SENATE DOCKET, NO. 1580 FILED ON: 1/21/2011

SENATE . . . . . No. 1563

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:

An Act relative to the public records law "The Massachusetts Sunshine Bill".

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stefano Picciotto	*418 Lafayette St.* *Salem, MA 01970*

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SENATE . . . . . No. 1563

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

The Commonwealth of Massachusetts

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:

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 Chapter 66 is hereby repealed and is replaced by the following language:

CHAPTER 66

PUBLIC RECORDS

THE MASSACHUSETTS SUNSHINE BILL

66 § 1 General state policy on public records.

66 § 2 Definitions.

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

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

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

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

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

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

19 66 § 9 Court files; court records; official records.

20 66 § 10 Copyright of data processing software created by governmental agencies; sale
21 price and licensing fee.

22 66 § 11 Registration by federal employer's registration number.

23 66 § 12 Violation of chapter; penalties.

24 66 § 13 Protection of victims of crimes or accidents.

25 66 § 14 Accelerated hearing; immediate compliance.

26 66 § 15 Attorney's fees.

27 66 § 16 Legislative review of exemptions from public meeting and public records
28 requirements.

29 66 § 1 General state policy on public records

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

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

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

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

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

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

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

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

65 66 § 2 Definitions

66 As used in this chapter, the term:

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

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

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

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

84 (c) "Criminal intelligence information" and "criminal investigative information" shall not
85 include:

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

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

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

90 4. The crime charged.

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

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

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

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

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

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

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

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

114 (4) "Criminal justice agency" means:

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

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

117 (c) Any agency having custody of criminal intelligence information or criminal
118 investigative information for the purpose of assisting such law enforcement agencies in the
119 conduct of active criminal investigation or prosecution or for the purpose of litigating civil
120 actions under the Racketeer Influenced and Corrupt Organization Act, during the time that such
121 agencies are in possession of criminal intelligence information or criminal investigative
122 information pursuant to their criminal law enforcement duties; or

123 (d) The Department of Corrections.

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

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

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

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

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

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

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

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

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

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

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

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

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

160 66 § 3 Custodial requirements; maintenance, preservation, and retention of public records

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

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

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

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

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

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

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

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

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

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

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

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

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

206 66 § 4 Inspection and copying of records; photographing public records; fees; exemptions

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

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

214 (c) A custodian of public records and his or her designee must acknowledge requests to
215 inspect or copy records promptly and respond to such requests in good faith. A good faith

216 response includes making reasonable efforts to determine from other officers or employees
217 within the agency whether such a record exists and, if so, the location at which the record can be
218 accessed.

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

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

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

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

237 (h) Even if an assertion is made by the custodian of public records that a requested record
238 is not a public record subject to public inspection or copying under this subsection, the requested
239 record shall, nevertheless, not be disposed of for a period of 30 days after the date on which a
240 written request to inspect or copy the record was served on or otherwise made to the custodian of
241 public records by the person seeking access to the record. If a civil action is instituted within the
242 30-day period to enforce the provisions of this section with respect to the requested record, the
243 custodian of public records may not dispose of the record except by order of a court of
244 competent jurisdiction after notice to all affected parties.

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

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

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

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

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

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

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

271 (d) Photographing of public records shall be done in the room where the public records
272 are kept. If, in the judgment of the custodian of public records, this is impossible or
273 impracticable, photographing shall be done in another room or place, as nearly adjacent as
274 possible to the room where the public records are kept, to be determined by the custodian of
275 public records. Where provision of another room or place for photographing is required, the
276 expense of providing the same shall be paid by the person desiring to photograph the public
277 record pursuant to paragraph (4)(e).

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

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

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

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

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

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

289 (d) If the nature or volume of public records requested to be inspected or copied pursuant
290 to this subsection is such as to require extensive use of information technology resources or
291 extensive clerical or supervisory assistance by personnel of the agency involved, or both, the
292 agency may charge, in addition to the actual cost of duplication, a special service charge, which
293 shall be reasonable and shall be based on the cost incurred for such extensive use of information
294 technology resources or the labor cost of the personnel providing the service that is actually
295 incurred by the agency or attributable to the agency for the clerical and supervisory assistance
296 required, or both.

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

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

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

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

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

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

322 66 § 5 General exemptions from inspection or copying of public records

323 (1) AGENCY ADMINISTRATION

324 (a) Examination questions and answer sheets of examinations administered by a
325 governmental

326 agency for the purpose of licensure, certification, or employment are exempt from c. 66 §
327 4(1).

