

# SENATE . . . . . No. 2127

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Senate, February 4, 2016 -- Text of the Senate amendment to the House Bill to improve public records (House, No. 3858) (being the text of Senate, No. 2120, printed as amended)

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## The Commonwealth of Massachusetts

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In the One Hundred and Eighty-Ninth General Court  
(2015-2016)

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1           SECTION 1. Section 7 of chapter 4 of the General Laws, as appearing in the 2014  
2   Official Edition, is hereby amended by inserting after the word “transportation”, in line 226, the  
3   following words:- , cybersecurity.

4           SECTION 2. Said section 7 of said chapter 4, as so appearing, is hereby further amended  
5   by striking out, in line 229, the words “ (b) of section 10” and inserting in place thereof the  
6   following words:- (a) of section 10A.

7           SECTION 3. Said section 7 of said chapter 4, as so appearing, is hereby further amended  
8   by inserting after the word “safety”, in line 230, the following words:- or cybersecurity.

9           SECTION 3A. Said section 7 of said chapter 4, as so appearing, is hereby further  
10   amended by striking out, in line 231, and in line 242, the second time it appears, the word  
11   “home”.

12          SECTION 4. Said section 7 of said chapter 4, as so appearing, is hereby further amended  
13   by striking out, in line 269, the words “ten of chapter sixty-six” and inserting in place thereof the  
14   following words:- 10A of chapter 66.

SECTION 4A. Chapter 10 of the General Laws is hereby amended by inserting after section 35CCC the following section:-

Section 35DDD. There shall be established and set up on the books of the commonwealth a Public Records Assistance Fund, which shall be administered by the Massachusetts office of information technology. The fund shall be credited with: (i) all punitive damages assessed pursuant to paragraph (4) of subsection (d) of section 10A of chapter 66; (ii) any appropriations, bond proceeds or other monies authorized or transferred by the general court and specifically designated to be credited to the fund; (iii) gifts, grants and other private contributions designated to be credited to the fund; (iv) all other amounts credited or transferred to the fund from any other fund or source; and (v) interest or investment earnings on any such monies. Amounts credited to the fund may be expended by the chief information officer, without further appropriation, to provide grants to municipalities to support the information technology capabilities of municipalities to foster best practices for increasing access to public records and facilitating compliance with said chapter 66.

The unexpended balance in the fund at the end of a fiscal year shall not revert to the General Fund but shall remain available for expenditure in subsequent fiscal years. No expenditure made from the fund shall cause the fund to become deficient at any point.

SECTION 5. Chapter 66 of the General Laws is hereby amended by inserting after section 1 the following section:-

Section 1A. The supervisor of records shall: (i) create educational materials or guides and may make available training to an agency or municipality in order to foster awareness and compliance with this chapter; and (ii) prepare forms, guidelines and reference materials for

37 agencies and municipalities to use and disseminate to individuals seeking access to public  
38 records to assist an individual in making an informed public records request. The supervisor of  
39 records shall make the forms, guidelines and reference materials available at no cost on a website  
40 operated by the secretary of the commonwealth. Upon request and to the extent feasible, the  
41 supervisor of public records shall assist each agency and municipality in developing best  
42 practices to facilitate compliance with this chapter and to promote access to public records.

43 SECTION 6. Section 3 of said chapter 66, as so appearing, is hereby amended by  
44 inserting after the word “process”, in line 12, the second time it appears, the following words:- ,  
45 or by electronic means.

46 SECTION 7. Said chapter 66 is hereby further amended by inserting after section 6 the  
47 following section:-

48 Section 6A. (a) Every agency and municipality shall designate at least 1 employee as a  
49 records access officer. In a municipality, the municipal clerk or any person the clerk may  
50 designate, shall serve as a records access officer and the local chief executive officer or chief  
51 administrative officer, as defined in section 7 of chapter 4, may appoint additional records access  
52 officers. For the purposes of this chapter, “agency” shall mean an entity, other than a  
53 municipality, that is identified in clause Twenty-sixth of section 7 of said chapter 4 as possessing  
54 public records.

