

HOUSE BILL No. 4812

May 10, 1989, Introduced by Reps. Nye, O'Connor, Emmons, Allen, Gnodtke, Sikkema, Munsell, Walberg, Gubow, Strand, Muxlow, Law, Oxender, DeLange, Power, Hoekman and Willis Bullard and referred to the Committee on Judiciary.

A bill to prescribe the powers and duties of certain individuals and public bodies relating to the maintenance, access, amendment, control, and distribution of certain records; and to prescribe penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "privacy act".

3 Sec. 2. As used in this act:

4 (a) "Concise written statement" means a written statement
5 not exceeding 2 8-1/2 inch by 11 inch single-sided pages in
6 length.

7 (b) "Individual" means a citizen of this state or the United
8 States.

9 (c) "Maintain" means to compile, keep, collect, use, or
10 disseminate.

1 (d) "Public body" means:

2 (i) A state officer, employee, agency, department, division,
3 bureau, board, commission, council, authority, or other body in
4 the executive branch of the state government, but does not
5 include the governor or lieutenant governor, or the employees of
6 the executive office of the governor or lieutenant governor.

7 (ii) An agency, board, commission, or council in the legis-
8 lative branch of the state government.

9 (iii) A county, city, township, village, intercounty, inter-
10 city, or regional governing body, council, school district, spe-
11 cial district, or municipal corporation, or a board, department,
12 commission, council, or agency thereof.

13 (iv) Any other body that is created pursuant to state or
14 local authority or is primarily funded by or through state or
15 local authority.

16 (v) The judiciary, including the office of the county clerk
17 and employees of the county clerk when acting in the capacity of
18 clerk to the circuit court, is not included in the definition of
19 public body.

20 (e) "Record" means any writing, or collection or grouping of
21 writings, pertaining to an individual, that is prepared, owned,
22 used, in the possession of, or retained by a public body in the
23 performance of its principal statutory function, that contains
24 the name of an individual or identifying number, symbol, or other
25 identifying particular of or assigned to an individual.

1 (f) "Routine use" means the use of a record for a purpose
2 that is compatible with the purpose for which the record is
3 maintained.

4 (g) "System of records" means a group or collection of
5 records, under the control of a public body, from which informa-
6 tion may be retrieved by the name of an individual or by some
7 identifying number, symbol, or other identifying particular of or
8 assigned to an individual.

9 (h) "Unusual circumstances" means 1 or both of the follow-
10 ing, but only to the extent necessary for the proper processing
11 of a request:

12 (i) The need to search for, collect, examine, or review a
13 voluminous amount of separate and distinct records pursuant to a
14 single request.

15 (ii) The need to collect the requested records from numerous
16 field offices, facilities, or other establishments that are
17 located apart from the particular office receiving or processing
18 the request.

19 (i) "Writing" means handwriting, typewriting, printing, pho-
20 tostating, photographing, photocopying, and every other means of
21 recording, and includes letters, words, pictures, sounds, or sym-
22 bols, or combinations thereof, and papers, maps, magnetic or
23 paper tapes, photographic films or prints, microfilm, microfiche,
24 magnetic or punched cards, discs, drums, or other means of
25 recording or retaining meaningful content.

1 Sec. 3. (1) An individual who wishes to inspect, copy, or
2 receive a copy of a record that pertains to that individual may
3 make a written request to a public body maintaining the record.

4 (2) Upon receiving a written request described in subsection
5 (1) that is sufficient to enable the public body to locate the
6 record, the public body shall allow the individual to inspect,
7 copy, or receive a copy of all or a requested portion of the
8 record, except as otherwise provided in section 5(2).

9 (3) If a public body receives a request under subsection
10 (1), the public body shall immediately, but not later than 5
11 business days after the day the request is received, respond to
12 the request by 1 of the following means unless otherwise agreed
13 to in writing by the individual making the request:

14 (a) Issue a written notice to the individual granting the
15 request.

16 (b) Issue a written notice to the individual denying the
17 request.

18 (c) Issue a written notice to the individual granting the
19 request in part and denying the request in part.

