

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Frederick E. Berry (BY REQUEST)

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

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

An Act relative to the public records law "the Massachusetts sunshine bill".

PETITION OF:

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

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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

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

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 Chapter 66 is hereby repealed and is replaced by the following language: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

3
4
5 **CHAPTER 66**

6 **PUBLIC RECORDS**

7
8 **THE MASSACHUSETTS SUNSHINE BILL**
9

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

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13

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15

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17

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19

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21

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24

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26

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28

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31

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33

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35

36 66 § 13 Protection of victims of crimes or accidents.

37

38 66 § 14 Accelerated hearing; immediate compliance.

39

40 66 § 15 Attorney's fees.

41

42 66 § 16 Legislative review of exemptions from public meeting and public records requirements.

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44

45

46 **66 § 1 General state policy on public records**

47

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

51

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

56

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

60

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

65

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

69

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

74

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

84

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

90

91

92 **66 § 2 Definitions**

93

94 As used in this chapter, the term:

95

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

99

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

106

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

110

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

116

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

119

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

121

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

124

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

126

127 4. The crime charged.

128

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

134

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

137

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

139

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

144

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

146

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

150

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

154

155 In addition, criminal intelligence and criminal investigative information shall be considered
156 "active" while such information is directly related to pending prosecutions or appeals. The word

157 "active" shall not apply to information in cases which are barred from prosecution under the
158 provisions of the statute of limitation.

159

160 (4) "Criminal justice agency" means:

161

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

163

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

165

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

172

173 (d) The Department of Corrections.

174

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

178

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

183

184 (7) "Duplicated copies" means new copies produced by the process of reproducing an image or
185 images from an original to a final substrate through the electrophotographic, xerographic, laser,

186 or offset process or any combination of these processes, by which an operator can make more
187 than one copy without rehandling the original.

188

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

191

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

194

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

200

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

203

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

208

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

212

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

216

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

218

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

221

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

223

224

225 **66 § 3 Custodial requirements; maintenance, preservation, and retention of public records**

226

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

228

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

230

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

234

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

237

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

243

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

247

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

250

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

254

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

258

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

269

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

274

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

279

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

284

285

286 **66 § 4 Inspection and copying of records; photographing public records; fees; exemptions**

287

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

291

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

296

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

302

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

307

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

312

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

316

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

324

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

333

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

339

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

343

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

348

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

353

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

357

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

362

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

366

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

374

375 (4)(e).

376

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

380

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

383

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

385

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

387

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

391

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

393

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

402

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

406

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

411

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

418

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

424 Such person shall maintain the exempt or confidential status of that public record and shall be
425 subject to the same penalties as the custodian of that record for public disclosure of such
426 record.

427

428 (7) The provisions of this section are not intended to expand or limit the provisions of

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

433

434

435 **66 § 5 General exemptions from inspection or copying of public records**

436

437 (1) AGENCY ADMINISTRATION

438

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

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

443

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

448

449 b. If an agency rejects all bids or proposals submitted in response to an invitation to bid or
450 request for proposals and the agency concurrently provides notice of its intent to reissue the
451 invitation to bid or request for proposals, the rejected bids or proposals remain exempt from c.
452 66 § 4(1) until such time as the agency provides notice of a decision or intended decision

453 concerning the reissued invitation to bid or request for proposals or until the agency withdraws
454 the reissued invitation to bid or request for proposals. This sub-subparagraph is subject to the
455 Public Record Law in accordance with c. 66 § 16.

456

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

460

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

469

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

471

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

475

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

485 office is entitled to claim this exemption for those public records prepared for direct appeal as
486 well as for all capital collateral litigation after direct appeal until execution of sentence or
487 imposition of a life sentence.

488

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

496

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

500

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

506

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

512

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

516

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

521

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

523

524 (2) AGENCY INVESTIGATIONS

525

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

528

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

534

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

537

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

543

544 b. The law enforcement agency that made the request to inspect or copy a public record shall
545 give notice to the custodial agency when the criminal intelligence information or criminal
546 investigative information is no longer active so that the request made by the law enforcement

547 agency, the custodian's response to the request, and information that would identify whether
548 the law enforcement agency had requested or received that public record are available to the
549 public.

550

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

554

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

562

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

566

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

569

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

577

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

581

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

585

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

588

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

591

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

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

596

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

599

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

601

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

606

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

608

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

612

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

614

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

618

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

632

633 2. a. Any information in a videotaped statement of a minor who is alleged to be or who is a
634 victim of sexual battery, lewd acts, or other sexual misconduct, which reveals that minor's
635 identity, including, but not limited to, the minor's face; the minor's home, school, church, or
636 employment telephone number; the minor's home, school, church, or employment address;
637 the name of the minor's school, church, or place of employment; or the personal assets of the
638 minor; and which identifies that minor as the victim of a crime described in this subparagraph,

639 held by a law enforcement agency, is confidential and exempt from c. 66 § 4(1) . Any
640 governmental agency that is authorized to have access to such statements by any provision of
641 law shall be granted such access in the furtherance of the agency's statutory duties,
642 notwithstanding the provisions of this section.

643

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

651

652 (3) SECURITY

653

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

655

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

659

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

661

662 c. Threat response plans;

663

664 d. Emergency evacuation plans;

665

666 e. Sheltering arrangements; or

667

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

669

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

671

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

673

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

678

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

681

682 a. The property owner or leaseholder; or

683

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

687

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

692

693 2. This exemption applies to building plans, blueprints, schematic drawings, and diagrams,
694 including draft, preliminary, and final formats, which depict the internal layout and structural

695 elements of a building, arena, stadium, water treatment facility, or other structure owned or
696 operated by an agency before, on, or after the effective date of this act.