55 (b) A records access officer shall coordinate an agency’s or a municipality’s response to  
56 requests for access to public records and shall facilitate the resolution of such requests by the  
57 timely and thorough production of public records. Each officer shall further: (i) assist persons  
58 seeking public records to identify the records sought; (ii) assist the custodian of records in

59 preserving public records in accordance with all applicable laws, rules, regulations and  
60 schedules; and (iii) prepare guidelines or reference materials that enable a person seeking access  
61 to public records in the custody of the agency or municipality to make informed requests. The  
62 guidelines or reference materials shall be updated periodically and shall include a list of  
63 categories of public records maintained by the agency or municipality and a list and description  
64 of pertinent databases and record keeping systems maintained by the agency or municipality the  
65 contents of which are public records. Each agency and municipality that maintains a website  
66 shall post such guidelines or reference materials on its website.

67 (c) Each agency and municipality shall post in a conspicuous location at its offices and  
68 on its website, if any, the name, title, business address, business telephone number and business  
69 email address of each records access officer. The designation of a records access officer shall  
70 not be construed to prohibit other authorized employees from responding to public records  
71 requests, making public records or information available to the public or from otherwise taking  
72 actions necessary to comply with this chapter; provided, however, that such employees shall act  
73 in accordance with the law.

74 (d) The records access officer shall provide the public records to a requestor by  
75 electronic means unless the record is not available in electronic form or the requestor does not  
76 have the ability to receive or access the records in a usable electronic form. The records access  
77 officer shall, to the extent feasible, provide the public record in the requestor's preferred format  
78 or, in the absence of a preferred format, in a searchable, machine readable format. The records  
79 access officer shall not be required to create a new public record in order to comply with a  
80 request. If the public record requested is available on a public website pursuant to subsection (b)  
81 of section 19, section 14C of chapter 7 or any other appropriately indexed and searchable public

website, the records access officer may furnish the public record by providing reasonable assistance in locating the requested record on the public website. Any document submitted to an agency or municipality for use in deliberations by a public body shall be provided in an electronic format at the time of submission.

(e) Each records access officer of an agency shall document each request for public records submitted to the records access officer. The records access officer shall document (i) the nature of the request and the date on which the request was received; (ii) the date on which a response is provided to the requestor; (iii) the date on which a public record is provided to the requestor; (iv) the number of hours required to fulfill the request; (v) fees charged to the person making the request, if any; (vi) petitions submitted under clause (iv) of subsection (d) of section 10; (vii) requests appealed under section 10A; (viii) the time required to comply with supervisor of records orders under said section 10A; and (ix) the final adjudication of any court proceedings under subsection (d) of said section 10A. Nothing in this subsection shall require a records access officer to disclose information otherwise protected from public access. The secretary of the commonwealth shall prescribe a form for recording such information and shall annually collect the information from the records access officers, post the information on a website maintained by the secretary and report the same to the clerks of the house of representatives and senate.

(f) The supervisor of records shall document requests for public records appealed to the supervisor of records by the requestor. The supervisor of records shall document: (i) the date the request was submitted to the records access officer; (ii) the date the records access officer responded; (iii) the amount of fees charged to the requestor, if any; (iv) petitions under clause (iv) of subsection (d) of section 10; (v) the time required to comply with supervisor of records

orders under said section 10A; and (vi) the final adjudication of any court proceedings under subsection (d) of said section 10A. Nothing in this subsection shall require the supervisor to disclose information otherwise protected from public access. The secretary of the commonwealth shall prescribe a form for recording such information and shall post the information on a website maintained by the secretary.

