

HOUSE BILL No. 5829

May 29, 1990, Introduced by Rep. Dunaskiss and referred to the Committee on Judiciary.

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 public dis-
7 closure of the information would constitute a clearly unwarranted
8 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 if disclosed would prejudice a
18 public body's ability to maintain the physical security of custo-
19 dial or penal institutions occupied by persons arrested or con-
20 victed 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 20 U.S.C. section 1232g.

1 (f) A public record or information described in this section
2 which is furnished by the public body originally compiling,
3 preparing, or receiving the record or information to a public
4 officer or public body in connection with the performance of the
5 duties of that public officer or public body, if the considera-
6 tions originally giving rise to the exempt nature of the public
7 record remain applicable.

8 (g) Trade secrets or commercial or financial information
9 voluntarily provided to an agency for use in developing govern-
10 mental policy if:

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

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

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

23 (h) Information or records subject to the attorney-client
24 privilege.

25 (i) Information or records subject to the physician-patient,
26 psychologist-patient, minister, priest or Christian science

1 practitioner, or other privilege recognized by statute or court
2 rule.

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

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

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

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

19 (n) Communications and notes within a public body or between
20 public bodies of an advisory nature to the extent that they cover
21 other than purely factual materials and are preliminary to a
22 final agency determination of policy or action. This exemption
23 shall not apply unless the public body shows that in the particu-
24 lar instance the public interest in encouraging frank communica-
25 tions between officials and employees of public bodies clearly
26 outweighs the public interest in disclosure. This exemption does
27 not constitute an exemption under state law for purposes of

1 section 8(h) of THE OPEN MEETINGS ACT, Act No. 267 of the Public
2 Acts of 1976, being section 15.268 of the Michigan Compiled
3 Laws. As used in this subdivision, "determination of policy or
4 action" includes a determination relating to collective bargain-
5 ing, unless the public record is otherwise required to be made
6 available under Act No. 336 of the Public Acts of 1947, as
7 amended, being sections 423.201 to 423.216 of the Michigan
8 Compiled Laws.

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

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

23 (q) Testing data developed by a public body in determining
24 whether bidders' products meet the specifications for purchase of
25 those products by the public body, if disclosure of the data
26 would reveal that only 1 bidder has met the specifications. This

1 subdivision shall not apply after 1 year has elapsed from the
2 time the public body completes the testing.

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

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

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

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

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

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

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

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

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

1 (vii) Endanger the life or safety of law enforcement
2 officers or agents or their families, relatives, children, par-
3 ents, or those who furnish information to law enforcement depart-
4 ments or agencies.

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

7 (ix) Disclose personnel records of law enforcement
8 agencies.

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

12 (U) A LEGAL BRIEF IN THE POSSESSION OF A PROSECUTING
13 ATTORNEY'S OFFICE, WHICH IS WRITTEN BY OR FOR A PROSECUTING
14 ATTORNEY OR A MEMBER OF HIS OR HER LEGAL STAFF, AND IS RETAINED
15 IN THE PROSECUTING ATTORNEY'S OFFICE FOR THE PURPOSE OF RESEARCH
16 AND REFERENCE IN SUBSEQUENT CASES. AS USED IN THIS SUBDIVISION,
17 "LEGAL BRIEF" MEANS A FORMAL OUTLINE, WITH SUPPORTING STATEMENTS
18 OR EVIDENCE, SETTING FORTH THE MAIN CONTENTIONS OF THE PROSECUT-
19 ING ATTORNEY IN A CRIMINAL PROSECUTION, OR OTHER STATEMENT OF THE
20 PROSECUTING ATTORNEY'S CASE, MADE OUT FOR THE INSTRUCTION OF THE
21 PROSECUTING ATTORNEY OR THE COURT IN A CRIMINAL PROSECUTION.

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