, the term "motor vehicle
1160 record" means any record that pertains to a motor vehicle operator's permit, motor vehicle
1161 title, motor vehicle registration, or identification card issued by the Registry of Motor Vehicles.

1162

1163 (b) Personal information contained in motor vehicle records made confidential and exempt by
1164 this subsection may be released by the department for any of the following uses:

1165

1166 1. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle
1167 emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of
1168 motor vehicles and dealers by motor vehicle manufacturers; and removal of nonowner records
1169 from the original owner records of motor vehicle manufacturers, to carry out the purposes of
1170 Titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15
1171 U.S.C. ss. 1231 et seq.), the Clean Air Act (42 U.S.C. ss. 7401 et seq.), and chapters 301, 305, and
1172 321-331 of Title 49, United States Code.

1173

1174 2. For use by any government agency, including any court or law enforcement agency, in
1175 carrying out its functions, or any private person or entity acting on behalf of a federal, state, or
1176 local agency in carrying out its functions.

1177

1178 3. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle
1179 emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of
1180 motor vehicles, motor vehicle parts, and dealers; motor vehicle market research activities,
1181 including survey research; and removal of nonowner records from the original owner records of
1182 motor vehicle manufacturers.

1183

1184 4. For use in the normal course of business by a legitimate business or its agents, employees, or
1185 contractors, but only:

1186

1187 a. To verify the accuracy of personal information submitted by the individual to the business or
1188 its agents, employees, or contractors; and

1189

1190 b. If such information as so submitted is not correct or is no longer correct, to obtain the
1191 correct information, but only for the purposes of preventing fraud by, pursuing legal remedies
1192 against, or recovering on a debt or security interest against, the individual.

1193

1194 5. For use in connection with any civil, criminal, administrative, or arbitral proceeding in any
1195 court or agency or before any self-regulatory body for:

1196

1197 a. Service of process by any certified process server, special process server, or other person
1198 authorized to serve process in this state.

1199

1200 b. Investigation in anticipation of litigation by an attorney licensed to practice law in this state
1201 or the agent of the attorney; however, the information may not be used for mass commercial
1202 solicitation of clients for litigation against motor vehicle dealers.

1203

1204 c. Investigation by any person in connection with any filed proceeding; however, the
1205 information may not be used for mass commercial solicitation of clients for litigation against
1206 motor vehicle dealers.

1207

1208 d. Execution or enforcement of judgments and orders.

1209

1210 e. Compliance with an order of any court.

1211

1212 6. For use in research activities and for use in producing statistical reports, so long as the
1213 personal information is not published, redisclosed, or used to contact individuals.

1214

1215 7. For use by any insurer or insurance support organization, or by a self-insured entity, or its
1216 agents, employees, or contractors, in connection with claims investigation activities, anti-fraud
1217 activities, rating, or underwriting.

1218

1219 8. For use in providing notice to the owners of towed or impounded vehicles.

1220

1221 9. For use by any licensed private investigative agency or licensed security service for any
1222 purpose permitted under this subsection. Personal information obtained based on an exempt
1223 driver's record may not be provided to a client who cannot demonstrate a need based on a
1224 police report, court order, or business or personal relationship with the subject of the
1225 investigation.

1226

1227 10. For use by an employer or its agent or insurer to obtain or verify information relating to a
1228 holder of a commercial driver's license that is required under 49 U.S.C. ss. 31301 et seq.

1229

1230 11. For use in connection with the operation of private toll transportation facilities.

1231

1232 12. For bulk distribution for surveys, marketing, or solicitations when the department has
1233 obtained the express consent of the person to whom such personal information pertains.

1234

1235 13. For any use if the requesting person demonstrates that he or she has obtained the written
1236 consent of the person who is the subject of the motor vehicle record.

1237

1238 14. For any other use specifically authorized by state law, if such use is related to the operation
1239 of a motor vehicle or public safety.

1240

1241 15. For any other use if the person to whom the information pertains has given express consent
1242 in a format prescribed by the department. Such consent shall remain in effect until it is revoked
1243 by the person on a form prescribed by the department.

1244

1245 (c) Notwithstanding paragraph (b), without the express consent of the person to whom such
1246 information applies, the following information contained in motor vehicle records may only be
1247 released as specified in this paragraph:

1248

1249 1. Social security numbers may be released only as provided in subparagraphs (b)2., 5., 7., and
1250 10.

