

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 443 Session of 2007

INTRODUCED BY MAHONEY, KING, DePASQUALE, BARRAR, BASTIAN, CALTAGIRONE, CARROLL, CREIGHTON, DALLY, FREEMAN, GALLOWAY, GEORGE, GERGELY, GIBBONS, GOODMAN, HARHAI, HARKINS, HORNAMAN, JOSEPHS, KORTZ, KOTIK, KULA, MANDERINO, MARKOSEK, McILHATTAN, MELIO, M. O'BRIEN, PALLONE, PETRARCA, READSHAW, ROAE, SAYLOR, SEIP, SIPTROTH, STABACK, TANGRETTI, WALKO, J. WHITE, YOUNGBLOOD, SOLOBAY, DALEY, LENTZ, HUTCHINSON, YUDICHAK, PYLE, R. STEVENSON, M. SMITH, SWANGER, YEWCIC, BRENNAN, GERBER, K. SMITH, WAGNER, R. TAYLOR, RUBLEY, McILVAINE SMITH, VULAKOVICH, NAILOR, HANNA, PICKET, MURT AND GRUCELA, MARCH 13, 2007

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 18, 2007

AN ACT

1 Requiring certain records of the Commonwealth and its political
2 subdivisions, authorities and agencies and other public
3 bodies to be open for examination, inspection and copying for
4 denial or refusal of access under certain circumstances, for
5 final agency determinations, for appeals, for court costs and
6 attorney fees, for penalties and for immunity; establishing
7 the ~~Office of Access to Public Records~~ PENNSYLVANIA PUBLIC
8 RECORDS OFFICE and providing for its powers and duties; and
9 making a related repeal.

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14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 ~~CHAPTER 1~~ <—
17 ~~PRELIMINARY PROVISIONS~~

18 ~~Section 101. Short title.~~

19 ~~This act shall be known and may be cited as the Open Access~~
20 ~~Law.~~

21 ~~Section 102. Declaration of policy.~~

22 ~~(a) Findings. The General Assembly finds and declares as~~
23 ~~follows:~~

24 ~~(1) Access to public records is vital to the~~
25 ~~preservation and functioning of the democratic process. The~~
26 ~~public is entitled to know and be informed fully about the~~
27 ~~official business of public officials and public employees~~
28 ~~and the activities of government agencies. Access to~~
29 ~~information about the conduct and activities of public~~
30 ~~officials, public employees and government agencies is~~

1 ~~necessary to assist the public in understanding its~~
2 ~~government, monitoring its government and making informed~~
3 ~~judgments about how to exercise its political power.~~

4 ~~(2) The public has a fundamental right of access to~~
5 ~~information on the appropriation, expenditure and investment~~
6 ~~of public money.~~

7 ~~(3) Government agencies receive and maintain data,~~
8 ~~information and public records about persons in their~~
9 ~~commercial and private endeavors. It is important that access~~
10 ~~to public records be balanced against rights of privacy and~~
11 ~~confidentiality provided in law regarding personal data~~
12 ~~gathered by government agencies.~~

13 ~~(4) Technological advances have resulted in new ways to~~
14 ~~create, store and use public records. These advances should~~
15 ~~not hinder or restrict access to public records but should be~~
16 ~~used to facilitate access to public records.~~

17 ~~(5) Providing access to public records is an essential~~
18 ~~function of government agencies and an integral part of the~~
19 ~~fundamental duties of public officials and public employees.~~
20 ~~Rules regarding access to public records should be made~~
21 ~~available to the public and should provide guidance to public~~
22 ~~officials and public employees charged with the~~
23 ~~responsibility of making public records accessible.~~

24 ~~(6) Government agencies have a duty to preserve the~~
25 ~~physical integrity of public records but must do so in a~~
26 ~~manner that does not burden the right of the public to access~~
27 ~~those records.~~