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

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

334 b. If an agency rejects all bids or proposals submitted in response to an invitation to bid
335 or request for proposals and the agency concurrently provides notice of its intent to reissue the
336 invitation to bid or request for proposals, the rejected bids or proposals remain exempt from c. 66
337 § 4(1) until such time as the agency provides notice of a decision or intended decision
338 concerning the reissued invitation to bid or request for proposals or until the agency withdraws
339 the reissued invitation to bid or request for proposals. This sub-subparagraph is subject to the
340 Public Record Law in accordance with c. 66 § 16.

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

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

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

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

355 (d)1. A public record that was prepared by an agency attorney (including an attorney
356 employed or retained by the agency or employed or retained by another public officer or agency
357 to protect or represent the interests of the agency having custody of the record) or prepared at the
358 attorney's express direction, that reflects a mental impression, conclusion, litigation strategy, or
359 legal theory of the attorney or the agency, and that was prepared exclusively for civil or criminal
360 litigation or for adversarial administrative proceedings, or that was prepared in anticipation of
361 imminent civil or criminal litigation or imminent adversarial administrative proceedings, is
362 exempt from c. 66 § 4(1) until the conclusion of the litigation or adversarial administrative
363 proceedings. For purposes of capital collateral litigation, the Attorney General's office is entitled
364 to claim this exemption for those public records prepared for direct appeal as well as for all
365 capital collateral litigation after direct appeal until execution of sentence or imposition of a life
366 sentence.

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

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

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

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

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

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

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

395 (2) AGENCY INVESTIGATIONS

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

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

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

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

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

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

418 (d) Any information revealing surveillance techniques or procedures or personnel is
419 exempt from c. 66 § 4(1). Any comprehensive inventory of state and local law enforcement
420 resources compiled, and any comprehensive policies or plans compiled by a criminal justice

421 agency pertaining to the mobilization, deployment, or tactical operations involved in responding
422 to emergencies, are exempt from c. 66 § 4(1) and unavailable for inspection, except by personnel
423 authorized by a state or local law enforcement agency, or any other governmental office that has
424 an official need for access to the inventory or comprehensive policies or plans.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

467 (j)1. Any document that reveals the identity, home or employment telephone number,
468 home or employment address, or personal assets of the victim of a crime and identifies that
469 person as the victim of a crime, which document is received by any agency that regularly
470 receives information from or concerning the victims of crime, is exempt from c. 66 § 4(1). Any
471 information not otherwise held confidential or exempt from c. 66 § 4(1) which reveals the home
472 or employment telephone number, home or employment address, or personal assets of a person
473 who has been the victim of sexual battery, aggravated child abuse, aggravated stalking,
474 harassment, aggravated battery, or domestic violence is exempt from c. 66 § 4(1), upon written
475 request by the victim, which must include official verification that an applicable crime has
476 occurred. Such information shall cease to be exempt 5 years after the receipt of the written
477 request. Any state or federal agency that is authorized to have access to such documents by any
478 provision of law shall be granted such access in the furtherance of such agency's statutory duties,
479 notwithstanding this section.

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

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

497 (3) SECURITY

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

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

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

503 c. Threat response plans;

504 d. Emergency evacuation plans;

505 e. Sheltering arrangements; or

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

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

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

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

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

516 a. The property owner or leaseholder; or

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

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

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

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

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

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

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

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

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

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

551 a. For single-performance facilities:

552 (I) Provides single-performance facilities; or

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

554 b. For serial-performance facilities:

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

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

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

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

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

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

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

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

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

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

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

580 6. "Hotel or motel development" means any hotel or motel development that
581 accommodates 350 or more units.

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

585 (4) AGENCY PERSONNEL INFORMATION

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

588 2. An agency that is the custodian of a social security number specified in subparagraph
589 1, and that is not the employing agency shall maintain the exempt status of the social security
590 number only if the employee or the employing agency of the employee submits a written request
591 for confidentiality to the custodial agency. However, upon a request by a commercial entity as
592 provided in sub-subparagraph (5)(a)7.b., the custodial agency shall release the last four digits of
593 the exempt social security number, except that a social security number provided in a lien filed
594 with the Department of State shall be released in its entirety. This subparagraph is subject to the
595 Public Record Law in accordance with c. 66 § 16.

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

601 (c) Any information revealing undercover personnel of any criminal justice agency is
602 exempt

603 from c. 66 § 4(1).