SECTION 8. Said chapter 66 is hereby further amended by striking out section 10, as appearing in the 2014 Official Edition, and inserting in place thereof the following 3 sections:-

Section 10. (a) A records access officer appointed pursuant to section 6A, or a designee, shall, at reasonable times and without unreasonable delay, permit inspection or furnish a copy of any public record, as defined in clause Twenty-sixth of section 7 of chapter 4, or any segregable portion of a public record, not later than 15 calendar days following the receipt of the request if: (i) the request reasonably describes the public record sought; (ii) the public record is within the possession, custody or control of the agency or municipality that the records access officer serves; and (iii) the records access officer receives payment of a reasonable fee as set forth in subsection (d). If the agency or municipality does not intend to permit inspection or furnish a copy of the requested record because the record does not exist or is not within the possession, custody or control of the agency or municipality or because the record is not a public record, the agency or municipality shall inform the requestor in writing within a reasonable time, not to exceed 10 calendar days; provided, however, that the written response shall include the identity, if known, of the agency or municipality who may be in possession, custody or control of the public record sought or the specific reason for any withholding, including the specific exemption or exemptions upon which the withholding is based.

(b) If the magnitude or difficulty of the request, or the receipt of multiple requests from the same requestor, unduly burdens the other responsibilities of the agency or municipality such that the agency or municipality is unable to permit inspection or furnish a copy of a requested public record within 15 calendar days, the records access officer shall, not later than 10 calendar days following the initial receipt of a request for public records, issue a written response to the person who submitted the request. The written response shall be made via first class or electronic mail and shall include the following:

(i) confirmation of the receipt of the request;

(ii) identification of any known public records or categories of public records that the agency or municipality intends to produce and any, known records, categories of records, or any portion of a record, that the agency or municipality intends to withhold accompanied by specific reasons for such withholding, including the specific exemption or exemptions upon which the withholding is based; provided, that nothing in the written response shall limit an agency's or municipality's ability to redact or withhold information in accordance with state or federal law;

(iii) identification of any public record sought that does not exist or is not within the possession, custody or control of the agency or municipality that the records access officer serves and, if known, identification of the agency or municipality who may be in possession, custody or control of the public record sought;

(iv) a detailed statement describing why the magnitude or difficulty of the request unduly burdens the other responsibilities of the agency or municipality and therefore requires additional time to produce the public record sought;

(v) an itemized, good faith estimate of any fees that may be charged to produce the records;

(vi) a reasonable time in which the agency or municipality shall produce the public records sought but this time shall not exceed 30 calendar days following the initial receipt of the request for public records unless the agency or municipality and the requestor agree, in writing, to establish a time beyond 30 calendar days of the initial receipt of the request;

(vii) a proposed reasonable modification of the scope of the request or an invitation to assist the person making the request for public records to modify the scope of the request in order to produce records sought more efficiently and affordably; and

(viii) a statement informing the requestor of the right of appeal to the supervisor of records under subsection (a) and the right to seek judicial review of an unfavorable decision by commencing a civil action in the superior court under subsection (c) of section 10A.

(c) If the magnitude or difficulty of a request, or the receipt of multiple requests from the same requestor, unduly burdens the other responsibilities of the agency or municipality such that an agency or municipality is unable to complete the request within the time provided in clause (vi) of subsection (b), a records access officer may, as soon as practical and within 20 calendar days after initial receipt of the request, or within 5 calendar days after receipt of a determination by the supervisor of public records that the requested record constitutes a public record, petition the supervisor of records for an extension of the time for the agency or municipality to furnish copies of the requested record, or any portion of the requested record, that the agency or municipality has within its possession, custody or control and intends to furnish. The records access officer shall, upon submitting the petition to the supervisor of records, furnish a copy of