1251

1252 2. An individual's photograph or image may be released only for state departmental
1253 administrative purposes; for the issuance of duplicate licenses; in response to law enforcement
1254 agency requests; to the Registry of Motor Vehicles pursuant to an interagency agreement to
1255 facilitate determinations of eligibility of voter registration applicants and registered voters in
1256 accordance; to the Department of Revenue pursuant to an interagency agreement for use in
1257 establishing paternity and establishing, modifying, or enforcing support obligations in Title IV-D
1258 cases; to the Department of Social Services pursuant to an interagency agreement to conduct
1259 protective investigations; or to the Office of the State Treasurer, pursuant to an interagency
1260 agreement to facilitate the location of owners of unclaimed property, the validation of
1261 unclaimed property claims, and the identification of fraudulent or false claims.

1262

1263 3. Medical disability information is exempt from disclosure.

1264

1265 4. Emergency contact information may be released only to law enforcement agencies for
1266 purposes of contacting those listed in the event of an emergency.

1267

1268 (d) The restrictions on disclosure of personal information provided by this subsection shall not
1269 in any way affect the use of organ donation information on individual driver licenses or affect
1270 the administration of organ donation initiatives in this state.

1271

1272 (e)1. Personal information made confidential and exempt may be disclosed by the Department
1273 of Highway Safety and Motor Vehicles to an individual, firm, corporation, or similar business
1274 entity whose primary business interest is to resell or redisclose the personal information to
1275 persons who are authorized to receive such information. Prior to the department's disclosure of
1276 personal information, such individual, firm, corporation, or similar business entity must first
1277 enter into a contract with the department regarding the care, custody, and control of the
1278 personal information to ensure compliance with the federal Driver's Privacy Protection Act of
1279 1994 and applicable state laws.

1280

1281 2. An authorized recipient of personal information contained in a motor vehicle record, except
1282 a recipient under subparagraph (b)12., may contract with the Department of Highway Safety
1283 and Motor Vehicles to resell or redisclose the information for any use permitted under this
1284 section. However, only authorized recipients of personal information under subparagraph (b)12
1285 may resell or redisclose personal information pursuant to subparagraph (b)12.

1286

1287 3. Any authorized recipient who resells or rediscloses personal information shall maintain, for a
1288 period of 5 years, records identifying each person or entity that receives the personal
1289 information and the permitted purpose for which it will be used. Such records shall be made
1290 available for inspection upon request by the department.

1291

1292 (f) The department may adopt rules to carry out the purposes of this subsection and the federal
1293 Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq. Rules adopted by the
1294 department may provide for the payment of applicable fees and, prior to the disclosure of
1295 personal information pursuant to this subsection, may require the meeting of conditions by the

1296 requesting person for the purposes of obtaining reasonable assurance concerning the identity
1297 of such requesting person, and, to the extent required, assurance that the use will be only as
1298 authorized or that the consent of the person who is the subject of the personal information has
1299 been obtained. Such conditions may include, but need not be limited to, the making and filing
1300 of a written application in such form and containing such information and certification
1301 requirements as the department requires.

1302

1303 (g) This subsection is subject to the Public Record Law in accordance with c. 66 § 16.

1304

1305

1306 **66 § 8 Local government agency exemptions from inspection or copying of public records**

1307

1308 (1) All complaints and other records in the custody of any unit of local government which relate
1309 to a complaint of discrimination relating to race, color, religion, sex, national origin, age,
1310 handicap, marital status, sale or rental of housing, the provision of brokerage services, or the
1311 financing of housing are exempt from c. 66 § 4(1) until a finding is made relating to probable
1312 cause, the investigation of the complaint becomes inactive, or the complaint or other record is
1313 made part of the official record of any hearing or court proceeding. This provision shall not
1314 affect any function or activity of any state or federal agency that is authorized to have access to
1315 such complaints or records by any provision of law shall be granted such access in the
1316 furtherance of such agency's statutory duties. This subsection shall not be construed to modify
1317 or repeal any special or local act.