604 (d)1.a. The home addresses, telephone numbers, social security numbers, and
605 photographs of active or former law enforcement personnel, including correctional and
606 correctional probation officers, personnel of the Department of Children and Family Services
607 whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other
608 criminal activities, personnel of the Department of Health whose duties are to support the
609 investigation of child abuse or neglect, and personnel of the Department of Revenue or local
610 governments whose responsibilities include revenue collection and enforcement or child support
611 enforcement; the home addresses, telephone numbers, social security numbers, photographs, and
612 places of employment of the spouses and children of such personnel; and the names and
613 locations of schools and day care facilities attended by the children of such personnel are exempt
614 from c. 66 § 4(1). The home addresses, telephone numbers, and photographs of firefighters; the
615 home addresses, telephone numbers, photographs, and places of employment of the spouses and
616 children of such firefighters; and the names and locations of schools and day care facilities
617 attended by the children of such firefighters are exempt from c. 66 § 4(1). The home addresses
618 and telephone numbers of justices of the Supreme Judicial Court, Appeals Court, Superior
619 Courts, District Courts, Boston Municipal Court, Family and Probate Courts, Land Courts,
620 Housing Courts, justices and judges; the home addresses, telephone numbers, and places of
621 employment of the spouses and children of justices and judges; and the names and locations of
622 schools and day care facilities attended by the children of justices and judges are exempt from c.

623 66 § 4(1). The home addresses, telephone numbers, social security numbers, and photographs of
624 current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant
625 statewide prosecutors; the home addresses, telephone numbers, social security numbers,
626 photographs, and places of employment of the spouses and children of current or former state
627 attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and
628 the names and locations of schools and day care facilities attended by the children of current or
629 former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide
630 prosecutors are exempt from c. 66 § 4(1).

631 b. The home addresses and telephone numbers of general magistrates, special
632 magistrates, judges of compensation claims, administrative law judges of the Workmens
633 Compensation Board, Massachusetts Commission Against Discrimination, and child support
634 enforcement hearing officers; the home addresses, telephone numbers, and places of employment
635 of the spouses and children of general magistrates, special magistrates, judges of compensation
636 claims, administrative law judges of the Workmens Compensation Board, and child support
637 enforcement hearing officers; and the names and locations of schools and day care facilities
638 attended by the children of general magistrates, special magistrates, judges of compensation
639 claims, administrative law judges of the Workmens Compensation Board, and child support
640 enforcement hearing officers are exempt from c. 66 § 4(1) if the general magistrate, special
641 magistrate, judge of compensation claims, administrative law judge of the Workmens
642 Compensation Board, or child support hearing officer provides a written statement that the
643 general magistrate, special magistrate, judge of compensation claims, administrative law judge of
644 the Workmens Compensation Board, Massachusetts Commission of Discrimination, or child
645 support hearing officer has made reasonable efforts to protect such information from being
646 accessible through other means available to the public. This sub-subparagraph is subject to the
647 Public Record Law in accordance with c. 66 § 16.

648 2. The home addresses, telephone numbers, and photographs of current or former human
649 resource, labor relations, or employee relations directors, assistant directors, managers, or
650 assistant managers of any local government agency or water management district whose duties
651 include hiring and firing employees, labor contract negotiation, administration, or other
652 personnel-related duties; the names, home addresses, telephone numbers, and places of
653 employment of the spouses and children of such personnel; and the names and locations of
654 schools and day care facilities attended by the children of such personnel are exempt from c. 66 §
655 4(1).

656 3. The home addresses, telephone numbers, social security numbers, and photographs of
657 current or former United States attorneys and assistant United States attorneys; the home
658 addresses, telephone numbers, social security numbers, photographs, and places of employment
659 of the spouses and children of current or former United States attorneys and assistant United
660 States attorneys; and the names and locations of schools and day care facilities attended by the
661 children of current or former United States attorneys and assistant United States attorneys are

662 exempt from c. 66 § 4(1). This subparagraph is subject to the Public Record Law in accordance
663 with c. 66 §16. .

664 4. The home addresses, telephone numbers, social security numbers, and photographs of
665 current or former judges of United States Courts of Appeal, United States district judges, and
666 United States magistrate judges; the home addresses, telephone numbers, social security
667 numbers, photographs, and places of employment of the spouses and children of current or
668 former judges of United States Courts of Appeal, United States district judges, and United States
669 magistrate judges; and the names and locations of schools and day care facilities attended by the
670 children of current or former judges of United States Courts of Appeal, United States district
671 judges, and United States magistrate judges are exempt from c. 66 § 4(1) and s. 24(a), Art. I of
672 the State Constitution. This subparagraph is subject to the Public Record Law in accordance
673 with c. 66 § 16.