20 (d) Under unusual circumstances, issue a written notice to
21 the individual extending for not more than 10 business days the
22 period during which the public body shall respond to the
23 request. The notice shall set forth the reasons for the exten-
24 sion and the date by which a response as required in this subsec-
25 tion will be made. A public body may not send more than 1 notice
26 of extension for each request.

1 (4) The failure to respond to a request in the manner
2 provided in subsection (3) shall constitute a final determination
3 by the public body to deny the request.

4 (5) A written notice denying a request to inspect, copy, or
5 receive a copy of an individual's record in whole or in part
6 shall be signed by the person designated in section 7 and shall
7 constitute a final determination by the public body to deny the
8 request or a portion of the request and shall contain all of the
9 following as applicable:

10 (a) An explanation of the basis under this act for the
11 determination that the record, or a portion of the record, is
12 exempt from disclosure, if that is the reason for denying the
13 request or a portion of the request.

14 (b) A certificate that the record does not exist under the
15 name given by the requester or by another name reasonably known
16 to the public body, if that is the reason for denying the request
17 or a portion of the request.

18 (c) A general description of a record, or a portion of the
19 record, that is denied or, as provided in subsection (8), sepa-
20 rated, if that description would reveal the contents of the
21 exempt information and defeat the purpose of an exemption.

22 (d) A full explanation of the requesting individual's right
23 to seek judicial review under section 11.

24 (6) If a written request to inspect an individual's records
25 is granted, the public body shall furnish the requesting individ-
26 ual a reasonable opportunity for inspection of the records.

27 Reasonable facilities shall be furnished for making memoranda or

1 copies of the records during usual business hours. A public body
2 may make reasonable rules necessary to protect the individual's
3 records and prevent excessive or unreasonable interference with
4 the discharge of the function of the public body.

5 (7) An individual may be accompanied by a person of his or
6 her choosing during the inspection or records. An individual who
7 exercises his or her right to be accompanied by a person during
8 an inspection of records under this section shall be presumed to
9 consent to that person having the opportunity to see the records
10 being reviewed and no further identification of the accompanying
11 person shall be required. However, the person seeking to review
12 records that pertain to him or her shall be responsible for the
13 behavior of the accompanying person during an inspection of
14 records.

15 (8) If a public body receives a request for disclosure of a
16 record containing material that is exempt from disclosure under
17 this act as well as material that is not exempt from disclosure
18 under this act, the public body shall separate the exempt and
19 nonexempt materials and make the nonexempt material available for
20 inspection and copying.

21 Sec. 4. (1) An individual may request in writing that a
22 record pertaining to the individual be amended. Upon receipt of
23 a request for the amendment of a record, the public body shall
24 within 10 business days after the day the request is received
25 acknowledge the request in writing and do 1 of the following:

1 (a) Make a correction or deletion of any portion of the
2 record that the individual believes is not accurate, relevant,
3 timely, or complete.

4 (b) Inform the individual that the public body refuses to
5 amend the record as requested, the specific reasons for the
6 refusal, and the individual's rights to seek judicial review
7 under section 11 of the refusal of the public body.

8 (c) Under unusual circumstances, a public body by written
9 notice may extend for not more than 10 business days the period
10 during which it will respond to a request to amend a record. The
11 notice shall set forth the reasons for the extension and the date
12 by which a response will be made. A public body may not send
13 more than 1 notice of extension for each request to amend a
14 record.

15 (2) Upon receipt of a request for review of a refusal to
16 amend an individual's record, a public body within 30 business
17 days after the day the request for review is received shall com-
18 plete the review of its decision and notify the requester in
19 writing of its decision. The decision shall be signed by the
20 person designated in section 7. If after review the public body
21 still refuses to amend the individual's record in accordance with
22 the request, the public body shall accept from the individual a
23 concise, written statement of disagreement with the content of
24 the record and file the written statement of disagreement with
25 the disputed record or in a filing system that is keyed to the
26 system in which the disputed record is maintained.

1 (3) A public body's decision concerning a refusal to amend
2 an individual's record shall constitute a final determination.
3 The public body shall notify the individual of the provisions for
4 judicial review under section 11.

5 (4) Under unusual circumstances, a public body may by writ-
6 ten notice extend for not more than 15 business days the period
7 during which it will respond to a request for review. The notice
8 shall set forth the reasons for the extension and the date by
9 which a response will be made. A public body may not send more
10 than 1 notice of extension for each request.

