



SENATE BILL No. 159

January 26, 1993, Introduced by Senators SCHWARZ and
MC MANUS and referred to the Committee on Government
Operations.

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~~ IF the public
7 disclosure of the information would constitute a clearly unwar-
8 ranted invasion of an individual's privacy.

1 (b) Investigating records compiled for law enforcement
2 purposes, but only to the extent that disclosure as a public
3 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 if
10 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 would prevent the
26 public body from complying with SECTION 438 OF SUBPART 2 OF PART
27 C OF THE GENERAL EDUCATION PROVISIONS ACT, TITLE IV OF PUBLIC LAW

1 90-247, 20 U.S.C. ~~section~~ 1232g, COMMONLY REFERRED TO AS THE
2 FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974.

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:

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~~
22 DOES not apply to information submitted as required by law or as
23 a condition of receiving a governmental contract, license, or
24 other 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, until
8 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) 3 years has
11 elapsed since the making of the appraisal, unless litigation rel-
12 ative to the acquisition has not yet terminated.

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

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

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

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

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

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

25 (q) Testing data developed by a public body in determining
26 whether bidders' products meet the specifications for purchase of
27 those products by the public body, if disclosure of the data

1 would reveal that only 1 bidder has met the specifications. This
2 subdivision ~~shall~~ DOES not apply after 1 year has elapsed from
3 the time the public body completes the testing.

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

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

11 (t) Unless the public interest in disclosure outweighs the
12 public interest in nondisclosure in the particular instance,
13 public records of a police or sheriff's agency or department, the
14 release of which would do any of the following:

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

16 (ii) Identify or provide a means of identifying a law
17 enforcement undercover officer or agent or a plain clothes offi-
18 cer as a law enforcement officer or agent.

19 (iii) Disclose the personal address or telephone number of
20 law enforcement officers or agents or any special skills that
21 they may have.

22 (iv) Disclose the name, address, or telephone numbers of
23 family members, relatives, children, or parents of law enforce-
24 ment officers or agents.

25 (v) Disclose operational instructions for law enforcement
26 officers or agents.

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

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

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

9 (ix) Disclose personnel records of law enforcement
10 agencies.

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

14 (U) AN APPLICATION FOR THE POSITION OF PRESIDENT OF AN
15 INSTITUTION OF HIGHER EDUCATION ESTABLISHED UNDER SECTION 4, 5,
16 OR 6 OF ARTICLE VIII OF THE STATE CONSTITUTION OF 1963, AND
17 RECORDS OR INFORMATION RELATING TO THE PROCESS OF SEARCHING FOR
18 AND SELECTING AN INDIVIDUAL FOR A POSITION DESCRIBED IN THIS SUB-
19 DIVISION, IF THE RECORDS OR INFORMATION COULD BE USED TO IDENTIFY
20 A CANDIDATE FOR THE POSITION.

21 (2) This act ~~shall~~ DOES not authorize the withholding of
22 information otherwise required by law to be made available to the
23 public, or to a party in a contested case under Act No. 306 of
24 the Public Acts of 1969, as amended.