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

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

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

694 8. An agency that is the custodian of the personal information specified in subparagraph
695 1., subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., subparagraph 6., or
696 subparagraph 7, and that is not the employer of the officer, employee, justice, judge, or other
697 person specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4.,
698 subparagraph 5., subparagraph 6., or subparagraph 7. shall maintain the exempt status of the

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

702 (5) OTHER PERSONAL INFORMATION

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

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

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

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

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

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

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

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

723 4.a. Each agency shall review whether its collection of social security numbers is in
724 compliance with subparagraph 2. If the agency determines that collection of a social security
725 number is not in compliance with subparagraph 2., the agency shall immediately discontinue the
726 collection of social security numbers for that purpose.

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

729 5. Social security numbers held by an agency are confidential and exempt from c. 66 §
730 4(1). This exemption applies to social security numbers held by an agency before, on, or after the
731 effective date of this exemption.

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

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

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

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

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

750 (I) Be verified

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

804 (d) All records supplied by a telecommunications company, to an agency which contain
805 the name, address, and telephone number of subscribers are confidential and exempt from c. 66 §
806 4(1).

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

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

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

821 a. Any record of friction ridge detail;

822 b. Fingerprints;

823 c. Palm prints; and

824 d. Footprints.

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

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

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

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

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

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

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

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

838 4. This paragraph is subject to the Public Record Law in accordance with c. 66 § 16. 66
839 § 6 Executive branch agency exemptions from inspection or copying of public recordsWhen an
840 agency of the executive branch of state government seeks to acquire real property by purchase or
841 through the exercise of the power of eminent domain, all appraisals, other reports relating to
842 value, offers, and counteroffers must be in writing and are exempt from c. 66 § 4(1) until
843 execution of a valid option contract or a written offer to sell that has been conditionally accepted
844 by the agency, at which time the exemption shall expire. The agency shall not finally accept the
845 offer for a period of 30 days in order to allow public review of the transaction. The agency may
846 give conditional acceptance to any option or offer subject only to final acceptance by the agency
847 after the 30-day review period. If a valid option contract is not executed, or if a written offer to
848 sell is not conditionally accepted by the agency, then the exemption shall expire at the conclusion
849 of the condemnation litigation of the subject property. An agency of the executive branch may
850 exempt title information, including names and addresses of property owners whose property is
851 subject to acquisition by purchase or through the exercise of the power of eminent domain, from
852 c. 66 § 4(1) to the same extent as appraisals, other reports relating to value, offers, and
853 counteroffers. For the purpose of this subsection, the term "option contract" means an agreement
854 of an agency of the executive branch of state government to purchase real property subject to
855 final agency approval. This subsection has no application to other exemptions from c. 66 § 4(1)
856 which are contained in other provisions of law and shall not be construed to be an express or
857 implied repeal thereof.

858 66 § 7 Executive branch agency-specific exemptions from inspection or copying of
859 public records

860 (1) DEPARTMENT OF HEALTH

861 All personal identifying information contained in records relating to an individual's
862 personal health or eligibility for health-related services held by the Department of Health is

863 confidential and exempt from c. 66 § 4(1), except as otherwise provided in this subsection.
864 Information made confidential and exempt by this subsection shall be disclosed:

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

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

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

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

881 (2) DEPARTMENT OF REGISTRY OF MOTOR VEHICLES

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

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

893 1. For use in connection with matters of motor vehicle or driver safety and theft; motor
894 vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance
895 monitoring of motor vehicles and dealers by motor vehicle manufacturers; and removal of
896 nonowner records from the original owner records of motor vehicle manufacturers, to carry out
897 the purposes of Titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information

898 Disclosure Act (15 U.S.C. ss. 1231 et seq.), the Clean Air Act (42 U.S.C. ss. 7401 et seq.), and
899 chapters 301, 305, and 321-331 of Title 49, United States Code.

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

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

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

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

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

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

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

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

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

925 d. Execution or enforcement of judgments and orders.

926 e. Compliance with an order of any court.