the petition to the requestor. Upon a showing of good cause, the supervisor of records may grant a single extension not to exceed 30 calendar days. In determining whether the agency or municipality has proven good cause, the supervisor of records shall consider, but shall not be limited to considering: (i) the need to search for, collect, segregate or examine records; (ii) the scope of redaction required to prevent unlawful disclosure; (iii) the capacity or the normal business hours of operation of the agency or municipality to produce the request without the extension; (iv) efforts undertaken by the agency or municipality in fulfilling the current request and previous requests; (v) whether the request, either individually or as part of a series of requests from the same requestor, is frivolous or intended to harass or intimidate the agency or municipality; and (vi) the public interest served by expeditious disclosure. If the supervisor of records determines that the request is part of a series of contemporaneous requests that are frivolous or designed to intimidate or harass, and the requests are not intended for the broad dissemination of information to the public about actual or alleged government activity, the supervisor of records may grant an extension beyond 30 calendar days or relieve the agency or municipality of its obligation to provide copies of the records sought. The supervisor of records shall issue a written decision regarding a petition submitted by a records access officer under this subsection within 7 calendar days following receipt of the petition and shall provide the decision to the agency or municipality and the requestor and shall inform the requestor of the right to seek judicial review of an unfavorable decision by commencing a civil action in the superior court.

(d) A records access officer may charge a reasonable fee for a public record. The reasonable fee shall not exceed the actual cost of reproducing the record. Unless expressly provided for otherwise, the fee shall be determined in accordance with the following:

192 (i) the actual cost of any storage device or material provided to a person in response to a  
193 request for public records under subsection (a) may be included as part of the fee but the charge  
194 for standard black and white paper copies or printouts of records shall not exceed 5 cents per  
195 page, for both single and double-sided black and white copies or printouts;

196 (ii) if an agency is required to devote more than 4 hours of employee time to search for,  
197 compile, segregate, redact or reproduce the record or records requested, the records access  
198 officer may also include as part of the fee an hourly rate equal to or less than the hourly rate  
199 attributed to the lowest paid employee who has the necessary skill required to search for,  
200 compile, segregate, redact or reproduce a record requested, but the fee shall not be more than \$25  
201 per hour and an agency shall not charge for the first 4 hours of work performed; provided,  
202 however, that an agency shall not charge for time spent segregating or redacting unless such  
203 segregation or redaction is required by law or approved by the supervisor of records under clause  
204 (iv);

205 (iii) if a municipality is required to devote more than 2 hours of employee time to search  
206 for, compile, segregate, redact or reproduce a record requested, the records access officer may  
207 also include as part of the fee an hourly rate equal to or less than the hourly rate attributed to the  
208 lowest paid employee who has the necessary skill required to search for, compile, segregate,  
209 redact or reproduce the record requested but the municipality shall not charge more than \$25 per  
210 hour unless such rate is approved by the supervisor of records under clause (iv); provided,  
211 however, that a municipality shall not charge for the first 2 hours of work performed or time  
212 spent segregating or redacting unless such segregation or redaction is required by law or  
213 approved by the supervisor of records under clause (iv);

(iv) the supervisor of records may approve a petition from an agency or municipality to charge for time spent segregating or redacting, or a petition from a municipality to charge in excess of \$25 per hour, if the supervisor of records determines that: (1) the charge represents an actual and good faith representation by the agency or municipality to comply with the request; (2) the charge is necessary such that the request could not have been prudently completed without the redaction, segregation or charge in excess of \$25 per hour; and (3) the charge is not designed to limit, deter or prevent access to requested public records; provided, however, that in making a determination regarding any such petition, the supervisor of records shall consider the public interest served by limiting the cost of public access to the records, the financial ability of the requestor to pay the additional or increased charges and any other relevant extenuating circumstances.; provided, further that an agency or municipality, upon submitting a petition under this clause, shall furnish a copy of the petition to the requestor; provided further, that the supervisor of records shall issue a written determination with findings regarding any such petition within 7 calendar days following receipt of the petition by the supervisor of public records; and provided further, that the supervisor of records shall provide the determination to the agency or municipality and the requestor and shall inform the requestor of the right to seek judicial review of an unfavorable decision by commencing a civil action in the superior court; and

(v) the records access officer may waive or reduce the amount of any fee under this subsection upon a showing that disclosure of a requested record is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requestor or upon a showing that the requestor lacks the financial ability to pay the full amount of the reasonable fee.