11 (5) In all instances in which a record of an individual is
12 subject to disclosure to another, a public body shall include a
13 copy of a statement of disagreement and clearly indicate the por-
14 tion of the record that is in dispute. The public body may
15 include a concise, written statement of its reasons for not
16 making a requested amendment.

17 Sec. 5. (1) A public body is prohibited from disclosing any
18 record or any portion of a record, by any means, unless disclo-
19 sure of the record meets 1 of the following requirements:

20 (a) Disclosure is made pursuant to a written request of the
21 individual to whom the record pertains or pursuant to the written
22 authorization of that individual.

23 (b) Disclosure is made to those officers and employees of
24 the public body who maintains the record and who have a need for
25 the record in the performance of their official duties.

26 (c) Disclosure is made for a routine use to a public body
27 under the control of the attorney general of this state for a

1 criminal law enforcement activity, provided that the activity is
2 specifically authorized by law and the attorney general has made
3 a written request of the public body that maintains the record
4 specifying the particular record needed and the law enforcement
5 activity for which the record is sought.

6 (d) Disclosure is required under the freedom of information
7 act, Act No. 442 of the Public Acts of 1976, being sections
8 15.231 to 15.246 of the Michigan Compiled Laws, or as otherwise
9 required by law.

10 (e) Disclosure is made to a person as a result of compelling
11 circumstances that the public agency finds may affect the health
12 or safety of an individual. Upon disclosure, notification shall
13 be made by first class mail to the last known address of the
14 individual whose record is disclosed.

15 (f) Disclosure is made pursuant to a written request from
16 either house of the legislature of this state, or an elected
17 member of the legislature of this state, or a committee or sub-
18 committee of either or both houses, for the purpose of matters
19 within its jurisdiction.

20 (g) Disclosure is made pursuant to the order of a court of
21 competent jurisdiction, but only for a use that is routine and
22 lawful or as provided in section 11.

23 (2) A person designated in section 7 may exempt from disclo-
24 sure under this act the following records, but the exemption pro-
25 vided in this subsection does not relieve the public body from
26 the notice requirements of section 9(1)(d):

1 (a) Records of a public body that performs as its principal
2 statutory function an activity pertaining to the investigation or
3 enforcement of the criminal laws of this state, but only to the
4 extent that disclosure of the record would do any of the
5 following:

6 (i) Interfere with criminal law enforcement proceedings.

7 (ii) Reveal the identity of a source who furnished informa-
8 tion to the public body under an express promise that the iden-
9 tity of the source would be held in confidence, either before or
10 after the effective date of this act.

11 (iii) Endanger the life or physical safety of law enforce-
12 ment personnel or their family members or relatives.

13 (b) Records maintained in connection with providing protec-
14 tive services to the governor of this state and the president of
15 the United States, and other individuals pursuant to section 3056
16 of title 18 of the United States code, 18 U.S.C. 3056.

17 (c) Records maintained solely for the purpose of determining
18 suitability, eligibility, or qualifications for state civilian
19 employment, national guard, state contracts or access to classi-
20 fied information, but only to the extent that disclosure of the
21 record would reveal the identity of a source who furnished infor-
22 mation to the public body under an express promise that the iden-
23 tity of the source would be held in confidence, either before or
24 after the effective date of this act.

25 (d) Records, the use or maintenance of which would deny any
26 right, or privilege or benefit that an individual would otherwise
27 be entitled to or eligible for by state or federal law, shall not

1 be exempt from disclosure, except to the extent that disclosure
2 of the record would reveal the identity of a source who furnished
3 information to the public body under an express promise that the
4 identity of the source would be held in confidence, either before
5 or after the effective date of this act.

6 Sec. 6. A public body, with respect to records under its
7 control, shall do all of the following:

8 (a) Keep an accurate accounting of the date, nature, pur-
9 pose, name, and address of the public body or person to whom any
10 disclosure of a record is made, except for disclosures made under
11 section 5(1)(a) or (d), the accounting of which is not required.

12 (b) Retain the accounting required under subdivision (a) for
13 at least 5 years or the life of the record, whichever is longer.