1318

1319 (2) The audit report of an internal auditor prepared for or on behalf of a unit of local
1320 government becomes a public record when the audit becomes final. As used in this subsection,
1321 the term "unit of local government" means a county, municipality, special district, local agency,
1322 authority, consolidated city-county government, or any other local governmental body or public
1323 body corporate or politic authorized or created by general or special law. An audit becomes
1324 final when the audit report is presented to the unit of local government. Audit workpapers and
1325 notes related to such audit report are confidential and exempt from c. 66 § 4(1) until the audit
1326 is completed and the audit report becomes final.

1327

1328 (3) Any data, record, or document used directly or solely by a municipally owned utility to
1329 prepare and submit a bid relative to the sale, distribution, or use of any service, commodity, or
1330 tangible personal property to any customer or prospective customer is exempt from c. 66 §
1331 4(1). This exemption commences when a municipal utility identifies in writing a specific bid to
1332 which it intends to respond. This exemption no longer applies when the contract for sale,
1333 distribution, or use of the service, commodity, or tangible personal property is executed, a
1334 decision is made not to execute such contract, or the project is no longer under active
1335 consideration. The exemption in this subsection includes the bid documents actually furnished
1336 in response to the request for bids. However, the exemption for the bid documents submitted
1337 no longer applies after the bids are opened by the customer or prospective customer.

1338

1339

1340 **66 § 9 Court files; court records; official records**

1341

1342 (1) COURT FILES

1343

1344 Nothing in this chapter shall be construed to exempt from c. 66 § 4(1) a public record that was
1345 made a part of a court file and that is not specifically closed by order of court, except:

1346

1347 (a) A public record that was prepared by an agency attorney or prepared at the attorney's
1348 express direction as provided in c. 66 § 5(1)(d).

1349

1350 (b) Data processing software as provided in c. 66 § 5(1)(f).

1351

1352 (c) Any information revealing surveillance techniques or procedures or personnel as provided in
1353 c. 66 § 5(2)(d).

1354

1355 (d) Any comprehensive inventory of state and local law enforcement resources, and any
1356 comprehensive policies or plans compiled by a criminal justice agency, as provided in c. 66 §
1357 5(2)(d).

1358

1359 (e) Any information revealing the substance of a confession of a person arrested as provided in
1360 c. 66 § 5(2)(e).

1361

1362 (f) Any information revealing the identity of a confidential informant or confidential source as
1363 provided in c. 66 § 5(2)(f).

1364

1365 (g) Any information revealing undercover personnel of any criminal justice agency as provided
1366 in c. 66 § 5(4)(c).

1367

1368 (h) Criminal intelligence information or criminal investigative information that is confidential
1369 and exempt as provided in c. 66 § 5(2)(h).

1370

1371 (i) Social security numbers as provided in c. 66 § 5(5)(a).

1372

1373 (j) Bank account numbers and debit, charge, and credit card numbers as provided in c. 66 §
1374 5(5)(b).

1375

1376 (2) COURT RECORDS

1377

1378 (a) Until January 1, 2011, if a social security number or a bank account, debit, charge, or credit
1379 card number is included in a court file, such number may be included as part of the court record
1380 available for public inspection and copying unless redaction is requested by the holder of such
1381 number or by the holder's attorney or legal guardian.

1382

1383 (b) A request for redaction must be a signed, legibly written request specifying the case name,
1384 case number, document heading, and page number. The request must be delivered by mail,
1385 facsimile, electronic transmission, or in person to the clerk of the court. The clerk of the court

1386 does not have a duty to inquire beyond the written request to verify the identity of a person
1387 requesting redaction.

1388

1389 (c) A fee may not be charged for the redaction of a social security number or a bank account,
1390 debit, charge, or credit card number pursuant to such request.

1391

1392 (d) The clerk of the court has no liability for the inadvertent release of social security numbers,
1393 or bank account, debit, charge, or credit card numbers, unknown to the clerk of the court in
1394 court records filed on or before January 1, 2011.

1395

1396 (e)1. On January 1, 2011, and thereafter, the clerk of the court must keep social security
1397 numbers confidential and exempt as provided for in c. 66 § 5(5)(a), and bank account, debit,
1398 charge, and credit card numbers exempt as provided for in c. 66 § 5(5)(b), without any person
1399 having to request redaction.

1400

1401 2. Section 66 § 5(5)(a)7 and 8 does not apply to the clerks of the court with respect to court
1402 records.