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

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

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

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

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

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

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

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

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

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

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

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

954 2. An individual's photograph or image may be released only for state departmental
955 administrative purposes; for the issuance of duplicate licenses; in response to law enforcement
956 agency requests; to the Registry of Motor Vehicles pursuant to an interagency agreement to
957 facilitate determinations of eligibility of voter registration applicants and registered voters in
958 accordance; to the Department of Revenue pursuant to an interagency agreement for use in
959 establishing paternity and establishing, modifying, or enforcing support obligations in Title IV-D
960 cases; to the Department of Social Services pursuant to an interagency agreement to conduct
961 protective investigations; or to the Office of the State Treasurer, pursuant to an interagency

962 agreement to facilitate the location of owners of unclaimed property, the validation of unclaimed
963 property claims, and the identification of fraudulent or false claims.

964 3. Medical disability information is exempt from disclosure.

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

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

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

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

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

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

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

998 66 § 8 Local government agency exemptions from inspection or copying of public
999 records

1000 (1) All complaints and other records in the custody of any unit of local government which
1001 relate to a complaint of discrimination relating to race, color, religion, sex, national origin, age,
1002 handicap, marital status, sale or rental of housing, the provision of brokerage services, or the
1003 financing of housing are exempt from c. 66 § 4(1) until a finding is made relating to probable
1004 cause, the investigation of the complaint becomes inactive, or the complaint or other record is
1005 made part of the official record of any hearing or court proceeding. This provision shall not
1006 affect any function or activity of any state or federal agency that is authorized to have access to
1007 such complaints or records by any provision of law shall be granted such access in the
1008 furtherance of such agency's statutory duties. This subsection shall not be construed to modify or
1009 repeal any special or local act.

1010 (2) The audit report of an internal auditor prepared for or on behalf of a unit of local
1011 government becomes a public record when the audit becomes final. As used in this subsection,
1012 the term "unit of local government" means a county, municipality, special district, local agency,
1013 authority, consolidated city-county government, or any other local governmental body or public
1014 body corporate or politic authorized or created by general or special law. An audit becomes final
1015 when the audit report is presented to the unit of local government. Audit workpapers and notes
1016 related to such audit report are confidential and exempt from c. 66 § 4(1) until the audit is
1017 completed and the audit report becomes final.

1018 (3) Any data, record, or document used directly or solely by a municipally owned utility
1019 to prepare and submit a bid relative to the sale, distribution, or use of any service, commodity, or
1020 tangible personal property to any customer or prospective customer is exempt from c. 66 § 4(1).
1021 This exemption commences when a municipal utility identifies in writing a specific bid to which
1022 it intends to respond. This exemption no longer applies when the contract for sale, distribution,
1023 or use of the service, commodity, or tangible personal property is executed, a decision is made
1024 not to execute such contract, or the project is no longer under active consideration. The
1025 exemption in this subsection includes the bid documents actually furnished in response to the
1026 request for bids. However, the exemption for the bid documents submitted no longer applies after
1027 the bids are opened by the customer or prospective customer.

1028 66 § 9 Court files; court records; official records

1029 (1) COURT FILES

1030 Nothing in this chapter shall be construed to exempt from c. 66 § 4(1) a public record that
1031 was made a part of a court file and that is not specifically closed by order of court, except:

1032 (a) A public record that was prepared by an agency attorney or prepared at the attorney's
1033 express direction as provided in c. 66 § 5(1)(d).

1034 (b) Data processing software as provided in c. 66 § 5(1)(f).

1035 (c) Any information revealing surveillance techniques or procedures or personnel as
1036 provided in c. 66 § 5(2)(d).

1037 (d) Any comprehensive inventory of state and local law enforcement resources, and any
1038 comprehensive policies or plans compiled by a criminal justice agency, as provided in c. 66 §
1039 5(2)(d).

1040 (e) Any information revealing the substance of a confession of a person arrested as
1041 provided in c. 66 § 5(2)(e).

1042 (f) Any information revealing the identity of a confidential informant or confidential
1043 source as provided in c. 66 § 5(2)(f).

1044 (g) Any information revealing undercover personnel of any criminal justice agency as
1045 provided in c. 66 § 5(4)(c).

1046 (h) Criminal intelligence information or criminal investigative information that is
1047 confidential and exempt as provided in c. 66 § 5(2)(h).

1048 (i) Social security numbers as provided in c. 66 § 5(5)(a).

1049 (j) Bank account numbers and debit, charge, and credit card numbers as provided in c. 66
1050 § 5(5)(b).

1051 (2) COURT RECORDS

1052 (a) Until January 1, 2011, if a social security number or a bank account, debit, charge, or
1053 credit card number is included in a court file, such number may be included as part of the court
1054 record available for public inspection and copying unless redaction is requested by the holder of
1055 such number or by the holder's attorney or legal guardian.