14 (c) Make the accounting required under subdivision (a)
15 available to the individual named in the record upon written
16 request within 5 business days, except for disclosures made under
17 section 5(1)(c) of this act, the accounting of which is not
18 required to be disclosed.

19 Sec. 7. (1) For a public body that is a city, village,
20 township, county, or state department, or under the control of a
21 city, village, township, county, or state department, the chief
22 administrative officer of that city, village, township, county,
23 or state department, or an individual designated in writing by
24 that chief administrative officer, shall be responsible for ful-
25 filling all the requirements under this act.

26 (2) In a county not having an executive form of government,
27 the chairperson of the county board of commissioners is

1 considered the chief administrative officer for purposes of this
2 section.

3 (3) For all other public bodies, the chief administrative
4 officer of the respective public body, or an individual desig-
5 nated in writing by that chief administrative officer, is respon-
6 sible for all requirements under this act.

7 (4) Only the chief administrative officer of a public body
8 may exempt any record from disclosure under this act, as provided
9 in section 5(2).

10 Sec. 8. (1) A public body may charge a fee for providing a
11 copy of a record, subject to all of the following limitations:

12 (a) Fees shall be limited to the cost of labor incurred in
13 duplication and mailing, the actual mailing costs, and the actual
14 incremental cost of duplication.

15 (b) Costs shall be determined at a rate not exceeding the
16 hourly wage of the lowest paid, full-time permanent clerical
17 employee of the public body.

18 (c) Fees shall not be charged for the cost of search, exami-
19 nation, and review and separation of exempt from nonexempt
20 records, unless the costs incurred by the public body would be
21 unreasonably high and the public body specifically identifies the
22 unreasonably high costs.

23 (d) Duplication of records shall be by the most economical
24 means that is available and capable of providing clearly legible
25 copies.

26 (2) In addition to the fees that may be charged pursuant to
27 subsection (1), a public body may charge an individual who

1 exercises his or her rights under this act the actual, fair, and
2 equitable costs incurred by that public body in implementing this
3 act.

4 Sec. 9. (1) A public body that maintains records of or
5 about an individual shall do all of the following:

6 (a) Maintain in its records only information that is rele-
7 vant and necessary to accomplish its principal statutory function
8 in an accurate, timely, and complete manner.

9 (b) Collect information, to the greatest extent practicable,
10 directly from the individual who is the subject of the record if
11 the information may result in an adverse determination about an
12 individual's constitutional rights or statutory privileges or
13 benefits under state or federal programs, or both.

14 (c) Notify, either orally or in writing, an individual who
15 is asked to supply information to the public body of all of the
16 following:

17 (i) The specific legal authority that authorizes the solici-
18 tation of the requested information.

19 (ii) Whether disclosure of the requested information by the
20 individual is mandatory or voluntary.

21 (iii) The principal purpose or purposes for which the infor-
22 mation will be used.

23 (iv) The effects of not providing all, or any portion, of
24 the requested information.

25 (d) Provide public notice, at least annually, by the publi-
26 cation in the Michigan register of a notice of the existence and

1 character of the records maintained. The public notice shall
2 contain all of the following information:

3 (i) The name and location of the records.

4 (ii) The categories of individuals on whom records are
5 maintained.

6 (iii) The categories of records maintained.

7 (iv) Each routine use of the records, including the catego-
8 ries of users and the purpose of such use.

9 (v) The rules of the public body regarding storage, retrie-
10 vability, access controls, retention, and disposal of the
11 records.

12 (vi) The title and business address of the public body offi-
13 cial who is responsible for the records.

14 (vii) The rules of the public body by which an individual
15 upon request can be notified of records pertaining to the
16 individual.

17 (viii) The agency rules by which an individual upon request
18 can be notified how to gain access to or contest the contents of
19 a record pertaining to that individual.

20 (ix) The categories of sources of records.

21 (e) Prior to disclosing a record about an individual to a
22 person or public body, make reasonable effort to assure that the
23 record is relevant, accurate, timely, and complete.

24 (f) Not maintain a record describing how any individual
25 exercises a right enumerated in the first amendment to the con-
26 stitution of the United States or sections 3, 4, and 5 of article

1 I of the state constitution of 1963, unless authorized in writing
2 by the individual about whom the record would be maintained.