697

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

699

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

702

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

706

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

708

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

711

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

723

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

727

728 a. For single-performance facilities:

729

730 (I) Provides single-performance facilities; or

731

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

733

734 b. For serial-performance facilities:

735

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

737

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

739

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

748

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

752

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

754

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

756

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

759

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

764

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

766

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

768

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

772

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

775

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

779

780 (4) AGENCY PERSONNEL INFORMATION

781

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

784

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

793

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

799

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

802

803 (d)1.a. The home addresses, telephone numbers, social security numbers, and photographs of
804 active or former law enforcement personnel, including correctional and correctional probation
805 officers, personnel of the Department of Children and Family Services whose duties include the
806 investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel
807 of the Department of Health whose duties are to support the investigation of child abuse or
808 neglect, and personnel of the Department of Revenue or local governments whose
809 responsibilities include revenue collection and enforcement or child support enforcement; the
810 home addresses, telephone numbers, social security numbers, photographs, and places of
811 employment of the spouses and children of such personnel; and the names and locations of

812 schools and day care facilities attended by the children of such personnel are exempt from c. 66
813 § 4(1). The home addresses, telephone numbers, and photographs of firefighters; the home
814 addresses, telephone numbers, photographs, and places of employment of the spouses and
815 children of such firefighters; and the names and locations of schools and day care facilities
816 attended by the children of such firefighters are exempt from c. 66 § 4(1). The home addresses
817 and telephone numbers of justices of the Supreme Judicial Court, Appeals Court, Superior
818 Courts, District Courts, Boston Municipal Court, Family and Probate Courts, Land Courts,
819 Housing Courts, justices and judges; the home addresses, telephone numbers, and places of
820 employment of the spouses and children of justices and judges; and the names and locations of
821 schools and day care facilities attended by the children of justices and judges are exempt from
822 c. 66 § 4(1). The home addresses, telephone numbers, social security numbers, and
823 photographs of current or former state attorneys, assistant state attorneys, statewide
824 prosecutors, or assistant statewide prosecutors; the home addresses, telephone numbers,
825 social security numbers, photographs, and places of employment of the spouses and children of
826 current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant
827 statewide prosecutors; and the names and locations of schools and day care facilities attended
828 by the children of current or former state attorneys, assistant state attorneys, statewide
829 prosecutors, or assistant statewide prosecutors are exempt from c. 66 § 4(1).

830

831 b. The home addresses and telephone numbers of general magistrates, special magistrates,
832 judges of compensation claims, administrative law judges of the Workmens Compensation
833 Board, Massachusetts Commission Against Discrimination, and child support enforcement
834 hearing officers; the home addresses, telephone numbers, and places of employment of the
835 spouses and children of general magistrates, special magistrates, judges of compensation
836 claims, administrative law judges of the Workmens Compensation Board, and child support
837 enforcement hearing officers; and the names and locations of schools and day care facilities
838 attended by the children of general magistrates, special magistrates, judges of compensation
839 claims, administrative law judges of the Workmens Compensation Board, and child support
840 enforcement hearing officers are exempt from c. 66 § 4(1) if the general magistrate, special
841 magistrate, judge of compensation claims, administrative law judge of the Workmens
842 Compensation Board, or child support hearing officer provides a written statement that the
843 general magistrate, special magistrate, judge of compensation claims, administrative law judge
844 of the Workmens Compensation Board, Massachusetts Commission of Discrimination, or child
845 support hearing officer has made reasonable efforts to protect such information from being
846 accessible through other means available to the public. This sub-subparagraph is subject to the
847 Public Record Law in accordance with c. 66 § 16.

848

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

857

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

866

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

877

878 5. The home addresses, telephone numbers, and photographs of current or former code
879 enforcement officers; the names, home addresses, telephone numbers, and places of
880 employment of the spouses and children of such personnel; and the names and locations of

881 schools and day care facilities attended by the children of such personnel are exempt from c. 66
882 § 4(1).

883

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

891

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

901

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

910

911 (5) OTHER PERSONAL INFORMATION

912

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

918

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

923

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

926

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

929

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

931

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

934

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

937

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

940

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

945

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

948

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

952

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

956

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

958

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

966

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

970

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

975

976 (I) Be verified

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

979

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

981

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

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

990

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

992

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

995

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

1000

1001 c. An agency may request any other information reasonably necessary to verify the identity of a
1002 commercial entity requesting the social security numbers and the specific purposes for which
1003 the numbers will be used.

1004

1005 8.a. Any person who makes a false representation in order to obtain a social security number
1006 pursuant to this paragraph, or any person who willfully and knowingly violates this paragraph,
1007 commits a felony of the third degree punishable by law.

1008

1009 b. Any public officer who violates this paragraph commits a noncriminal infraction, punishable
1010 by a fine not exceeding \$500 per violation.

1011

1012 9.a. Every agency shall file a report with the Executive Office of the Governor, the President of
1013 the Senate, and the Speaker of the House of Representatives by January 31 of each year.

1014

1015 b. The report required under sub-subparagraph a. shall list:

1016

1017 (I) The identity of all commercial entities that have requested social security numbers during
1018 the preceding calendar year; and

1019

1020 (II) The specific purpose or purposes stated by each commercial entity regarding its need for
1021 social security numbers.