237 A records access officer shall not charge a fee for a public record unless the records  
238 access officer furnished the public record within 15 calendar days under subsection (a) or  
239 responded to the requestor in 10 calendar days under subsection (b).

240 Section 10A. (a) If an agency or municipality fails to comply with a requirement of  
241 section 10 or issues a response the requestor believes in violation of section 10, the person who  
242 submitted the initial request for public records may petition the supervisor of records for a  
243 determination as to whether a violation has occurred. In assessing whether a violation has  
244 occurred, the supervisor of records may inspect any record or copy of a record in camera. The  
245 supervisor of records shall issue a written determination regarding any petition submitted in  
246 accordance with this section not later than 15 calendar days following receipt of the petition by  
247 the supervisor of records. Upon a determination by the supervisor of records that a violation has  
248 occurred, the supervisor of records shall order timely and appropriate relief. A requestor,  
249 aggrieved by an order issued by the supervisor of records or upon the failure of the supervisor of  
250 records to issue a timely determination, may obtain judicial review only through an action in  
251 superior court seeking relief in the nature of certiorari under section 4 of chapter 249 and as  
252 prescribed in subsection (d).

253 (b) If an agency or municipality refuses or fails to comply with an order issued by the  
254 supervisor of records, the supervisor of records shall notify the attorney general who, after  
255 consultation with the supervisor of records, may take whatever measures the attorney general  
256 considers necessary to ensure compliance. If the attorney general files an action to compel  
257 compliance, the action shall be filed in Suffolk superior court with respect to state agencies and,  
258 with respect to municipalities, in the superior court of the county in which the municipality is  
259 located. The attorney general shall designate an individual within the office of the attorney

260 general to serve as a primary point of contact for the supervisor of records. In addition to any  
261 other duties the attorney general may impose, the designee shall serve as a primary point of  
262 contact within the office of the attorney general regarding notice from the supervisor of records  
263 that an agency or municipality has refused or failed to comply with an order issued by the  
264 supervisor of records.

265 (c) Notwithstanding the procedure in subsections (a) or (b), a requestor may initiate a  
266 civil action to enforce the requirements of this chapter. Any action under this subsection shall be  
267 filed in Suffolk superior court with respect to agencies and, with respect to municipalities, in the  
268 superior court in the county in which the municipality is located. The superior court shall have  
269 available all remedies at law or in equity; provided, however, that any damages awarded shall be  
270 consistent with subsection (d).

271 (d)(1) In any action filed by a requestor pursuant to this section:

272 (i) the superior court shall have jurisdiction to enjoin agency or municipal action;

273 (ii) the superior court shall determine the propriety of any agency or municipal action de  
274 novo and may inspect the contents of any defendant agency or municipality record in camera;

275 (iii) the superior court shall, when feasible, expedite the proceeding;

276 (iv) a presumption shall exist that each record sought is public and the burden shall be on  
277 the defendant agency or municipality to prove, by a preponderance of the evidence, that such  
278 record or portion of the record may be withheld in accordance with state or federal law.

(2) (A) The superior court shall award reasonable attorneys' fees and other litigation costs reasonably incurred to the requestor in any case in which the requestor has obtained relief through a judicial order or consent decree unless:

(i) the supervisor of records under subsection (a) found that the agency or municipal action did not violate this chapter or the agency or municipality reasonably relied on, based on similar facts, a published opinion by the supervisor of records or the attorney general;

(ii) the agency or municipality reasonably relied upon a published opinion of an appellate court based on similar facts;

(iii) the request was designed or intended to harass or intimidate; or

(iv) the request was not in the public interest and made for a private or commercial purpose unrelated to disseminating information to the public about actual or alleged government activity.

If the superior court determines that 1 of the conditions exists under clauses (i) to (iv), inclusive, the superior court may award reasonable attorneys' fees and other litigation costs reasonably incurred to the requestor.

(B) If a requestor has obtained relief in a superior court case through a voluntary or unilateral change in position by the agency or municipality and if the requestor's claim is not insubstantial, the superior court may award reasonable attorneys' fees and other litigation costs reasonably incurred to the requestor.