1056 (b) A request for redaction must be a signed, legibly written request specifying the case
1057 name, case number, document heading, and page number. The request must be delivered by
1058 mail, facsimile, electronic transmission, or in person to the clerk of the court. The clerk of the
1059 court does not have a duty to inquire beyond the written request to verify the identity of a person
1060 requesting redaction.

1061 (c) A fee may not be charged for the redaction of a social security number or a bank
1062 account, debit, charge, or credit card number pursuant to such request.

1063 (d) The clerk of the court has no liability for the inadvertent release of social security
1064 numbers, or bank account, debit, charge, or credit card numbers, unknown to the clerk of the
1065 court in court records filed on or before January 1, 2011.

1066 (e)1. On January 1, 2011, and thereafter, the clerk of the court must keep social security
1067 numbers confidential and exempt as provided for in c. 66 § 5(5)(a), and bank account, debit,
1068 charge, and credit card numbers exempt as provided for in c. 66 § 5(5)(b), without any person
1069 having to request redaction.

1070 2. Section 66 § 5(5)(a)7and 8 does not apply to the clerks of the court with respect to
1071 court records.

1072 (3) OFFICIAL RECORDS

1073 (a) Any person who prepares or files a record for recording in the official records may not
1074 include in that record a social security number or a bank account, debit, charge, or credit card
1075 number unless otherwise expressly required by law.

1076 (b)1. If a social security number or a bank account, debit, charge, or credit card number is
1077 included in an official record, such number may be made available as part of the official records
1078 available for public inspection and copying unless redaction is requested by the holder of such
1079 number or by the holder's attorney or legal guardian.

1080 2. If such record is in electronic format, on January 1, 2011, and thereafter, the county
1081 recorder must use his or her best effort, as provided in paragraph (h), to keep social security
1082 numbers confidential and exempt as provided for in c. 66 § 5(5)(a), and to keep complete bank
1083 account, debit, charge, and credit card numbers exempt as provided for in c. 66 § 5(5)(b),
1084 without any person having to request redaction.

1085 3. Section 66 § 5(5)(a)7 and 8 does not apply to the county recorder with respect to
1086 official records.

1087 (c) The holder of a social security number or a bank account, debit, charge, or credit card
1088 number, or the holder's attorney or legal guardian, may request that a county recorder redact
1089 from an image or copy of an official record placed on a county recorder's publicly available
1090 Internet website or on a publicly available Internet website used by a county recorder to display
1091 public records, or otherwise made electronically available to the public, his or her social security
1092 number or bank account, debit, charge, or credit card number contained in that official record.

1093 (d) A request for redaction must be a signed, legibly written request and must be
1094 delivered by mail, facsimile, electronic transmission, or in person to the county recorder. The
1095 request must specify the identification page number of the record that contains the number to be
1096 redacted.

1097 (e) The county recorder does not have a duty to inquire beyond the written request to
1098 verify the identity of a person requesting redaction.

1099 (f) A fee may not be charged for redacting a social security number or a bank account,
1100 debit, charge, or credit card number.

1101 (g) A county recorder shall immediately and conspicuously post signs throughout his or
1102 her offices for public viewing, and shall immediately and conspicuously post on any Internet
1103 website or remote electronic site made available by the county recorder and used for the ordering
1104 or display of official records or images or copies of official records, a notice stating, in
1105 substantially similar form, the following:

1106 1. On or after October 1, 2002, any person preparing or filing a record for recordation in
1107 the official records may not include a social security number or a bank account, debit, charge, or
1108 credit card number in such document unless required by law.

1109 2. Any person has a right to request a county recorder to remove from an image or copy
1110 of an official record placed on a county recorder's publicly available Internet website or on a
1111 publicly available Internet website used by a county recorder to display public records, or
1112 otherwise made electronically available to the general public, any social security number
1113 contained in an official record. Such request must be made in writing and delivered by mail,
1114 facsimile, or electronic transmission, or delivered in person, to the county recorder. The request
1115 must specify the identification page number that contains the social security number to be
1116 redacted. A fee may not be charged for the redaction of a social security number pursuant to such
1117 a request.

1118 (h) If the county recorder accepts or stores official records in an electronic format, the
1119 county recorder must use his or her best efforts to redact all social security numbers and bank
1120 account, debit, charge, or credit card numbers from electronic copies of the official record. The
1121 use of an automated program for redaction shall be deemed to be the best effort in performing
1122 the redaction and shall be deemed in compliance with the requirements of this subsection.