1022

1023 c. If no disclosure requests were made, the agency shall so indicate.

1024

1025 10. Any affected person may petition the circuit court for an order directing compliance with
1026 this paragraph.

1027

1028 11. This paragraph does not supersede any other applicable public records exemptions existing
1029 prior to May 13, 2002, or created thereafter.

1030

1031 (b) Bank account numbers and debit, charge, and credit card numbers held by an agency are
1032 exempt from c. 66 § 4(1). This exemption applies to bank account numbers and debit, charge,
1033 and credit card numbers held by an agency before, on, or after the effective date of this
1034 exemption.

1035

1036 (c) Any information that would identify or help to locate a child who participates in
1037 government-sponsored recreation programs or camps or the parents or guardians of such child,
1038 including, but not limited to, the name, home address, telephone number, social security
1039 number, or photograph of the child; the names and locations of schools attended by such child;
1040 and the names, home addresses, and social security numbers of parents or guardians of such
1041 child is exempt from c. 66 § 4(1). Information made exempt pursuant to this paragraph may be
1042 disclosed by court order upon a showing of good cause. This exemption applies to records held
1043 before, on, or after the effective date of this exemption.

1044

1045 (d) All records supplied by a telecommunications company, to an agency which contain the
1046 name, address, and telephone number of subscribers are confidential and exempt from c. 66 §
1047 4(1).

1048

1049 (e) Any information provided to an agency for the purpose of forming ridesharing
1050 arrangements, which information reveals the identity of an individual who has provided his or
1051 her name for ridesharing, is exempt from c. 66 § 4(1).

1052

1053 (f) Medical history records and information related to health or property insurance provided to
1054 a state agency, a municipality, or a local housing finance agency by an applicant for or a
1055 participant in a federal, state, or local housing assistance program are confidential and exempt
1056 from c. 66 § 4(1). Governmental entities or their agents shall have access to such confidential
1057 and exempt records and information for the purpose of auditing federal, state, or local housing
1058 programs or housing assistance programs. Such confidential and exempt records and
1059 information may be used in any administrative or judicial proceeding, provided such records are
1060 kept confidential and exempt unless otherwise ordered by a court.

1061

1062 (g)1. Biometric identification information held by an agency before, on, or after the effective
1063 date of this exemption is exempt from c. 66 § 4(1). As used in this paragraph, the term
1064 "biometric identification information" means:

1065

1066 a. Any record of friction ridge detail;

1067

1068 b. Fingerprints;

1069

1070 c. Palm prints; and

1071

1072 d. Footprints.

1073

1074 2. This paragraph is subject to the Public Record Law in accordance with c. 66 § 16.

1075

1076 (h)1. Personal identifying information of an applicant for or a recipient of paratransit services
1077 which is held by an agency is confidential and exempt from c. 66 § 4(1).

1078

1079 2. This exemption applies to personal identifying information of an applicant for or a recipient
1080 of paratransit services which is held by an agency before, on, or after the effective date of this
1081 exemption.

1082

1083 3. Confidential and exempt personal identifying information shall be disclosed:

1084

1085 a. With the express written consent of the individual or the individual's legally authorized
1086 representative;

1087

1088 b. In a medical emergency, but only to the extent that is necessary to protect the health or life
1089 of the individual;

1090

1091 c. By court order upon a showing of good cause; or

1092

1093 d. To another agency in the performance of its duties and responsibilities.

1094

1095 4. This paragraph is subject to the Public Record Law in accordance with c. 66 § 16.

1096

1097

1098 **66 § 6 Executive branch agency exemptions from inspection or copying of public records**

1099

1100 When an agency of the executive branch of state government seeks to acquire real property by
1101 purchase or through the exercise of the power of eminent domain, all appraisals, other reports
1102 relating to value, offers, and counteroffers must be in writing and are exempt from c. 66 § 4(1)
1103 until execution of a valid option contract or a written offer to sell that has been conditionally
1104 accepted by the agency, at which time the exemption shall expire. The agency shall not finally
1105 accept the offer for a period of 30 days in order to allow public review of the transaction. The
1106 agency may give conditional acceptance to any option or offer subject only to final acceptance
1107 by the agency after the 30-day review period. If a valid option contract is not executed, or if a
1108 written offer to sell is not conditionally accepted by the agency, then the exemption shall expire
1109 at the conclusion of the condemnation litigation of the subject property. An agency of the
1110 executive branch may exempt title information, including names and addresses of property
1111 owners whose property is subject to acquisition by purchase or through the exercise of the
1112 power of eminent domain, from c. 66 § 4(1) to the same extent as appraisals, other reports
1113 relating to value, offers, and counteroffers. For the purpose of this subsection, the term "option
1114 contract" means an agreement of an agency of the executive branch of state government to
1115 purchase real property subject to final agency approval. This subsection has no application to
1116 other exemptions from c. 66 § 4(1) which are contained in other provisions of law and shall not
1117 be construed to be an express or implied repeal thereof.

1118

1119

1120 **66 § 7 Executive branch agency-specific exemptions from inspection or copying of public**
1121 **records**

1122

1123 (1) DEPARTMENT OF HEALTH

1124

1125 All personal identifying information contained in records relating to an individual's personal
1126 health or eligibility for health-related services held by the Department of Health is confidential
1127 and exempt from c. 66 § 4(1), except as otherwise provided in this subsection. Information
1128 made confidential and exempt by this subsection shall be disclosed:

1129

1130 (a) With the express written consent of the individual or the individual's legally authorized
1131 representative.