(C) If a requestor has obtained relief under subparagraph (A) and the superior court determines that at least 1 of the conditions exists under clauses (i) to (iv), inclusive, or

subparagraph (B), whether the superior court determines that the assessment of reasonable attorneys' fees and other litigation costs reasonably incurred are warranted or not warranted, the judge shall issue findings specifying the basis for allowing or denying those fees and costs.

(3) If the superior court awards reasonable attorneys' fees and other litigation costs reasonably incurred to the requestor, it shall order the agency or municipality to waive any fee assessed under subsection (d) of section 10. If the superior court does not award reasonable attorneys' fees and other litigation costs reasonably incurred to the requestor, it may order the agency or municipality to waive any fee assessed under said subsection (d) of said section 10. Whether the superior court determines to waive any fee assessed under said subsection (d) of said section 10, it shall issue findings specifying the basis for such decision.

(4) If a requestor has obtained judgment in superior court in a case under this section and has demonstrated that the defendant agency or municipality, in withholding or failing to timely furnish the requested record or any portion of the record or in assessing an unreasonable fee, did not act in good faith, the superior court shall assess punitive damages against the defendant agency or municipality in an amount not less than \$1,000 nor more than \$5,000, to be deposited into the Public Records Assistance Fund established in section 35DDD of chapter 10.

(e) Notwithstanding any other provision of this chapter, the attorney general may, at any time, file a complaint in Suffolk superior court with respect to agencies and, with respect to municipalities, in the superior court in the county in which the municipality is located, to ensure compliance with this chapter and may further intervene as of right in any action filed in accordance with this section. In any action filed or in which the attorney general has intervened

under this subsection, paragraphs (1) and (4) of subsection (d) shall apply and any public records the court orders produced shall be provided without a fee.

Section 10B. The commissioner of criminal justice information services, the department of criminal justice information services and its agents, servants and attorneys, including the keeper of the records of the firearms record bureau of the department or any licensing authority, as defined in section 121 of chapter 140, shall not disclose any records divulging or tending to divulge the names and addresses of persons who own or possess firearms, rifles, shotguns, machine guns and ammunition therefor, as defined in said section 121 of said chapter 140, and the names and addresses of persons licensed to carry or possess the same to any person, firm, corporation, entity or agency except criminal justice agencies as defined in section 167 of chapter 6 and except to the extent such information relates solely to the person making the request and is necessary to the official interests of the entity making the request.

The home address and telephone number of law enforcement, judicial, prosecutorial, department of youth services, department of children and families, department of correction and any other public safety and criminal justice system personnel, and of unelected general court personnel, shall not be public records in the custody of the employers of such personnel or the public employee retirement administration commission or any retirement board established under chapter 32 and shall not be disclosed, but such information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180 or to criminal justice agencies as defined in said section 167 of said chapter 6. The name and home address and telephone number of a family member of any such personnel shall not be public records in the custody of the employers of the foregoing persons or the public employee retirement administration commission or any retirement board established under



chapter 32 and shall not be disclosed. The home address and telephone number or place of employment or education of victims of adjudicated crimes, of victims of domestic violence and of persons providing or training in family planning services and the name and home address and telephone number, or place of employment or education of a family member of any of the foregoing shall not be public records in the custody of a government agency which maintains records identifying such persons as falling within such categories and shall not be disclosed.

SECTION 8A. Said chapter 66 is hereby further amended by striking out section 11, as so appearing, and inserting in place thereof the following section:-

Section 11. Public records, other than the records in the custody of teachers of the public schools, shall be stored in fireproof rooms, safes or vaults, furnished with fittings of non-combustible materials only or in buildings, vaults or file rooms that comply with National Fire Protection Association Standards, or standards promulgated by the supervisor of records, for the safe keeping of the public records.”