1403

1404 (3) OFFICIAL RECORDS

1405

1406 (a) Any person who prepares or files a record for recording in the official records may not
1407 include in that record a social security number or a bank account, debit, charge, or credit card
1408 number unless otherwise expressly required by law.

1409

1410 (b)1. If a social security number or a bank account, debit, charge, or credit card number is
1411 included in an official record, such number may be made available as part of the official records
1412 available for public inspection and copying unless redaction is requested by the holder of such
1413 number or by the holder's attorney or legal guardian.

1414

1415 2. If such record is in electronic format, on January 1, 2011, and thereafter, the county recorder
1416 must use his or her best effort, as provided in paragraph (h), to keep social security numbers
1417 confidential and exempt as provided for in c. 66 § 5(5)(a), and to keep complete bank account,
1418 debit, charge, and credit card numbers exempt as provided for in c. 66 § 5(5)(b), without any
1419 person having to request redaction.

1420

1421 3. Section 66 § 5(5)(a)7 and 8 does not apply to the county recorder with respect to official
1422 records.

1423

1424 (c) The holder of a social security number or a bank account, debit, charge, or credit card
1425 number, or the holder's attorney or legal guardian, may request that a county recorder redact
1426 from an image or copy of an official record placed on a county recorder's publicly available
1427 Internet website or on a publicly available Internet website used by a county recorder to display
1428 public records, or otherwise made electronically available to the public, his or her social
1429 security number or bank account, debit, charge, or credit card number contained in that official
1430 record.

1431

1432 (d) A request for redaction must be a signed, legibly written request and must be delivered by
1433 mail, facsimile, electronic transmission, or in person to the county recorder. The request must
1434 specify the identification page number of the record that contains the number to be redacted.

1435

1436 (e) The county recorder does not have a duty to inquire beyond the written request to verify
1437 the identity of a person requesting redaction.

1438

1439 (f) A fee may not be charged for redacting a social security number or a bank account, debit,
1440 charge, or credit card number.

1441

1442 (g) A county recorder shall immediately and conspicuously post signs throughout his or her
1443 offices for public viewing, and shall immediately and conspicuously post on any Internet
1444 website or remote electronic site made available by the county recorder and used for the

1445 ordering or display of official records or images or copies of official records, a notice stating, in
1446 substantially similar form, the following:

1447

1448 1. On or after October 1, 2002, any person preparing or filing a record for recordation in the
1449 official records may not include a social security number or a bank account, debit, charge, or
1450 credit card number in such document unless required by law.

1451

1452 2. Any person has a right to request a county recorder to remove from an image or copy of an
1453 official record placed on a county recorder's publicly available Internet website or on a publicly
1454 available Internet website used by a county recorder to display public records, or otherwise
1455 made electronically available to the general public, any social security number contained in an
1456 official record. Such request must be made in writing and delivered by mail, facsimile, or
1457 electronic transmission, or delivered in person, to the county recorder. The request must
1458 specify the identification page number that contains the social security number to be redacted.
1459 A fee may not be charged for the redaction of a social security number pursuant to such a
1460 request.

1461

1462 (h) If the county recorder accepts or stores official records in an electronic format, the county
1463 recorder must use his or her best efforts to redact all social security numbers and bank account,
1464 debit, charge, or credit card numbers from electronic copies of the official record. The use of an
1465 automated program for redaction shall be deemed to be the best effort in performing the
1466 redaction and shall be deemed in compliance with the requirements of this subsection.

1467

1468 (i) The county recorder is not liable for the inadvertent release of social security numbers, or
1469 bank account, debit, charge, or credit card numbers, filed with the county recorder.

1470

1471

1472 **66 § 10 Copyright of data processing software created by governmental agencies; sale price**
1473 **and licensing fee**

1474

1475 (1) As used in this section, "agency" has the same meaning as in c. 66 § 2(2), except that the
1476 term does not include any private agency, person, partnership, corporation, or business entity.

1477

1478 (2) An agency is authorized to acquire and hold a copyright for data processing software
1479 created by the agency and to enforce its rights pertaining to such copyright, provided that the
1480 agency complies with the requirements of this subsection.