1132

1133 (b) In a medical emergency, but only to the extent necessary to protect the health or life of the
1134 individual.

1135

1136 (c) By court order upon a showing of good cause.

1137

1138 (d) To a health research entity, if the entity seeks the records or data pursuant to a research
1139 protocol approved by the department, maintains the records or data in accordance with the
1140 approved protocol, and enters into a purchase and data-use agreement with the department,
1141 the fee provisions of which are consistent with c. 66 § 4(4). The department may deny a request
1142 for records or data if the protocol provides for intrusive follow-back contacts, has not been
1143 approved by a human studies institutional review board, does not plan for the destruction of
1144 confidential records after the research is concluded, is administratively burdensome, or does
1145 not have scientific merit. The agreement must restrict the release of any information that
1146 would permit the identification of persons, limit the use of records or data to the approved
1147 research protocol, and prohibit any other use of the records or data. Copies of records or data
1148 issued pursuant to this paragraph remain the property of the department.

1149

1150 (2) DEPARTMENT OF REGISTRY OF MOTOR VEHICLES

1151

1152 (a) Personal information contained in a motor vehicle record that identifies an individual is
1153 confidential and exempt from c. 66 § 4(1) except as provided in this subsection. Personal
1154 information includes, but is not limited to, an individual's social security number, driver
1155 identification number or identification card number, name, address, telephone number,
1156 medical or disability information, and emergency contact information. For purposes of this
1157 subsection, personal information does not include information relating to vehicular crashes,
1158 driving violations, and driver's status. For purposes of this subsection, the term "motor vehicle
1159 record" means any record that pertains to a motor vehicle operator's permit, motor vehicle
1160 title, motor vehicle registration, or identification card issued by the Registry of Motor Vehicles.

1161

1162 (b) Personal information contained in motor vehicle records made confidential and exempt by
1163 this subsection may be released by the department for any of the following uses:

1164

1165 1. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle
1166 emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of
1167 motor vehicles and dealers by motor vehicle manufacturers; and removal of nonowner records
1168 from the original owner records of motor vehicle manufacturers, to carry out the purposes of
1169 Titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15
1170 U.S.C. ss. 1231 et seq.), the Clean Air Act (42 U.S.C. ss. 7401 et seq.), and chapters 301, 305, and
1171 321-331 of Title 49, United States Code.

1172

1173 2. For use by any government agency, including any court or law enforcement agency, in
1174 carrying out its functions, or any private person or entity acting on behalf of a federal, state, or
1175 local agency in carrying out its functions.

1176

1177 3. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle
1178 emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of
1179 motor vehicles, motor vehicle parts, and dealers; motor vehicle market research activities,
1180 including survey research; and removal of nonowner records from the original owner records of
1181 motor vehicle manufacturers.

1182

1183 4. For use in the normal course of business by a legitimate business or its agents, employees, or
1184 contractors, but only:

1185

1186 a. To verify the accuracy of personal information submitted by the individual to the business or
1187 its agents, employees, or contractors; and

1188

1189 b. If such information as so submitted is not correct or is no longer correct, to obtain the
1190 correct information, but only for the purposes of preventing fraud by, pursuing legal remedies
1191 against, or recovering on a debt or security interest against, the individual.

1192

1193 5. For use in connection with any civil, criminal, administrative, or arbitral proceeding in any
1194 court or agency or before any self-regulatory body for:

1195

1196 a. Service of process by any certified process server, special process server, or other person
1197 authorized to serve process in this state.

1198

1199 b. Investigation in anticipation of litigation by an attorney licensed to practice law in this state
1200 or the agent of the attorney; however, the information may not be used for mass commercial
1201 solicitation of clients for litigation against motor vehicle dealers.

1202

1203 c. Investigation by any person in connection with any filed proceeding; however, the
1204 information may not be used for mass commercial solicitation of clients for litigation against
1205 motor vehicle dealers.

1206

1207 d. Execution or enforcement of judgments and orders.

1208

1209 e. Compliance with an order of any court.

1210

1211 6. For use in research activities and for use in producing statistical reports, so long as the
1212 personal information is not published, redisclosed, or used to contact individuals.

1213

1214 7. For use by any insurer or insurance support organization, or by a self-insured entity, or its
1215 agents, employees, or contractors, in connection with claims investigation activities, anti-fraud
1216 activities, rating, or underwriting.

1217

1218 8. For use in providing notice to the owners of towed or impounded vehicles.

1219

1220 9. For use by any licensed private investigative agency or licensed security service for any
1221 purpose permitted under this subsection. Personal information obtained based on an exempt
1222 driver's record may not be provided to a client who cannot demonstrate a need based on a
1223 police report, court order, or business or personal relationship with the subject of the
1224 investigation.

1225

1226 10. For use by an employer or its agent or insurer to obtain or verify information relating to a
1227 holder of a commercial driver's license that is required under 49 U.S.C. ss. 31301 et seq.

1228

1229 11. For use in connection with the operation of private toll transportation facilities.

1230

1231 12. For bulk distribution for surveys, marketing, or solicitations when the department has
1232 obtained the express consent of the person to whom such personal information pertains.

1233

1234 13. For any use if the requesting person demonstrates that he or she has obtained the written
1235 consent of the person who is the subject of the motor vehicle record.