28 ~~(7) The free and unfettered flow of information between~~
29 ~~the government and the governed is essential to the continued~~
30 ~~growth and success of the democratic process.~~

1 ~~(b) Intent. It is the intent of the General Assembly to:~~

2 ~~(1) Ensure and facilitate the right of the public to~~
3 ~~have access to information about the conduct and activities~~
4 ~~of its government.~~

5 ~~(2) Make public records available for access by the~~
6 ~~public unless there is a specific provision of Federal or~~
7 ~~State law that makes the records exempt from access.~~

8 ~~(3) Place the burden of proving that information is not~~
9 ~~a public record or that a public record is exempt from access~~
10 ~~on the government agency that denies access.~~

11 ~~(4) Favor public access when, in the application of this~~
12 ~~act, countervailing interests are of equal weight.~~

13 ~~(5) Provide guidelines to assist public officials and~~
14 ~~public employees in responding to requests for access to~~
15 ~~public records.~~

16 ~~(6) Establish practices for access to public records.~~

17 ~~Section 103. Definitions.~~

18 ~~The following words and phrases when used in this act shall~~
19 ~~have the meanings given to them in this section unless the~~
20 ~~context clearly indicates otherwise:~~

21 ~~"Agency." Any of the following:~~

22 ~~(1) The legislative branch of the government of this~~
23 ~~Commonwealth, including the Senate and the House of~~
24 ~~Representatives.~~

25 ~~(2) The executive branch of the government of this~~
26 ~~Commonwealth, including its departments, offices, boards,~~
27 ~~commissions and other subordinate agencies.~~

28 ~~(3) Independent agencies of the government of the~~
29 ~~Commonwealth which are not subject to the policy supervision~~
30 ~~and control of the Governor and are not part of the~~

1 ~~legislative or judicial branches of government.~~

2 ~~(4) The Office of Attorney General, the Department of~~
3 ~~the Auditor General and the Treasury Department.~~

4 ~~(5) Political subdivisions, intermediate units and~~
5 ~~public trade or vocational schools, intergovernmental~~
6 ~~agencies and councils of governments, including their~~
7 ~~departments, offices, boards, commissions and other~~
8 ~~subordinate agencies.~~

9 ~~(6) An authority or instrumentality created by the~~
10 ~~Commonwealth or by a political subdivision or political~~
11 ~~subdivisions.~~

12 ~~(7) State aided colleges and universities, State owned~~
13 ~~colleges and universities, State related universities and~~
14 ~~community colleges.~~

15 ~~(8) An entity created pursuant to a statute or pursuant~~
16 ~~to the action of an agency for the purpose of performing a~~
17 ~~governmental function. For the purposes of this paragraph,~~
18 ~~"governmental function" shall be broadly defined to include~~
19 ~~any services or functions previously performed by any~~
20 ~~governmental entity or which are for the benefit of the~~
21 ~~public as a whole or some segment of the public.~~

22 ~~(9) An entity contracted by an agency to perform a~~
23 ~~governmental function but only insofar as the entity's~~
24 ~~records regarding the contracted governmental function are~~
25 ~~concerned. With respect to records unrelated to the entity's~~
26 ~~performance of the governmental function, the entity shall~~
27 ~~not be an agency for the purposes of this chapter. For the~~
28 ~~purposes of this paragraph, "governmental function" shall be~~
29 ~~broadly defined to include any services or functions~~
30 ~~previously performed by any governmental entity or which are~~

1 ~~for the benefit of the public as a whole or some segment of~~
2 ~~the public.~~

3 ~~(10) Any entity or organization, board or body that~~
4 ~~derives at least 25% of its funds from State or local public~~
5 ~~money.~~

6 ~~(11) Any committee of or created by any entity under~~
7 ~~paragraph (1), (2), (3), (4), (5), (6), (7), (8) or (9),~~
8 ~~which is authorized to render advice to or take official~~
9 ~~action on behalf of any agency.~~