1123 (i) The county recorder is not liable for the inadvertent release of social security numbers,
1124 or bank account, debit, charge, or credit card numbers, filed with the county recorder.

1125 66 § 10 Copyright of data processing software created by governmental agencies; sale
1126 price and licensing fee

1127 (1) As used in this section, "agency" has the same meaning as in c. 66 § 2(2), except that
1128 the term does not include any private agency, person, partnership, corporation, or business entity.

1129 (2) An agency is authorized to acquire and hold a copyright for data processing software
1130 created by the agency and to enforce its rights pertaining to such copyright, provided that the
1131 agency complies with the requirements of this subsection.

1132 (a) An agency that has acquired a copyright for data processing software created by the
1133 agency may sell or license the copyrighted data processing software to any public agency or
1134 private person. The agency may establish a price for the sale and a licensing fee for the use of
1135 such data processing software that may be based on market considerations. However, the prices
1136 or fees for the sale or licensing of copyrighted data processing software to an individual or entity
1137 solely for application to information maintained or generated by the agency that created the
1138 copyrighted data processing software shall be determined pursuant to c. 66 § 4(4).

1139 (b) Proceeds from the sale or licensing of copyrighted data processing software shall be
1140 deposited by the agency into a trust fund for the agency's appropriate use for authorized
1141 purposes. Counties, municipalities, and other political subdivisions of the state may designate
1142 how such sale and licensing proceeds are to be used.

1143 (c) The provisions of this subsection are supplemental to, and shall not supplant or repeal,
1144 any other provision of law that authorizes an agency to acquire and hold copyrights.

1145 66 § 11 Registration by federal employer's registration number

1146 Each state agency which registers or licenses corporations, partnerships, or other business
1147 entities shall include, by July 1, 1978, within its numbering system, the federal employer's
1148 identification number of each corporation, partnership, or other business entity registered or
1149 licensed by it. Any state agency may maintain a dual numbering system in which the federal
1150 employer's identification number or the state agency's own number is the primary identification
1151 number; however, the records of such state agency shall be designed in such a way that the
1152 record of any business entity is subject to direct location by the federal employer's identification
1153 number. The Department of State shall keep a registry of federal employer's identification
1154 numbers of all business entities, registered with the Division of Corporations, which registry of
1155 numbers may be used by all state agencies.

1156 66 § 12 Violation of chapter; penalties

1157 (1) Any public officer who:

1158 (a) Violates any provision of this chapter commits a noncriminal infraction, punishable
1159 by fine not exceeding $500.

1160 (b) Knowingly violates the provisions of c. 66 § 4(1) is subject to suspension and removal
1161 or impeachment and, in addition, commits a misdemeanor of the first degree, punishable by law.

1162 (2) Any person who willfully and knowingly violates:

1163 (a) Any of the provisions of this chapter commits a misdemeanor of the first degree,
1164 punishable by law.

1165 (b) Section 66 § 13 commits a felony of the third degree, punishable by law.

1166 66 § 13 Protection of victims of crimes or accidents

1167 Police reports are public records except as otherwise made exempt or confidential. Every
1168 person is allowed to examine nonexempt or nonconfidential police reports. A person who comes
1169 into possession of exempt or confidential information contained in police reports may not use
1170 that information for any commercial solicitation of the victims or relatives of the victims of the
1171 reported crimes or accidents and may not knowingly disclose such information to any third party
1172 for the purpose of such solicitation during the period of time that information remains exempt or
1173 confidential. This section does not prohibit the publication of such information to the general
1174 public by any news media legally entitled to possess that information or the use of such
1175 information for any other data collection or analysis purposes by those entitled to possess that
1176 information.

1177 66 § 14 Accelerated hearing; immediate compliance

1178 (1) Whenever an action is filed to enforce the provisions of this chapter, the court shall
1179 set an immediate hearing, giving the case priority over other pending cases.

1180 (2) Whenever a court orders an agency to open its records for inspection in accordance
1181 with this chapter, the agency shall comply with such order within 48 hours, unless otherwise
1182 provided by the court issuing such order, or unless the appellate court issues a stay order within
1183 such 48-hour period.

1184 (3) A stay order shall not be issued unless the court determines that there is a substantial
1185 probability that opening the records for inspection will result in significant damage.