1236

1237 14. For any other use specifically authorized by state law, if such use is related to the operation
1238 of a motor vehicle or public safety.

1239

1240 15. For any other use if the person to whom the information pertains has given express consent
1241 in a format prescribed by the department. Such consent shall remain in effect until it is revoked
1242 by the person on a form prescribed by the department.

1243

1244 (c) Notwithstanding paragraph (b), without the express consent of the person to whom such
1245 information applies, the following information contained in motor vehicle records may only be
1246 released as specified in this paragraph:

1247

1248 1. Social security numbers may be released only as provided in subparagraphs (b)2., 5., 7., and
1249 10.

1250

1251 2. An individual's photograph or image may be released only for state departmental
1252 administrative purposes; for the issuance of duplicate licenses; in response to law enforcement
1253 agency requests; to the Registry of Motor Vehicles pursuant to an interagency agreement to
1254 facilitate determinations of eligibility of voter registration applicants and registered voters in
1255 accordance; to the Department of Revenue pursuant to an interagency agreement for use in
1256 establishing paternity and establishing, modifying, or enforcing support obligations in Title IV-D
1257 cases; to the Department of Social Services pursuant to an interagency agreement to conduct
1258 protective investigations; or to the Office of the State Treasurer, pursuant to an interagency
1259 agreement to facilitate the location of owners of unclaimed property, the validation of
1260 unclaimed property claims, and the identification of fraudulent or false claims.

1261

1262 3. Medical disability information is exempt from disclosure.

1263

1264 4. Emergency contact information may be released only to law enforcement agencies for
1265 purposes of contacting those listed in the event of an emergency.

1266

1267 (d) The restrictions on disclosure of personal information provided by this subsection shall not
1268 in any way affect the use of organ donation information on individual driver licenses or affect
1269 the administration of organ donation initiatives in this state.

1270

1271 (e)1. Personal information made confidential and exempt may be disclosed by the Department
1272 of Highway Safety and Motor Vehicles to an individual, firm, corporation, or similar business
1273 entity whose primary business interest is to resell or redisclose the personal information to
1274 persons who are authorized to receive such information. Prior to the department's disclosure of
1275 personal information, such individual, firm, corporation, or similar business entity must first
1276 enter into a contract with the department regarding the care, custody, and control of the
1277 personal information to ensure compliance with the federal Driver's Privacy Protection Act of
1278 1994 and applicable state laws.

1279

1280 2. An authorized recipient of personal information contained in a motor vehicle record, except
1281 a recipient under subparagraph (b)12., may contract with the Department of Highway Safety
1282 and Motor Vehicles to resell or redisclose the information for any use permitted under this
1283 section. However, only authorized recipients of personal information under subparagraph (b)12
1284 may resell or redisclose personal information pursuant to subparagraph (b)12.

1285

1286 3. Any authorized recipient who resells or rediscloses personal information shall maintain, for a
1287 period of 5 years, records identifying each person or entity that receives the personal
1288 information and the permitted purpose for which it will be used. Such records shall be made
1289 available for inspection upon request by the department.

1290

1291 (f) The department may adopt rules to carry out the purposes of this subsection and the federal
1292 Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq. Rules adopted by the
1293 department may provide for the payment of applicable fees and, prior to the disclosure of
1294 personal information pursuant to this subsection, may require the meeting of conditions by the
1295 requesting person for the purposes of obtaining reasonable assurance concerning the identity
1296 of such requesting person, and, to the extent required, assurance that the use will be only as
1297 authorized or that the consent of the person who is the subject of the personal information has
1298 been obtained. Such conditions may include, but need not be limited to, the making and filing

1299 of a written application in such form and containing such information and certification
1300 requirements as the department requires.

1301

1302 (g) This subsection is subject to the Public Record Law in accordance with c. 66 § 16.

1303

1304

1305 **66 § 8 Local government agency exemptions from inspection or copying of public records**

1306

1307 (1) All complaints and other records in the custody of any unit of local government which relate
1308 to a complaint of discrimination relating to race, color, religion, sex, national origin, age,
1309 handicap, marital status, sale or rental of housing, the provision of brokerage services, or the
1310 financing of housing are exempt from c. 66 § 4(1) until a finding is made relating to probable
1311 cause, the investigation of the complaint becomes inactive, or the complaint or other record is
1312 made part of the official record of any hearing or court proceeding. This provision shall not
1313 affect any function or activity of any state or federal agency that is authorized to have access to
1314 such complaints or records by any provision of law shall be granted such access in the
1315 furtherance of such agency's statutory duties. This subsection shall not be construed to modify
1316 or repeal any special or local act.

1317

1318 (2) The audit report of an internal auditor prepared for or on behalf of a unit of local
1319 government becomes a public record when the audit becomes final. As used in this subsection,
1320 the term "unit of local government" means a county, municipality, special district, local agency,
1321 authority, consolidated city-county government, or any other local governmental body or public
1322 body corporate or politic authorized or created by general or special law. An audit becomes
1323 final when the audit report is presented to the unit of local government. Audit workpapers and
1324 notes related to such audit report are confidential and exempt from c. 66 § 4(1) until the audit
1325 is completed and the audit report becomes final.