SECTION 8B. Section 12 of said chapter 66, as so appearing, is hereby amended by striking out, in line 4, the words “provided for them” and inserting in place thereof the following words:- or buildings, vaults or file rooms that comply with the National Fire Protection Association Standards or standards promulgated by the supervisor of records.

SECTION 8C. Section 13 of said chapter 66, as so appearing, is hereby amended by inserting after the word “person”, in line 2, the following word:- unlawfully.

SECTION 8D. Said chapter 66 is hereby further amended by striking out section 17, as so appearing, and inserting in place thereof the following section:-

Section 17. Except as otherwise provided by law, all public records shall be kept in the custody of the person having the custody of similar records in the county, city or town to which the records originally belonged; provided, however, that the custodian of public records may enter into a contract for the storage of records containing public record information, but no contract for the storage of public records shall be entered into if the contract prevents or unduly restricts a records access officer or custodian of records from providing or storing the records in accordance with this chapter. Records not directly in the custodian's possession shall be considered in the custody of the custodian if subject to a contract for the storage of public records that is permitted by this section. If the custodian does not have custody of public records, the custodian shall demand delivery from any person unlawfully having possession of the records, and the records shall immediately be delivered by such person to the custodian. A person who refuses or neglects to perform any duty required by this section shall be punished by fine of not more than \$20.

SECTION 8E. Said chapter 66 is hereby further amended by inserting after section 17E the following 2 sections:-

Section 17F. A document made or received by the Massachusetts Bay Transportation Authority Retirement Board or any other legal entity, public or private, which receives funds from the Massachusetts Bay Transportation Authority for the payment or administration of pensions for any employee of the Massachusetts Bay Transportation Authority shall be considered a public record under this chapter and clause Twenty-sixth of section 7 of chapter 4.

Section 17G. Notwithstanding section 6 of chapter 174A or section 6 of chapter 175A, records of the division of insurance related to homeowners insurance rate filings received or

created pursuant to said section 6 of said chapter 174A and said section 6 of said chapter 175A shall be public records at the time of initial filing and thereafter. Such records shall be available to the public online within 3 business days after they are filed.

SECTION 9. Said chapter 66 is hereby further amended by adding the following 2 sections:-

Section 19. (a) When designing or acquiring an electronic recordkeeping system or database, records access officers shall, consistent with section 17 of chapter 110G, consult with their chief executive officer, chief administrative officer or the Massachusetts office of information technology pursuant to chapter 7D to ensure, to the extent feasible, that the system or database is capable of providing data in a commonly available electronic, machine readable format. Such database designs or acquisitions shall allow for, to the extent feasible, information storage and retrieval methods that permit the segregation and retrieval of public records and redacting of exempt information in order to provide maximum public access. No agency or municipality shall enter into a contract for the storage of electronic records containing public records if the contract prevents or unduly restricts the records access officer from providing the public records in accordance with this chapter.

(b) Every agency shall provide on a searchable website electronic copies, accessible in a commonly available electronic format, of the following types of public records: (i) final opinions, decisions, orders or votes from agency proceedings; (ii) annual reports; (iii) reports to the general court; (iv) notices of regulations proposed under chapter 30A; (v) notices of hearings; (vi) winning bids for public contracts; (vii) awards of federal, state and municipal government grants; (viii) minutes of open meetings; (ix) agency budgets; and (x) any public record

information of significant interest or which could reasonably be anticipated to be the subject of multiple requests that the agency deems appropriate to post; provided, that any agency may withhold any record or portion of a record in accordance with state or federal law.

Section 20. For requests of payroll, financial and other data residing in the centralized state accounting and payroll systems, or associated data warehouses, the comptroller shall make available guidelines on how agencies using these systems may access and disclose public records to ensure that data that is exempted or prohibited from disclosure is not wrongfully disclosed and the security of the system is maintained.

SECTION 9A. Section 3 of chapter 268B of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the word "reports", in line 22, the following words:- ; provided, however, that the commission may make statements and reports filed with the commission available by electronic mail in a read-only format upon the written request of any individual that delivers the request by electronic mail and provides identification acceptable to the commission, including the individual's affiliation, if any.