3 (g) Mail a notice to the last known address of an individual
4 when any record pertaining to the individual is disclosed to any
5 person or public body by compulsory legal process.

6 (h) Establish rules of conduct for persons involved in the
7 design, development, operation, or maintenance of records;
8 instruct those persons with respect to the rules and guidelines
9 adopted pursuant to this act, the requirements of this act, and
10 the penalties for noncompliance.

11 (i) Establish appropriate administrative, technical, and
12 physical safeguards to insure the security and confidentiality of
13 records and to protect against anticipated threats or hazards to
14 the security or integrity of the records that could result in
15 harm, embarrassment, inconvenience, or unfairness to an
16 individual.

17 (j) Publish the notice required in subdivision (d) at least
18 30 days prior to requesting that the legislature pass a concur-
19 rent resolution approving a new or revised use of existing
20 records maintained on individuals. The notice shall clearly
21 indicate the proposed new use or revised use and will provide
22 interested persons with the opportunity to submit written data,
23 views, or arguments to the public body. The request for approval
24 to the legislature shall include the public body's specific stat-
25 utory authority and reasons for the new or revised use and all
26 data, views, and arguments submitted by interested persons to the

1 public body. The public body shall not implement a new or
2 revised use without written legislative approval.

3 (2) A public body shall publish a notice as required in sub-
4 section (1)(d) at least 30 days prior to requesting that the leg-
5 islature pass a concurrent resolution approving of the mainte-
6 nance of new records. The notice shall provide interested per-
7 sons the opportunity to submit written data, views, or arguments
8 to the public body. The request for approval to the legislature
9 shall include the public body's need for the new records, the
10 specific statutory authority for maintaining the new records, and
11 all data, views, and arguments submitted by interested persons to
12 the public body. The public body shall not maintain new records
13 until written legislative approval is received.

14 (3) In order to carry out the provisions of this act, each
15 public body that maintains records on an individual and is
16 subject to the provisions of the administrative procedures act of
17 1969, Act No. 306 of the Public Acts of 1969, being sections
18 24.201 to 24.328 of the Michigan Compiled Laws, shall promulgate
19 rules in accordance with Act No. 306 of the Public Acts of 1969,
20 which shall establish all of the following:

21 (a) Reasonable procedures for an individual to request noti-
22 fication of a record that is maintained by the public body per-
23 taining to the individual.

24 (b) Reasonable procedures for the disclosure to an individu-
25 al, upon request, of records pertaining to the individual.

26 (c) Reasonable requirements for identifying an individual
27 requesting records pertaining to the individual before the public

1 body acknowledges the existence of or discloses a record to the
2 individual.

3 (d) Reasonable procedures for reviewing a request from an
4 individual concerning the amendment of a record pertaining to the
5 individual, for making a determination on the request and notify-
6 ing the requester of the determination, for an appeal within the
7 public body of an initial adverse determination and notifying the
8 requester of the appeal decision, and for additional measures, as
9 may be necessary for each individual to be fully able to exercise
10 his or her rights under this act.

11 (4) If a public body determines that the most efficient
12 means of implementing the requirements of this act is to arrange
13 the records maintained by the public body on individuals into
14 systems of records, it may so do. In doing so, the public body
15 must comply with all the requirements of this act.

16 (5) The notification required by subsection (1)(c) may be
17 made either orally or by a separate written form if a request for
18 information from an individual is made orally. If a request is
19 written, notification shall be contained on the request or by a
20 separate written form. Notification made by separate written
21 form may be retained by the individual.

22 Sec. 10. The secretary of state shall annually compile and
23 publish the notice required in section 9(1)(d) and the rules
24 promulgated under section 9(3) and make the compilation available
25 to the public at a reasonable cost.

26 Sec. 11. (1) An individual may commence an action in
27 circuit court if a public body does any of the following:

1 (a) Fails or refuses to comply with an individual's request
2 under section 3.

3 (b) Makes a final determination to deny an individual's
4 request, in whole or in part, under section 3.

5 (c) Makes a final determination under section 4 of this act
6 not to amend an individual's record in accordance with the
7 individual's request, or fails to make a review of the request as
8 required by section 4.