1481

1482 (a) An agency that has acquired a copyright for data processing software created by the agency
1483 may sell or license the copyrighted data processing software to any public agency or private
1484 person. The agency may establish a price for the sale and a licensing fee for the use of such data
1485 processing software that may be based on market considerations. However, the prices or fees
1486 for the sale or licensing of copyrighted data processing software to an individual or entity solely
1487 for application to information maintained or generated by the agency that created the
1488 copyrighted data processing software shall be determined pursuant to c. 66 § 4(4).

1489

1490 (b) Proceeds from the sale or licensing of copyrighted data processing software shall be
1491 deposited by the agency into a trust fund for the agency's appropriate use for authorized
1492 purposes. Counties, municipalities, and other political subdivisions of the state may designate
1493 how such sale and licensing proceeds are to be used.

1494

1495 (c) The provisions of this subsection are supplemental to, and shall not supplant or repeal, any
1496 other provision of law that authorizes an agency to acquire and hold copyrights.

1497

1498

1499 **66 § 11 Registration by federal employer's registration number**

1500

1501 Each state agency which registers or licenses corporations, partnerships, or other business
1502 entities shall include, by July 1, 1978, within its numbering system, the federal employer's
1503 identification number of each corporation, partnership, or other business entity registered or
1504 licensed by it. Any state agency may maintain a dual numbering system in which the federal

1505 employer's identification number or the state agency's own number is the primary
1506 identification number; however, the records of such state agency shall be designed in such a
1507 way that the record of any business entity is subject to direct location by the federal employer's
1508 identification number. The Department of State shall keep a registry of federal employer's
1509 identification numbers of all business entities, registered with the Division of Corporations,
1510 which registry of numbers may be used by all state agencies.

1511

1512

1513 **66 § 12 Violation of chapter; penalties**

1514

1515 (1) Any public officer who:

1516

1517 (a) Violates any provision of this chapter commits a noncriminal infraction, punishable by fine
1518 not exceeding \$500.

1519

1520 (b) Knowingly violates the provisions of c. 66 § 4(1) is subject to suspension and removal or
1521 impeachment and, in addition, commits a misdemeanor of the first degree, punishable by law.

1522

1523 (2) Any person who willfully and knowingly violates:

1524

1525 (a) Any of the provisions of this chapter commits a misdemeanor of the first degree, punishable
1526 by law.

1527

1528 (b) Section 66 § 13 commits a felony of the third degree, punishable by law.

1529

1530

1531 **66 § 13 Protection of victims of crimes or accidents**

1532

1533 Police reports are public records except as otherwise made exempt or confidential. Every
1534 person is allowed to examine nonexempt or nonconfidential police reports. A person who
1535 comes into possession of exempt or confidential information contained in police reports may
1536 not use that information for any commercial solicitation of the victims or relatives of the victims
1537 of the reported crimes or accidents and may not knowingly disclose such information to any
1538 third party for the purpose of such solicitation during the period of time that information
1539 remains exempt or confidential. This section does not prohibit the publication of such
1540 information to the general public by any news media legally entitled to possess that
1541 information or the use of such information for any other data collection or analysis purposes by
1542 those entitled to possess that information.

1543

1544

1545 **66 § 14 Accelerated hearing; immediate compliance**

1546

1547 (1) Whenever an action is filed to enforce the provisions of this chapter, the court shall set an
1548 immediate hearing, giving the case priority over other pending cases.

1549

1550 (2) Whenever a court orders an agency to open its records for inspection in accordance with
1551 this chapter, the agency shall comply with such order within 48 hours, unless otherwise
1552 provided by the court issuing such order, or unless the appellate court issues a stay order within
1553 such 48-hour period.

1554

1555 (3) A stay order shall not be issued unless the court determines that there is a substantial
1556 probability that opening the records for inspection will result in significant damage.

1557

1558 (4) Upon service of a complaint, counterclaim, or cross-claim in a civil action brought to enforce
1559 the provisions of this chapter, the custodian of the public record that is the subject matter of
1560 such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public
1561 record sought to be inspected and examined, notwithstanding the applicability of an exemption
1562 or the assertion that the requested record is not a public record subject to inspection and
1563 examination under c. 66 § 4(1), until the court directs otherwise. The person who has custody

1564 of such public record may, however, at any time permit inspection of the requested record as
1565 provided in c. 66 § 4(1) and other provisions of law.