10 ~~(12) Every State or local court or judicial agency,~~
11 ~~including quasi-judicial boards and agencies.~~

12 ~~(13) Every school board and board of education.~~

13 ~~(14) Any body created by State or local authority in any~~
14 ~~branch of government.~~

15 ~~(15) Every State or local government officer.~~

16 ~~"Commonwealth agency." An agency which is a Commonwealth~~
17 ~~agency as that term is defined under 62 Pa.C.S. § 103 (relating~~
18 ~~to definitions).~~

19 ~~"Custodian." The official custodian or any authorized person~~
20 ~~having personal custody and control of the public records.~~

21 ~~"Mechanical processing." Any operation or other procedure~~
22 ~~which is transacted on a machine or by some mechanical means.~~

23 ~~"Media." The physical material in or on which records are~~
24 ~~stored.~~

25 ~~"Non Commonwealth agency." An agency which is not a~~
26 ~~Commonwealth agency.~~

27 ~~"OATR." The Commonwealth Office of Access to Public Records.~~

28 ~~"Office." The Office of Access to Public Records established~~
29 ~~in section 501.~~

30 ~~"Official custodian." The chief administrative officer or~~

1 ~~any other officer or employee of a public agency who is~~
2 ~~responsible for the maintenance, care and keeping of public~~
3 ~~records, regardless of whether the records are in the officer's~~
4 ~~actual custody and control.~~

5 ~~"Public record." All documents, papers, letters, maps,~~
6 ~~books, tapes, photographs, films, sound recordings, data~~
7 ~~processing software, database, data or other material,~~
8 ~~regardless of the physical form, characteristics or means of~~
9 ~~storage or transmission, made or received in connection with or~~
10 ~~relating to the work of an agency, except those documents exempt~~
11 ~~or prohibited from disclosure under Federal or State law. The~~
12 ~~term does not include those items that are clearly personal in~~
13 ~~nature and unrelated to the spending of public funds or the~~
14 ~~duties imposed upon the agency.~~

15 ~~"Requester." A person who requests a record pursuant to this~~
16 ~~act. The term includes a natural person, Commonwealth agency,~~
17 ~~non Commonwealth agency, corporation, unincorporated~~
18 ~~association, partnership, limited liability company, business~~
19 ~~trust and any other enterprise.~~

20 ~~"Response." Access to a record or an agency's written notice~~
21 ~~granting, denying or partially granting and partially denying~~
22 ~~access to a record.~~

23 ~~"Software." The program code which makes a computer system~~
24 ~~function with the exception of passwords, access codes, user~~
25 ~~identification, those records specifically exempt from~~
26 ~~inspection or any other mechanism for controlling the security~~
27 ~~or restricting access to public records in the agency's computer~~
28 ~~system. The term includes the operating system, application~~
29 ~~programs, procedures, routines and subroutines such as~~
30 ~~translators and utility programs. The term does not include that~~

1 ~~material which is prohibited from disclosure or copying by a~~
2 ~~license agreement between a public agency and an outside entity~~
3 ~~which supplied the material to the agency.~~

4 ~~"Terrorist act." A criminal act intended to intimidate or~~
5 ~~coerce an agency or all or part of the civilian population, to~~
6 ~~disrupt a public system of any kind or to cause massive~~
7 ~~destruction.~~

8 ~~Section 104.—Construction.~~

9 ~~Nothing in this act is intended to modify, rescind or~~
10 ~~supersede any public record retention and disposition schedule~~
11 ~~established pursuant to law.~~

12 ~~CHAPTER 3~~

13 ~~ACCESS TO PUBLIC RECORDS~~

14 ~~Section 301.—Procedure for access to public records.~~

15 ~~(a) General rule.—Unless otherwise provided by law, a~~
16 ~~public record shall be accessible for inspection and duplication~~
17 ~~by a requester in accordance with this act. A public record~~
18 ~~shall be provided to a requester in the medium requested if the~~
19 ~~public record exists in that medium, otherwise it shall be~~
20 ~~provided in the medium in which it exists. Public records shall~~
21 ~~be available for access during the regular business hours of an~~
22 ~~agency. The following apply:~~