9 (d) Fails to maintain a record concerning any individual
10 with the accuracy, relevance, timeliness, and completeness neces-
11 sary to assure fairness and due process in any determination
12 relating to the qualifications, character, rights, privileges, or
13 opportunities of, or benefits to an individual that may be made
14 on the basis of the records, and consequently a determination is
15 made that is adverse to the individual.

16 (e) Fails to comply with any other provision of this act or
17 a rule promulgated under this act and the failure has an adverse
18 effect on an individual.

19 (f) Requires an individual to disclose information that is
20 not relevant to the principal statutory function of the principal
21 body, or cannot be required to be disclosed under this act.

22 (2) If it is determined in an action commenced under subsec-
23 tion (1)(a) that the requested records should be disclosed, the
24 public body shall be ordered to disclose the records to the indi-
25 vidual and in addition the public body shall be liable to the
26 individual for exemplary damages in the amount of \$1,000.00. In
27 such an action, the records may be examined in camera to

1 determine whether the records, or any portion of the records, are
2 exempt from disclosure under section 5(2).

3 (3) In an action commenced under subsection (1)(b), if it is
4 determined that the denied records, or a portion of the records,
5 are not exempt from disclosure, the public body shall be ordered
6 to disclose the records or that portion of the records that is
7 not exempt. In such an action, the denied records may be
8 examined in camera to determine whether the records, or any por-
9 tion of the records, are exempt from disclosure under section
10 5(2).

11 (4) In an action commenced under subsection (1)(c), if the
12 public body cannot prove by clear and convincing evidence that
13 the individual's amendment request is contrary to the evidence,
14 the public body shall be ordered to amend the individual's record
15 in accordance with the amendment request or in another manner the
16 court may direct.

17 (5) In an action commenced under subsection (1)(d), (e), or
18 (f), if it is determined that a public body acted in the manner
19 described in subsection (1)(d), (e), or (f), the following shall
20 occur:

21 (a) If an individual's records are involved, the public body
22 shall be ordered to amend the individual's records as necessary
23 to assure their accuracy, relevance, timeliness, and completeness
24 and provide a copy of the amended records to a person or other
25 public body to which disclosure has previously been made.

26 (b) A public body that has made an adverse determination as
27 a result of faulty records, denied a right, benefit, or privilege

1 provided by law, or required a disclosure contrary to this act,
2 shall be ordered to review the determination or stop such denial
3 or requiring such disclosure.

4 (c) The public body shall be liable to the individual in the
5 amount of the actual damages sustained, or \$1,000.00, whichever
6 is greater.

7 (6) The circuit court for the county in which the individual
8 resides or has a principal place of business or the circuit court
9 for the county in which the individual's record or an office of
10 the public body is located shall have jurisdiction to determine
11 issues under this section and section 12. The matter shall be
12 determined de nova, and the burden of proof is upon the public
13 body. Failure to comply with an order of the court shall be pun-
14 ishable by contempt of court.

15 (7) In an action commenced under this section or section 12,
16 upon request of the individual bringing the action, the matter
17 shall be heard by a jury. The jury shall determine the matter de
18 novo, the burden of proof is upon the public body, and the public
19 body has no right of appeal.

20 (8) An action to enforce a liability created under this act
21 may be commenced within 2 years from the date on which a cause of
22 action arises, except if a public body has materially and will-
23 fully misrepresented information required by this act to be dis-
24 closed, an action may be commenced within 2 years after the indi-
25 vidual discovers the misrepresentation.

26 (9) In an action commenced under this section or section 12,
27 in which an individual prevails, reasonable attorney's fees,

1 costs, and disbursements shall be awarded. If the individual
2 prevails in part, an appropriate portion of the reasonable
3 attorney's fees, costs, and disbursements shall be awarded. For
4 the purposes of this subsection, an individual acting in his or
5 her own behalf shall be considered an attorney for the purpose of
6 obtaining attorney fees.

7 (10) In an action commenced under this section or section
8 12, if it is determined that the public body has acted in an
9 arbitrary, capricious, or intentional manner, the public body, in
10 addition to any other actual or compensatory damages, shall be
11 liable to the individual for exemplary damages in the amount of
12 \$1,000.00.

13 (11) An action commenced under this section or section 12
14 and appeals from determinations under this section or section 12
15 shall be assigned for hearing and trial or for argument at the
16 earliest practicable date and expedited in every way.