1326

1327 (3) Any data, record, or document used directly or solely by a municipally owned utility to
1328 prepare and submit a bid relative to the sale, distribution, or use of any service, commodity, or
1329 tangible personal property to any customer or prospective customer is exempt from c. 66 §
1330 4(1). This exemption commences when a municipal utility identifies in writing a specific bid to

1331 which it intends to respond. This exemption no longer applies when the contract for sale,
1332 distribution, or use of the service, commodity, or tangible personal property is executed, a
1333 decision is made not to execute such contract, or the project is no longer under active
1334 consideration. The exemption in this subsection includes the bid documents actually furnished
1335 in response to the request for bids. However, the exemption for the bid documents submitted
1336 no longer applies after the bids are opened by the customer or prospective customer.

1337

1338

1339 **66 § 9 Court files; court records; official records**

1340

1341 (1) COURT FILES

1342

1343 Nothing in this chapter shall be construed to exempt from c. 66 § 4(1) a public record that was
1344 made a part of a court file and that is not specifically closed by order of court, except:

1345

1346 (a) A public record that was prepared by an agency attorney or prepared at the attorney's
1347 express direction as provided in c. 66 § 5(1)(d).

1348

1349 (b) Data processing software as provided in c. 66 § 5(1)(f).

1350

1351 (c) Any information revealing surveillance techniques or procedures or personnel as provided in
1352 c. 66 § 5(2)(d).

1353

1354 (d) Any comprehensive inventory of state and local law enforcement resources, and any
1355 comprehensive policies or plans compiled by a criminal justice agency, as provided in c. 66 §
1356 5(2)(d).

1357

1358 (e) Any information revealing the substance of a confession of a person arrested as provided in
1359 c. 66 § 5(2)(e).

1360

1361 (f) Any information revealing the identity of a confidential informant or confidential source as
1362 provided in c. 66 § 5(2)(f).

1363

1364 (g) Any information revealing undercover personnel of any criminal justice agency as provided
1365 in c. 66 § 5(4)(c).

1366

1367 (h) Criminal intelligence information or criminal investigative information that is confidential
1368 and exempt as provided in c. 66 § 5(2)(h).

1369

1370 (i) Social security numbers as provided in c. 66 § 5(5)(a).

1371

1372 (j) Bank account numbers and debit, charge, and credit card numbers as provided in c. 66 §
1373 5(5)(b).

1374

1375 (2) COURT RECORDS

1376

1377 (a) Until January 1, 2011, if a social security number or a bank account, debit, charge, or credit
1378 card number is included in a court file, such number may be included as part of the court record
1379 available for public inspection and copying unless redaction is requested by the holder of such
1380 number or by the holder's attorney or legal guardian.

1381

1382 (b) A request for redaction must be a signed, legibly written request specifying the case name,
1383 case number, document heading, and page number. The request must be delivered by mail,
1384 facsimile, electronic transmission, or in person to the clerk of the court. The clerk of the court
1385 does not have a duty to inquire beyond the written request to verify the identity of a person
1386 requesting redaction.

1387

1388 (c) A fee may not be charged for the redaction of a social security number or a bank account,
1389 debit, charge, or credit card number pursuant to such request.

1390

1391 (d) The clerk of the court has no liability for the inadvertent release of social security numbers,
1392 or bank account, debit, charge, or credit card numbers, unknown to the clerk of the court in
1393 court records filed on or before January 1, 2011.

1394

1395 (e)1. On January 1, 2011, and thereafter, the clerk of the court must keep social security
1396 numbers confidential and exempt as provided for in c. 66 § 5(5)(a), and bank account, debit,
1397 charge, and credit card numbers exempt as provided for in c. 66 § 5(5)(b), without any person
1398 having to request redaction.

1399

1400 2. Section 66 § 5(5)(a)7 and 8 does not apply to the clerks of the court with respect to court
1401 records.

1402

1403 (3) OFFICIAL RECORDS

1404

1405 (a) Any person who prepares or files a record for recording in the official records may not
1406 include in that record a social security number or a bank account, debit, charge, or credit card
1407 number unless otherwise expressly required by law.

1408

1409 (b)1. If a social security number or a bank account, debit, charge, or credit card number is
1410 included in an official record, such number may be made available as part of the official records
1411 available for public inspection and copying unless redaction is requested by the holder of such
1412 number or by the holder's attorney or legal guardian.

1413

1414 2. If such record is in electronic format, on January 1, 2011, and thereafter, the county recorder
1415 must use his or her best effort, as provided in paragraph (h), to keep social security numbers
1416 confidential and exempt as provided for in c. 66 § 5(5)(a), and to keep complete bank account,

1417 debit, charge, and credit card numbers exempt as provided for in c. 66 § 5(5)(b), without any
1418 person having to request redaction.

1419

1420 3. Section 66 § 5(5)(a)7 and 8 does not apply to the county recorder with respect to official
1421 records.

1422

1423 (c) The holder of a social security number or a bank account, debit, charge, or credit card
1424 number, or the holder's attorney or legal guardian, may request that a county recorder redact
1425 from an image or copy of an official record placed on a county recorder's publicly available
1426 Internet website or on a publicly available Internet website used by a county recorder to display
1427 public records, or otherwise made electronically available to the public, his or her social
1428 security number or bank account, debit, charge, or credit card number contained in that official
1429 record.

1430

1431 (d) A request for redaction must be a signed, legibly written request and must be delivered by
1432 mail, facsimile, electronic transmission, or in person to the county recorder. The request must
1433 specify the identification page number of the record that contains the number to be redacted.

1434

1435 (e) The county recorder does not have a duty to inquire beyond the written request to verify
1436 the identity of a person requesting redaction.

