

SENATE BILL No. 373

June 18, 1987, Introduced by Senators O'BRIEN, WELBORN, FREDRICKS,
POLLACK, DINGELL and CARL and referred to the Committee on
Criminal Justice, Urban Affairs, and Economic Development.

A bill to amend section 13 of Act No. 442 of the Public Acts
of 1976, entitled
"Freedom of information act,"
being section 15.243 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 13 of Act No. 442 of the Public Acts of
2 1976, being section 15.243 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 13. (1) A public body may exempt from disclosure as a
5 public record under this act:

6 (a) Information of a personal nature ~~where the~~ IF public
7 disclosure of the information would constitute a clearly unwar-
8 ranted invasion of an individual's privacy.

1 (b) ~~Investigating~~ INVESTIGATIVE records compiled for law
2 enforcement purposes, but only to the extent that disclosure as a
3 public record would do any of the following:

4 (i) Interfere with law enforcement proceedings.

5 (ii) Deprive a person of the right to a fair trial or impar-
6 tial administrative adjudication.

7 (iii) Constitute an unwarranted invasion of personal
8 privacy.

9 (iv) Disclose the identity of a confidential source ~~—~~ or,
10 if the record is compiled by a criminal law enforcement agency in
11 the course of a criminal investigation, disclose confidential
12 information furnished only by a confidential source.

13 (v) Disclose law enforcement investigative techniques or
14 procedures.

15 (vi) Endanger the life or physical safety of law enforcement
16 personnel.

17 (c) A public record ~~which~~ THAT, if disclosed, would preju-
18 dice a public body's ability to maintain the physical security of
19 custodial or penal institutions occupied by persons arrested or
20 convicted of a crime or admitted because of a mental disability,
21 unless the public interest in disclosure under this act outweighs
22 the public interest in nondisclosure.

23 (d) Records or information specifically described and
24 exempted from disclosure by statute.

25 (e) Information ~~the release of which~~ THAT, IF DISCLOSED,
26 would prevent ~~the~~ A public body from complying with SECTION 438

1 OF SUBPART 2 OF PART C OF TITLE IV OF PUBLIC LAW 90-247, 20
2 U.S.C. ~~section~~ 1232g.

3 (f) A public record or information described in this section
4 ~~which~~ THAT is furnished by the public body originally compil-
5 ing, preparing, or receiving the record or information to a
6 public officer or public body in connection with the performance
7 of the duties of that public officer or public body, if the con-
8 siderations originally giving rise to the exempt nature of the
9 public record remain applicable.

10 (g) Trade secrets or commercial or financial information
11 voluntarily provided to an agency for use in developing govern-
12 mental policy if ALL OF THE FOLLOWING APPLY:

13 (i) The information is submitted upon a promise of confiden-
14 tiality by the public body.

15 (ii) The promise of confidentiality is authorized by the
16 chief administrative officer of the public body or by an elected
17 official at the time the promise is made.

18 (iii) A description of the information is recorded by the
19 public body within a reasonable time after it has been submitted,
20 maintained in a central place within the public body, and made
21 available to a person upon request. This subdivision shall not
22 apply to information submitted as required by law or as a condi-
23 tion of receiving a governmental contract, license, or other
24 benefit.

25 (h) Information or records subject to the attorney-client
26 privilege.

1 (i) Information or records subject to the physician-patient,
 2 psychologist-patient, minister, priest or Christian science
 3 practitioner, or other privilege recognized by statute or court
 4 rule.

5 (j) A bid or proposal by a person to enter into a contract
 6 or agreement ~~—~~ until the time for the public opening of bids or
 7 proposals ~~—~~ or, if a public opening is not to be conducted,
 8 until the time for the receipt of bids or proposals has expired.

9 (k) Appraisals of real property to be acquired by the public
 10 body until ~~(i)~~ an agreement is entered into ~~, or (ii)~~ OR 3
 11 years ~~has~~ HAVE elapsed since the making of the appraisal,
 12 unless litigation relative to the acquisition has not yet
 13 terminated.

14 (l) Test questions and answers, scoring keys, and other
 15 examination instruments or data used to administer a license,
 16 public employment, or academic examination, unless the public
 17 interest in disclosure under this act outweighs the public inter-
 18 est in nondisclosure.

19 (m) Medical, counseling, or psychological facts or evalu-
 20 ations concerning an individual if the individual's identity
 21 would be revealed by a disclosure of those facts or evaluation.

22 (n) Communications and notes within a public body or between
 23 public bodies of an advisory nature to the extent that they cover
 24 other than purely factual materials and are preliminary to a
 25 final agency determination of policy or action. This exemption
 26 shall not apply unless the public body shows that in the
 27 particular instance the public interest in encouraging frank

1 communications between officials and employees of public bodies
2 clearly outweighs the public interest in disclosure. This exemp-
3 tion does not constitute an exemption under state law for pur-
4 poses of section 8(h) of THE OPEN MEETINGS ACT, Act No. 267 of
5 the Public Acts of 1976, being section 15.268 of the Michigan
6 Compiled Laws. As used in this subdivision, "determination of
7 policy or action" includes a determination relating to collective
8 bargaining, unless the public record is otherwise required to be
9 made available under Act No. 336 of the Public Acts of 1947, as
10 amended, being sections 423.201 to 423.216 of the Michigan
11 Compiled Laws.