17 Sec. 12. (1) An officer or employee of a public body having
18 possession of or access to public body records containing indi-
19 vidually identifiable information, the disclosure of which is
20 prohibited by this act or other rules or guidelines established
21 under this act, who knowing that the disclosure is prohibited,
22 willfully discloses or causes to be disclosed that information in
23 any manner to a person or other public body or federal agency or
24 an entity not entitled to receive it, is guilty of a misdemeanor,
25 punishable by a fine of not less than \$500.00 and not more than
26 \$5,000.00.

1 (2) An officer or employee of a public body who willfully
2 maintains a record not authorized by this act or not meeting the
3 notice requirements of section 9(1)(d) is guilty of a misdemea-
4 or, punishable by a fine of not less than \$500.00 and not more
5 than \$5,000.00.

6 (3) A person who knowingly and willfully requests or obtains
7 a record concerning an individual from a public body under false
8 pretenses is guilty of a misdemeanor, punishable by a fine of not
9 less than \$500.00 and not more than \$5,000.00.

10 (4) A person found guilty of a misdemeanor under this sec-
11 tion shall be held personally liable for the payment of all fines
12 imposed.

13 Sec. 13. For the purposes of this act, the parent or legal
14 guardian of a minor or the legal guardian of an individual
15 declared incompetent by a court of competent jurisdiction may act
16 on behalf of that minor or individual.

17 Sec. 14. If a public body provides for the maintenance by a
18 contractor, person, or organization acting at the direction of
19 the public body of any records by or on behalf of the public
20 body, the public body shall assure that the requirements of this
21 act with respect to those records are met. For the purposes of
22 this act, a person or employee of a contractor, person, or orga-
23 nization acting at the direction of the public body shall be con-
24 sidered an employee of the public body.

25 Sec. 15. An individual's name and address shall not be
26 sold, rented, or otherwise disclosed by a public body unless
27 specifically authorized by law.

1 Sec. 16. The governor shall submit to the legislature by
2 January 10 of each year both of the following:

3 (a) A consolidated report, separately listing each public
4 body, showing the number of enforcement actions under this act
5 and the status of those actions.

6 (b) A consolidated report, separately listing each public
7 body, showing the number of categories of records and the number
8 and name of categories of records exempted from disclosure under
9 this act.

10 Sec. 17. (1) A public body shall not rely on a disclosure
11 restriction contained in an agreement with a state or federal
12 agency, bureau, or other organization, or any other state public
13 body to withhold records that are otherwise available under the
14 provisions of this act.

15 (2) If a record is both disclosable and exempt from disclo-
16 sure under this act, the public body shall disclose the record
17 unless compelling reasons for not disclosing exist. In that
18 case, the public body shall fully inform the requesting person of
19 the provisions for judicial review under section 11 of this act.

20 Sec. 18. (1) It is unlawful for a public body to deny an
21 individual a right, benefit, or privilege provided by law,
22 because of that individual's refusal to disclose his or her fed-
23 eral social security account number unless disclosure is required
24 by federal statute.

25 (2) It is unlawful for a public body to require an individ-
26 ual to disclose his or her federal social security account number
27 unless disclosure is required by federal statute.

1 (3) A public body that requests an individual to disclose
2 his or her federal social security account number shall inform
3 that individual of all of the following:

4 (a) Whether the disclosure is required by federal statute
5 and, if so, the name of the statute.

6 (b) Whether disclosure is considered by the public body to
7 be mandatory or voluntary.

8 (c) Under the authority of what state law the number is
9 requested.

10 (d) The routine purpose for which the number is to be used.

11 (e) The effect on the individual of refusing to disclose his
12 or her federal social security account number.

13 (4) An individual may commence an action as provided in sec-
14 tion 11 of this act to enforce the provisions of this section.

15 Sec. 19. Not later than 1 year after the effective date of
16 this act, a public body shall complete a review of all individu-
17 ally identifiable records maintained by the public body for con-
18 formance with the provisions of this act. Commencing on the
19 effective date of this act, a public body shall be liable as pro-
20 vided in this act to an individual to whom a record pertains for
21 a use of a record that is not in conformance with this act.