SECTION 10. Municipal records access officers shall, to the extent feasible, post the commonly available public record documents identified in subsection (b) of section 19 of chapter 66 of the General Laws on a website maintained by the municipality.

SECTION 12. Pursuant to section 1 of chapter 66 of the General Laws, the supervisor of records shall adopt regulations necessary to implement the changes to said chapter 66 pursuant to this act. The regulations shall be adopted not later than September 1, 2016.

SECTION 13. Notwithstanding any general or special law to the contrary, this act shall not apply to public records requests submitted under section 10 of chapter 66 of the General

Laws before the effective date of this act and no obligation imposed by this act shall be enforceable or deemed relevant in any appeal pending before the supervisor of records or any court on the effective date of this act.

SECTION 13A. There shall be a working group to review and evaluate the application of subsection (f) of clause Twenty-sixth of section 7 of chapter 4 of the General Laws as it relates to law enforcement. The working group shall review determinations of the supervisor of records and judicial decisions regarding the application of said subsection (f) of said clause Twenty-sixth of said section 7 of said chapter 4 and issue findings regarding: (i) the public interest in releasing records made and kept by police departments, including arrest records; (ii) privacy and confidentiality concerns related to releasing records made and kept by police departments; and (iii) the interaction of said subsection (f) of said clause Twenty-sixth of said section 7 of said chapter 4 and the criminal offender record information system.

The working group shall consist of: the secretary of the commonwealth who shall serve as chair; the secretary of public safety and security, or a designee; the court administrator of the trial court, or a designee; 2 members of the senate, 1 of whom shall be the minority leader, or a designee; 2 members of the house of representatives, 1 of whom shall be the minority leader, or a designee; a representative of the American Civil Liberties Union of Massachusetts, Inc.; a representative of the Massachusetts Newspaper Publishers Association; a representative of the Massachusetts Chiefs of Police Association, Inc.; a representative of the State Police Commissioned Officers Association of Massachusetts, Inc.; a representative of the Massachusetts Coalition of Police, Inc.; and a representative of the Massachusetts Municipal Association, Inc..

453           The working group shall file a report of its findings and recommendations, along with  
454   any drafts of legislation necessary to carry those recommendations into effect, with the clerks of  
455   the senate and house of representatives not later than December 31, 2016.

456           SECTION 13B. Notwithstanding any general or special law to the contrary,  
457   municipalities or other governmental agencies may contract with online data service providers  
458   for the collection, storage and public dissemination of motor vehicle accident reports prepared by  
459   or submitted to law enforcement. Municipalities or other governmental agencies may charge a  
460   reasonable convenience fee for such service not to exceed \$10; provided, however, that a  
461   municipality or government agency charging such a convenience fee shall make available public  
462   records from motor vehicle accident reports consistent with chapter 66 of the General Laws to a  
463   person required to submit such a report under section 26 of chapter 90 of the General Laws or  
464   individuals directly involved in the accident. Municipalities or other governmental agencies may  
465   provide reports from data service providers in an alternative format.

466           SECTION 13C. Notwithstanding section 15, a municipality that maintains a website  
467   shall not be required to post guidelines or reference materials on its website, as required by  
468   subsection (b) of section 6A of chapter 66 of the General Laws, until January 1, 2017.

469           SECTION 14. Section 17F of chapter 66 of the General Laws shall apply to any  
470   document made or received by the Massachusetts Bay Transportation Authority Retirement  
471   Board or any other legal entity, public or private, which receives funds from the Massachusetts  
472   Bay Transportation Authority for the payment or administration of pensions for any employee of  
473   the Massachusetts Bay Transportation Authority on or after the effective date of this act.

474           SECTION 15. Sections 1 to 6, inclusive, and 8 to 10, inclusive, shall take effect on  
475   October 1, 2016

476           SECTION 16. Section 7 shall take effect on July 1, 2016.