12 (o) Records of law enforcement communication codes ~~—~~ or
13 plans for deployment of law enforcement personnel ~~—, which~~ THAT,
14 if disclosed, would prejudice a public body's ability to protect
15 the public safety, unless the public interest in disclosure under
16 this act outweighs the public interest in nondisclosure in the
17 particular instance.

18 (p) Information ~~which~~ THAT would reveal the exact location
19 of archeological sites. The secretary of state may promulgate
20 rules pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act
21 No. 306 of the Public Acts of 1969, as amended, being sections
22 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws, to pro-
23 vide for the disclosure of the location of archeological sites
24 for purposes relating to the preservation or scientific examina-
25 tion of sites.

26 (q) Testing data developed by a public body in determining
27 whether ~~bidders' products meet~~ A BIDDER'S PRODUCT MEETS the

1 specifications for purchase of those products by the public body,
2 if disclosure of the data would reveal that only 1 bidder has met
3 the specifications. This subdivision shall not apply after 1
4 year has elapsed from the time the public body completes the
5 testing.

6 (r) Academic transcripts of an institution of higher educa-
7 tion established under ~~sections~~ SECTION 5, 6, or 7 of article
8 ~~8~~ VIII of the state constitution of 1963, ~~where~~ IF the record
9 pertains to a student who is delinquent in the payment of finan-
10 cial obligations to the institution.

11 (s) Records of any campaign committee including any commit-
12 tee that receives ~~monies~~ MONEY from a state campaign fund.

13 (t) Unless the public interest in disclosure outweighs the
14 public interest in nondisclosure in the particular instance,
15 public records of a police or sheriff's agency or department,
16 ~~the release of which~~ IF DISCLOSURE OF THOSE RECORDS would do
17 any of the following:

18 (i) Identify or provide a means of identifying an informer.

19 (ii) Identify or provide a means of identifying a law
20 enforcement undercover officer or agent or a plain clothes offi-
21 cer as a law enforcement officer or agent.

22 (iii) Disclose the personal address or telephone number of
23 law enforcement officers or agents or any special skills that
24 they may have.

25 (iv) Disclose the name, address, or telephone numbers of
26 ~~family members, relatives, children, or parents~~ of law
27 enforcement officers or agents.

1 (v) Disclose operational instructions for law enforcement
2 officers or agents.

3 (vi) Reveal the contents of staff manuals provided for law
4 enforcement officers or agents.

5 (vii) Endanger the life or safety of law enforcement offi-
6 cers or agents or their ~~families,~~ relatives, ~~children,~~
7 ~~parents,~~ or those who furnish information to law enforcement
8 departments or agencies.

9 (viii) Identify or provide a means of identifying a person
10 as a law enforcement officer, agent, or informer.

11 (ix) Disclose personnel records of law enforcement
12 agencies.

13 (x) Identify or provide a means of identifying residences
14 ~~which~~ THAT law enforcement agencies are requested to check in
15 the absence of their owners or tenants.

16 (U) UNLESS THE PUBLIC INTEREST IN DISCLOSURE OUTWEIGHS THE
17 PUBLIC INTEREST IN NONDISCLOSURE IN THE PARTICULAR INSTANCE,
18 PUBLIC RECORDS OF THE DEPARTMENT OF CORRECTIONS OR DEPARTMENT OF
19 MENTAL HEALTH, IF DISCLOSURE OF THOSE RECORDS WOULD DISCLOSE THE
20 NAME, ADDRESS, TELEPHONE NUMBER, OR PERSONNEL RECORDS OF, OR
21 WOULD ENDANGER THE LIFE OR SAFETY OF, AN EMPLOYEE, OR A RELATIVE
22 OF AN EMPLOYEE, OF THE DEPARTMENT OF CORRECTIONS OR DEPARTMENT OF
23 MENTAL HEALTH, WHICH EMPLOYEE PROVIDES SECURITY FOR, CUSTODY OF,
24 OR DIRECT CARE AND CONTROL FOR 1 OR MORE OF THE FOLLOWING:

25 (i) A PERSON WHO IS UNDER THE JURISDICTION OF THE DEPARTMENT
26 OF CORRECTIONS AND WHO IS EITHER CONFINED IN A STATE CORRECTIONAL

1 FACILITY OR IS UNDER THE CONTINUING JURISDICTION OF THE
2 DEPARTMENT OF CORRECTIONS.

3 (ii) A PERSON WHO IS UNDER THE JURISDICTION OF A CIRCUIT
4 COURT OR DISTRICT COURT AND WHO HAS BEEN REFERRED TO A CENTER FOR
5 FORENSIC PSYCHIATRY FOR EVALUATION OR TREATMENT, OR BOTH EVALU-
6 ATION AND TREATMENT.

7 (2) This act shall not authorize the withholding of informa-
8 tion otherwise required by law to be made available to the public
9 ~~—~~ or to a party in a contested case under Act No. 306 of the
10 Public Acts of 1969, as amended.