

HOUSE No. 3030

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to the supervision of public records..

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

1 Section 1 of Chapter 66 of the General Laws, as appearing in the 2006 Official Edition, is
2 hereby amended in line 11, by adding at the end thereof the following six paragraphs:— (a) The
3 Secretary of the Commonwealth, supervisor of records, or any officer the Secretary so
4 designates, in his discretion:— (1) may make such inquiry as he deems necessary to determine
5 whether any person has violated any provision of this chapter or any regulation hereunder, or to
6 aid in the enforcement of this chapter or in the prescribing of further regulations hereunder; (2)
7 may require or permit any person to file a statement in writing, under oath or otherwise, as the
8 Secretary, supervisor of records, or the officer designated by the Secretary determines, as to all
9 the facts and circumstances concerning the matter to be investigated, and (3) may upon a finding
10 that there has been a violation of this chapter, issue an order requiring the violator to comply
11 with statutory requirements of said chapter, or the regulations promulgated by the supervisor of
12 records pursuant to the authority granted in this chapter and take whatever action appropriate to
13 enforce such order including, but not limited to, initiating judicial action in a court of competent
14 jurisdiction on his own motion.

(b) For the purpose of any investigation or enforcement of any order issued under this chapter, the Secretary, supervisor of records, or any officer designated by the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records, books, papers, correspondence, memoranda, agreements, or other documents which the Secretary, supervisor of records, or the officer designated by the Secretary deems relevant or material to an inquiry or the enforcement of an order.

(c) In case of contumacy by a records custodian, or refusal to obey a subpoena issued to any records custodian, the superior court for the county in which the records custodian is located, upon application by the Secretary, supervisor of records, or any officer designated by the Secretary, may issue to the records custodian an order requiring him to appear before the Secretary, supervisor of records, or any officer designated by the Secretary, to produce the records at issue or documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(d) The Secretary of the Commonwealth or supervisor of records, shall, when necessary, promulgate regulations governing the proceedings or appeals to be so conducted or heard.

(e) The Secretary, supervisor of records, or officer designated by the Secretary, may file on his own motion a civil action in a court of competent jurisdiction to enforce such orders, as defined in subpart (a)(3) of this section. Additionally, the Secretary, supervisor of records, or officer designated by the Secretary, may independently seek further remedies as listed in Section 15 of this chapter.

37 (f) If any provision of this chapter or the application thereof to any person or
38 circumstance is held invalid, the invalidity shall not affect other provisions or applications of this
39 chapter which can be given effect without the invalid provision or application, and to this end the
40 provisions of this chapter are severable.