23 ~~(1) For Commonwealth agencies a written request may be~~
24 ~~made directly to the office.~~

25 ~~(2) For non Commonwealth agencies a written request may~~
26 ~~be made directly to the non Commonwealth agency. A denial of~~
27 ~~the request may be appealed as provided in section 502.~~

28 ~~(b) Requests.—An agency may fulfill verbal requests for~~
29 ~~access to records and anonymous requests for access to records.~~
30 ~~In the event that the requester wishes to pursue the relief and~~

1 ~~remedies provided for in this act, the requester must initiate~~
2 ~~the relief with a written request.~~

3 ~~(c) Written requests. A written request for access to~~
4 ~~records may be submitted in person, by mail, by facsimile or, to~~
5 ~~the extent provided by agency rules, by any other electronic~~
6 ~~means. A written request shall be addressed to the agency head~~
7 ~~or other person designated in the rules established by the~~
8 ~~agency. A written request should identify or describe the~~
9 ~~records sought with sufficient specificity to enable the agency~~
10 ~~to ascertain which records are being requested and shall include~~
11 ~~the name and address to which the agency should address its~~
12 ~~response. A written request need not include any explanation of~~
13 ~~the requester's reason for requesting or intended use of the~~
14 ~~records except as provided by this act. The written request must~~
15 ~~be specific enough so as not to be overly broad or burdensome or~~
16 ~~to be clearly harassing or of no legitimate purpose.~~

17 ~~(d) Electronic access. In addition to the requirements of~~
18 ~~subsection (a), an agency may make its public records available~~
19 ~~through any publicly accessible electronic means. If access to a~~
20 ~~public record is routinely available by an agency only by~~
21 ~~electronic means, the agency shall provide access to inspect the~~
22 ~~public record at an office of the agency.~~

23 ~~(e) Creation of a public record. When responding to a~~
24 ~~request for access, an agency shall not be required to create a~~
25 ~~public record which does not currently exist or to compile,~~
26 ~~maintain, format or organize a public record in a manner in~~
27 ~~which the agency does not currently compile, maintain, format or~~
28 ~~organize the public record. This provision does not apply to~~
29 ~~public records stored electronically that can be compiled,~~
30 ~~maintained, formatted or organized in a manner requested by a~~

1 requester without placing an unreasonable burden upon an agency.

2 ~~(f) Conversion of an electronic record to paper. If a~~
3 ~~public record is only maintained electronically or in other~~
4 ~~nonpaper media, an agency shall, upon request, duplicate the~~
5 ~~public record on paper when responding to a request for access~~
6 ~~in accordance with this act.~~

7 ~~Section 302. Access generally.~~

8 ~~A public record shall be made accessible for inspection and~~
9 ~~copying by any person in accordance with this act unless~~
10 ~~otherwise provided by Federal or State law. The burden shall be~~
11 ~~on the agency to show that specific information may not be~~
12 ~~accessed or that a public record is exempt from access by law.~~

13 ~~Section 303. Exceptions.~~

14 ~~(a) Enumerated exemptions. A public record does not include~~
15 ~~any of the following:~~

16 ~~(1) Any record the disclosure of which is prohibited by~~
17 ~~Federal or State statute, including records the access to~~
18 ~~which would result in the loss of Federal funds by an agency.~~

19 ~~(2) Records that reflect an individual's medical history~~
20 ~~or disability status, including evaluation, diagnosis or~~
21 ~~treatment. This paragraph does not relate to autopsy records~~
22 ~~or other official records of the coroner.~~