1186 (4) Upon service of a complaint, counterclaim, or cross-claim in a civil action brought to
1187 enforce the provisions of this chapter, the custodian of the public record that is the subject matter
1188 of such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public
1189 record sought to be inspected and examined, notwithstanding the applicability of an exemption
1190 or the assertion that the requested record is not a public record subject to inspection and
1191 examination under c. 66 § 4(1), until the court directs otherwise. The person who has custody of
1192 such public record may, however, at any time permit inspection of the requested record as
1193 provided in c. 66 § 4(1) and other provisions of law.

1194 66 § 15 Attorney's fees

1195 If a civil action is filed against an agency to enforce the provisions of this chapter and if
1196 the court determines that such agency unlawfully refused to permit a public record to be
1197 inspected or copied, the court shall assess and award, against the agency responsible, the
1198 reasonable costs of enforcement including reasonable attorneys' fees.

1199 66 § 16 Legislative review of exemptions from public meeting and public records
1200 requirements

1201 (1) This section may be cited as the "Public Record Law."

1202 (2) This section provides for the review and repeal or reenactment of an exemption from
1203 c. 66 § 4(1). This act does not apply to an exemption that:

1204 (a) Is required by federal law; or

1205 (b) Applies solely to the Legislature or the State Court System.

1206 (3) In the 5th year after enactment of a new exemption or substantial amendment of an
1207 existing exemption, the exemption shall be repealed on October 2nd of the 5th year, unless the
1208 Legislature acts to reenact the exemption.

1209 (4)(a) A law that enacts a new exemption or substantially amends an existing exemption
1210 must state that the record or meeting is:

1211 1. Exempt from the State Constitution;

1212 2. Exempt from c. 66 § 4(1); and

1213 3. Repealed at the end of 5 years and that the exemption must be reviewed by the
1214 Legislature before the scheduled repeal date.

1215 (b) For purposes of this section, an exemption is substantially amended if the amendment
1216 expands the scope of the exemption to include more records or information or to include
1217 meetings as well as records. An exemption is not substantially amended if the amendment
1218 narrows the scope of the exemption.

1219 (c) This section is not intended to repeal an exemption that has been amended following
1220 legislative review before the scheduled repeal of the exemption if the exemption is not
1221 substantially amended as a result of the review.

1222 (5)(a) As part of the review process, the Legislature shall consider the following:

1223 1. What specific records or meetings are affected by the exemption?

1224 2. Whom does the exemption uniquely affect, as opposed to the general public?

1225 3. What is the identifiable public purpose or goal of the exemption?

1226 4. Can the information contained in the records or discussed in the meeting be readily
1227 obtained by alternative means? If so, how?

1228 5. Is the record or meeting protected by another exemption?

1229 6. Are there multiple exemptions for the same type of record or meeting that it would be
1230 appropriate to merge?

1231 (b) An exemption may be created, revised, or maintained only if it serves an identifiable
1232 public purpose, and the exemption may be no broader than is necessary to meet the public
1233 purpose it serves. An identifiable public purpose is served if the exemption meets one of the
1234 following purposes and the Legislature finds that the purpose is sufficiently compelling to
1235 override the strong public policy of open government and cannot be accomplished without the
1236 exemption:

1237 1. Allows the state or its political subdivisions to effectively and efficiently administer a
1238 governmental program, which administration would be significantly impaired without the
1239 exemption;

1240 2. Protects information of a sensitive personal nature concerning individuals, the release
1241 of which information would be defamatory to such individuals or cause unwarranted damage to
1242 the good name or reputation of such individuals or would jeopardize the safety of such
1243 individuals. However, in exemptions under this subparagraph, only information that would
1244 identify the individuals may be exempted; or

1245 3. Protects information of a confidential nature concerning entities, including, but not
1246 limited to, a formula, pattern, device, combination of devices, or compilation of information
1247 which is used to protect or further a business advantage over those who do not know or use it, the
1248 disclosure of which information would injure the affected entity in the marketplace.

1249 (6) Records made before the date of a repeal of an exemption under this section may not
1250 be made public unless otherwise provided by law. In deciding whether the records shall be made
1251 public, the Legislature shall consider whether the damage or loss to persons or entities uniquely
1252 affected by the exemption of the type specified in subparagraph (6)(b)2.or subparagraph (6)(b)3
1253 would occur if the records were made public.

1254 (7) Notwithstanding any other law, neither the state or its political subdivisions nor any
1255 other public body shall be made party to any suit in any court or incur any liability for the repeal
1256 or revival and reenactment of an exemption under this section. The failure of the Legislature to
1257 comply strictly with this section does not invalidate an otherwise valid reenactment.