1437

1438 (f) A fee may not be charged for redacting a social security number or a bank account, debit,
1439 charge, or credit card number.

1440

1441 (g) A county recorder shall immediately and conspicuously post signs throughout his or her
1442 offices for public viewing, and shall immediately and conspicuously post on any Internet
1443 website or remote electronic site made available by the county recorder and used for the
1444 ordering or display of official records or images or copies of official records, a notice stating, in
1445 substantially similar form, the following:

1446

1447 1. On or after October 1, 2002, any person preparing or filing a record for recordation in the
1448 official records may not include a social security number or a bank account, debit, charge, or
1449 credit card number in such document unless required by law.

1450

1451 2. Any person has a right to request a county recorder to remove from an image or copy of an
1452 official record placed on a county recorder's publicly available Internet website or on a publicly
1453 available Internet website used by a county recorder to display public records, or otherwise
1454 made electronically available to the general public, any social security number contained in an
1455 official record. Such request must be made in writing and delivered by mail, facsimile, or
1456 electronic transmission, or delivered in person, to the county recorder. The request must
1457 specify the identification page number that contains the social security number to be redacted.
1458 A fee may not be charged for the redaction of a social security number pursuant to such a
1459 request.

1460

1461 (h) If the county recorder accepts or stores official records in an electronic format, the county
1462 recorder must use his or her best efforts to redact all social security numbers and bank account,
1463 debit, charge, or credit card numbers from electronic copies of the official record. The use of an
1464 automated program for redaction shall be deemed to be the best effort in performing the
1465 redaction and shall be deemed in compliance with the requirements of this subsection.

1466

1467 (i) The county recorder is not liable for the inadvertent release of social security numbers, or
1468 bank account, debit, charge, or credit card numbers, filed with the county recorder.

1469

1470

1471 **66 § 10 Copyright of data processing software created by governmental agencies; sale price**
1472 **and licensing fee**

1473

1474 (1) As used in this section, "agency" has the same meaning as in c. 66 § 2(2), except that the
1475 term does not include any private agency, person, partnership, corporation, or business entity.

1476

1477 (2) An agency is authorized to acquire and hold a copyright for data processing software
1478 created by the agency and to enforce its rights pertaining to such copyright, provided that the
1479 agency complies with the requirements of this subsection.

1480

1481 (a) An agency that has acquired a copyright for data processing software created by the agency
1482 may sell or license the copyrighted data processing software to any public agency or private
1483 person. The agency may establish a price for the sale and a licensing fee for the use of such data
1484 processing software that may be based on market considerations. However, the prices or fees
1485 for the sale or licensing of copyrighted data processing software to an individual or entity solely
1486 for application to information maintained or generated by the agency that created the
1487 copyrighted data processing software shall be determined pursuant to c. 66 § 4(4).

1488

1489 (b) Proceeds from the sale or licensing of copyrighted data processing software shall be
1490 deposited by the agency into a trust fund for the agency's appropriate use for authorized
1491 purposes. Counties, municipalities, and other political subdivisions of the state may designate
1492 how such sale and licensing proceeds are to be used.

1493

1494 (c) The provisions of this subsection are supplemental to, and shall not supplant or repeal, any
1495 other provision of law that authorizes an agency to acquire and hold copyrights.

1496

1497

1498 **66 § 11 Registration by federal employer's registration number**

1499

1500 Each state agency which registers or licenses corporations, partnerships, or other business
1501 entities shall include, by July 1, 1978, within its numbering system, the federal employer's
1502 identification number of each corporation, partnership, or other business entity registered or
1503 licensed by it. Any state agency may maintain a dual numbering system in which the federal
1504 employer's identification number or the state agency's own number is the primary
1505 identification number; however, the records of such state agency shall be designed in such a
1506 way that the record of any business entity is subject to direct location by the federal employer's
1507 identification number. The Department of State shall keep a registry of federal employer's

1508 identification numbers of all business entities, registered with the Division of Corporations,
1509 which registry of numbers may be used by all state agencies.

1510

1511

1512 **66 § 12 Violation of chapter; penalties**

1513

1514 (1) Any public officer who:

1515

1516 (a) Violates any provision of this chapter commits a noncriminal infraction, punishable by fine
1517 not exceeding \$500.

1518

1519 (b) Knowingly violates the provisions of c. 66 § 4(1) is subject to suspension and removal or
1520 impeachment and, in addition, commits a misdemeanor of the first degree, punishable by law.

1521

1522 (2) Any person who willfully and knowingly violates:

1523

1524 (a) Any of the provisions of this chapter commits a misdemeanor of the first degree, punishable
1525 by law.

1526

1527 (b) Section 66 § 13 commits a felony of the third degree, punishable by law.

1528

1529

1530 **66 § 13 Protection of victims of crimes or accidents**

1531

1532 Police reports are public records except as otherwise made exempt or confidential. Every
1533 person is allowed to examine nonexempt or nonconfidential police reports. A person who
1534 comes into possession of exempt or confidential information contained in police reports may

1535 not use that information for any commercial solicitation of the victims or relatives of the victims
1536 of the reported crimes or accidents and may not knowingly disclose such information to any
1537 third party for the purpose of such solicitation during the period of time that information
1538 remains exempt or confidential. This section does not prohibit the publication of such
1539 information to the general public by any news media legally entitled to possess that
1540 information or the use of such information for any other data collection or analysis purposes by
1541 those entitled to possess that information.