23 ~~(3) That part of a record that lists an individual's~~
24 ~~Social Security number, driver's license number or financial~~
25 ~~account number.~~

26 ~~(4) That part of a record that lists a nonelected public~~
27 ~~employee's home telephone number or home address, unless the~~
28 ~~public interest in disclosure outweighs the individual's~~
29 ~~privacy interest in the information.~~

30 ~~(5) Information regarding discipline, demotion or~~

1 ~~discharge contained in an agency's personnel files, except~~
2 ~~that the status of any disciplinary proceeding against a~~
3 ~~public official or public employee and the disciplinary~~
4 ~~action taken, if any, shall be accessible.~~

5 ~~(6) (i) Records that, if disclosed, would endanger the~~
6 ~~life or safety of any person or the disclosure of which~~
7 ~~would create a substantial likelihood of endangering~~
8 ~~public safety or the physical security of any building,~~
9 ~~infrastructure facility or information storage system.~~

10 ~~(ii) Notwithstanding the provisions of subparagraph~~
11 ~~(i):~~

12 ~~(A) Simple floor plans showing spatial~~
13 ~~arrangements of buildings are public records.~~

14 ~~(B) Information relating to the general adoption~~
15 ~~of security plans and arrangements and budgetary~~
16 ~~information concerning the authorization of public~~
17 ~~funds to implement public security plans and~~
18 ~~arrangements, or for the construction, renovation or~~
19 ~~repair of public buildings and infrastructure~~
20 ~~facilities are public records.~~

21 ~~(C) If an agency denies a record under this~~
22 ~~paragraph, it must provide a general description of~~
23 ~~the record being withheld and how disclosure of the~~
24 ~~record would endanger the life or safety of any~~
25 ~~person or create a substantial likelihood of~~
26 ~~endangering public safety or the physical security of~~
27 ~~a building, infrastructure facility or information~~
28 ~~storage system.~~

29 ~~(7) Drafts of bills, resolutions or amendments prepared~~
30 ~~by a public official or public employee acting in a~~

1 ~~legislative capacity until the drafts have been numbered and~~
2 ~~filed with the Secretary of the Senate or the Chief Clerk of~~
3 ~~the House of Representatives or, in the case of a political~~
4 ~~subdivision, until the drafts have been presented to a number~~
5 ~~of members of the governing body of the political subdivision~~
6 ~~equal to or greater than a quorum.~~

7 ~~(8) (i) Research requests from public officials or~~
8 ~~public employees to the Legislative Reference Bureau, the~~
9 ~~Local Government Commission, the Joint State Government~~
10 ~~Commission, the Legislative Budget and Finance Committee,~~
11 ~~the Joint Legislative Air and Water Pollution Control and~~
12 ~~Conservation Committee, the Legislative Office for~~
13 ~~Research Liaison, the Legislative Data Processing Center~~
14 ~~or any other designated legislative service agency or the~~
15 ~~staff of any caucus or committee of the General Assembly~~
16 ~~and research requests from a member of the General~~
17 ~~Assembly to that member's legislative office staff.~~

18 ~~(ii) This paragraph shall not apply to products of~~
19 ~~research by the Legislative Reference Bureau, the Local~~
20 ~~Government Commission, the Joint State Government~~
21 ~~Commission, the Legislative Budget and Finance Committee,~~
22 ~~the Joint Legislative Air and Water Pollution Control and~~
23 ~~Conservation Committee, the Legislative Office for~~
24 ~~Research Liaison, the Legislative Data Processing Center~~
25 ~~or any other designated legislative service agency. In~~
26 ~~providing access to those documents, the identity of the~~
27 ~~person making the request may not be disclosed without~~
28 ~~that person's consent.~~

29 ~~(9) Records pertaining to strategy and negotiations with~~
30 ~~respect to pending claims, threatened litigation or pending~~

1 ~~litigation to which the agency is a party and which are not~~
2 ~~records of any court until the litigation or claim has been~~
3 ~~fully adjudicated or otherwise settled.~~