1566

1567

1568 **66 § 15 Attorney's fees**

1569

1570 If a civil action is filed against an agency to enforce the provisions of this chapter and if the
1571 court determines that such agency unlawfully refused to permit a public record to be inspected
1572 or copied, the court shall assess and award, against the agency responsible, the reasonable
1573 costs of enforcement including reasonable attorneys' fees.

1574

1575

1576 **66 § 16 Legislative review of exemptions from public meeting and public records**
1577 **requirements**

1578

1579 (1) This section may be cited as the "Public Record Law."

1580

1581 (2) This section provides for the review and repeal or reenactment of an exemption from c. 66 §
1582 4(1). This act does not apply to an exemption that:

1583

1584 (a) Is required by federal law; or

1585

1586 (b) Applies solely to the Legislature or the State Court System.

1587

1588 (3) In the 5th year after enactment of a new exemption or substantial amendment of an
1589 existing exemption, the exemption shall be repealed on October 2nd of the 5th year, unless the
1590 Legislature acts to reenact the exemption.

1591

1592 (4)(a) A law that enacts a new exemption or substantially amends an existing exemption must
1593 state that the record or meeting is:

1594

1595 1. Exempt from the State Constitution;

1596

1597 2. Exempt from c. 66 § 4(1); and

1598

1599 3. Repealed at the end of 5 years and that the exemption must be reviewed by the Legislature
1600 before the scheduled repeal date.

1601

1602 (b) For purposes of this section, an exemption is substantially amended if the amendment
1603 expands the scope of the exemption to include more records or information or to include
1604 meetings as well as records. An exemption is not substantially amended if the amendment
1605 narrows the scope of the exemption.

1606

1607 (c) This section is not intended to repeal an exemption that has been amended following
1608 legislative review before the scheduled repeal of the exemption if the exemption is not
1609 substantially amended as a result of the review.

1610

1611 (5)(a) As part of the review process, the Legislature shall consider the following:

1612

1613 1. What specific records or meetings are affected by the exemption?

1614

1615 2. Whom does the exemption uniquely affect, as opposed to the general public?

1616

1617 3. What is the identifiable public purpose or goal of the exemption?

1618

1619 4. Can the information contained in the records or discussed in the meeting be readily obtained
1620 by alternative means? If so, how?

1621

1622 5. Is the record or meeting protected by another exemption?

1623

1624 6. Are there multiple exemptions for the same type of record or meeting that it would be
1625 appropriate to merge?

1626

1627 (b) An exemption may be created, revised, or maintained only if it serves an identifiable public
1628 purpose, and the exemption may be no broader than is necessary to meet the public purpose it
1629 serves. An identifiable public purpose is served if the exemption meets one of the following
1630 purposes and the Legislature finds that the purpose is sufficiently compelling to override the
1631 strong public policy of open government and cannot be accomplished without the exemption:

1632

1633 1. Allows the state or its political subdivisions to effectively and efficiently administer a
1634 governmental program, which administration would be significantly impaired without the
1635 exemption;

1636

1637 2. Protects information of a sensitive personal nature concerning individuals, the release of
1638 which information would be defamatory to such individuals or cause unwarranted damage to
1639 the good name or reputation of such individuals or would jeopardize the safety of such
1640 individuals. However, in exemptions under this subparagraph, only information that would
1641 identify the individuals may be exempted; or

1642

1643 3. Protects information of a confidential nature concerning entities, including, but not limited
1644 to, a formula, pattern, device, combination of devices, or compilation of information which is
1645 used to protect or further a business advantage over those who do not know or use it, the
1646 disclosure of which information would injure the affected entity in the marketplace.

1647

1648 (6) Records made before the date of a repeal of an exemption under this section may not be
1649 made public unless otherwise provided by law. In deciding whether the records shall be made
1650 public, the Legislature shall consider whether the damage or loss to persons or entities uniquely
1651 affected by the exemption of the type specified in subparagraph (6)(b)2.or subparagraph
1652 (6)(b)3 would occur if the records were made public.

1653

1654 (7) Notwithstanding any other law, neither the state or its political subdivisions nor any other
1655 public body shall be made party to any suit in any court or incur any liability for the repeal or
1656 revival and reenactment of an exemption under this section. The failure of the Legislature to
1657 comply strictly with this section does not invalidate an otherwise valid reenactment.

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