1542

1543

1544 **66 § 14 Accelerated hearing; immediate compliance**

1545

1546 (1) Whenever an action is filed to enforce the provisions of this chapter, the court shall set an
1547 immediate hearing, giving the case priority over other pending cases.

1548

1549 (2) Whenever a court orders an agency to open its records for inspection in accordance with
1550 this chapter, the agency shall comply with such order within 48 hours, unless otherwise
1551 provided by the court issuing such order, or unless the appellate court issues a stay order within
1552 such 48-hour period.

1553

1554 (3) A stay order shall not be issued unless the court determines that there is a substantial
1555 probability that opening the records for inspection will result in significant damage.

1556

1557 (4) Upon service of a complaint, counterclaim, or cross-claim in a civil action brought to enforce
1558 the provisions of this chapter, the custodian of the public record that is the subject matter of
1559 such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public
1560 record sought to be inspected and examined, notwithstanding the applicability of an exemption
1561 or the assertion that the requested record is not a public record subject to inspection and
1562 examination under c. 66 § 4(1), until the court directs otherwise. The person who has custody
1563 of such public record may, however, at any time permit inspection of the requested record as
1564 provided in c. 66 § 4(1) and other provisions of law.

1565

1566

1567 **66 § 15 Attorney's fees**

1568

1569 If a civil action is filed against an agency to enforce the provisions of this chapter and if the
1570 court determines that such agency unlawfully refused to permit a public record to be inspected
1571 or copied, the court shall assess and award, against the agency responsible, the reasonable
1572 costs of enforcement including reasonable attorneys' fees.

1573

1574

1575 **66 § 16 Legislative review of exemptions from public meeting and public records**
1576 **requirements**

1577

1578 (1) This section may be cited as the "Public Record Law."

1579

1580 (2) This section provides for the review and repeal or reenactment of an exemption from c. 66 §
1581 4(1). This act does not apply to an exemption that:

1582

1583 (a) Is required by federal law; or

1584

1585 (b) Applies solely to the Legislature or the State Court System.

1586

1587 (3) In the 5th year after enactment of a new exemption or substantial amendment of an
1588 existing exemption, the exemption shall be repealed on October 2nd of the 5th year, unless the
1589 Legislature acts to reenact the exemption.

1590

1591 (4)(a) A law that enacts a new exemption or substantially amends an existing exemption must
1592 state that the record or meeting is:

1593

1594 1. Exempt from the State Constitution;

1595

1596 2. Exempt from c. 66 § 4(1); and

1597

1598 3. Repealed at the end of 5 years and that the exemption must be reviewed by the Legislature
1599 before the scheduled repeal date.

1600

1601 (b) For purposes of this section, an exemption is substantially amended if the amendment
1602 expands the scope of the exemption to include more records or information or to include
1603 meetings as well as records. An exemption is not substantially amended if the amendment
1604 narrows the scope of the exemption.

1605

1606 (c) This section is not intended to repeal an exemption that has been amended following
1607 legislative review before the scheduled repeal of the exemption if the exemption is not
1608 substantially amended as a result of the review.

1609

1610 (5)(a) As part of the review process, the Legislature shall consider the following:

1611

1612 1. What specific records or meetings are affected by the exemption?

1613

1614 2. Whom does the exemption uniquely affect, as opposed to the general public?

1615

1616 3. What is the identifiable public purpose or goal of the exemption?

1617

1618 4. Can the information contained in the records or discussed in the meeting be readily obtained
1619 by alternative means? If so, how?

1620

1621 5. Is the record or meeting protected by another exemption?

1622

1623 6. Are there multiple exemptions for the same type of record or meeting that it would be
1624 appropriate to merge?

1625

1626 (b) An exemption may be created, revised, or maintained only if it serves an identifiable public
1627 purpose, and the exemption may be no broader than is necessary to meet the public purpose it
1628 serves. An identifiable public purpose is served if the exemption meets one of the following
1629 purposes and the Legislature finds that the purpose is sufficiently compelling to override the
1630 strong public policy of open government and cannot be accomplished without the exemption:

1631

1632 1. Allows the state or its political subdivisions to effectively and efficiently administer a
1633 governmental program, which administration would be significantly impaired without the
1634 exemption;

1635

1636 2. Protects information of a sensitive personal nature concerning individuals, the release of
1637 which information would be defamatory to such individuals or cause unwarranted damage to
1638 the good name or reputation of such individuals or would jeopardize the safety of such
1639 individuals. However, in exemptions under this subparagraph, only information that would
1640 identify the individuals may be exempted; or

1641

1642 3. Protects information of a confidential nature concerning entities, including, but not limited
1643 to, a formula, pattern, device, combination of devices, or compilation of information which is
1644 used to protect or further a business advantage over those who do not know or use it, the
1645 disclosure of which information would injure the affected entity in the marketplace.

1646

1647 (6) Records made before the date of a repeal of an exemption under this section may not be
1648 made public unless otherwise provided by law. In deciding whether the records shall be made
1649 public, the Legislature shall consider whether the damage or loss to persons or entities uniquely

1650 affected by the exemption of the type specified in subparagraph (6)(b)2.or subparagraph
1651 (6)(b)3 would occur if the records were made public.

1652

1653 (7) Notwithstanding any other law, neither the state or its political subdivisions nor any other
1654 public body shall be made party to any suit in any court or incur any liability for the repeal or
1655 revival and reenactment of an exemption under this section. The failure of the Legislature to
1656 comply strictly with this section does not invalidate an otherwise valid reenactment.

1657