4 ~~(10) Records pertaining to strategy and negotiations~~
5 ~~with respect to labor relations or collective bargaining,~~
6 ~~except that any contract or agreement between the parties~~
7 ~~shall be public.~~

8 ~~(11) Records of the Office of the Governor or, in the~~
9 ~~case of a political subdivision, the chief executive officer~~
10 ~~or governing body or the member or members of the governing~~
11 ~~body thereof acting in an executive capacity, including, but~~
12 ~~not limited to, budget recommendations, legislative proposals~~
13 ~~and proposed policy statements that, if access were provided,~~
14 ~~would:~~

15 ~~(i) In the case of the Governor, reveal the~~
16 ~~Governor's contemplated policies or courses of action~~
17 ~~before the Governor has formally proposed those policies~~
18 ~~or courses of action or made them public.~~

19 ~~(ii) In the case of a political subdivision, reveal~~
20 ~~the contemplated policies or courses of action before the~~
21 ~~policies or courses of action have been presented to a~~
22 ~~number of members of the governing body of the political~~
23 ~~subdivision equal to or greater than a quorum.~~

24 ~~(12) Records that are trade secrets, as that term is~~
25 ~~defined in 12 Pa.C.S. § 5302 (relating to definitions),~~
26 ~~submitted to an agency by a commercial enterprise and which,~~
27 ~~if disclosed, would cause substantial injury to the~~
28 ~~competitive position of the subject enterprise. The~~
29 ~~commercial enterprise submitting the information must provide~~
30 ~~a written claim that the information contains trade secrets~~

1 ~~regarding the enterprise and a concise statement of the~~
2 ~~reasons supporting the claim. The claim shall be construed as~~
3 ~~a public record for purposes of this act.~~

4 ~~(13) Notes that are personally prepared by a public~~
5 ~~official or public employee when the notes are used solely~~
6 ~~for that official's or employee's own personal use as an aid~~
7 ~~to memory.~~

8 ~~(14) (i) Information that would result in the~~
9 ~~disclosure of the name of a donor or a prospective donor~~
10 ~~to an agency, provided that all of the following apply:~~

11 ~~(A) The agency either is a public institution of~~
12 ~~higher education or is primarily engaged in~~
13 ~~educational, charitable or artistic endeavors.~~

14 ~~(B) The donor requests anonymity in writing.~~

15 ~~(C) The agency has no regulatory or legislative~~
16 ~~authority over the donor, a member of the donor's~~
17 ~~immediate family or any entity owned or controlled by~~
18 ~~the donor or the donor's immediate family.~~

19 ~~(ii) Information regarding the terms, conditions,~~
20 ~~restrictions or privileges relating to the donation shall~~
21 ~~be construed as a public record and shall be made~~
22 ~~available for inspection and copying notwithstanding any~~
23 ~~other provision of this paragraph.~~

24 ~~(iii) For the purposes of this paragraph, "immediate~~
25 ~~family" means a parent, spouse, child, brother, sister or~~
26 ~~like relative in law.~~

27 ~~(15) Unpublished lecture notes, unpublished manuscripts,~~
28 ~~creative works in progress and scholarly correspondence, any~~
29 ~~of which have been developed, discovered or received by or on~~
30 ~~behalf of faculty, staff, employees or students of a public~~

1 ~~institution of education.~~

2 ~~(16) (i) Records created by an agency in the process of~~
3 ~~investigating a possible violation of statutory or~~
4 ~~regulatory law if the release of the records would~~
5 ~~identify a confidential source, disclose information made~~
6 ~~confidential by law or court order or disclose an ongoing~~
7 ~~criminal investigation by law enforcement.~~

8 ~~(ii) Subparagraph (i) shall not apply to the~~
9 ~~following records or information, which shall be~~
10 ~~accessible except where prohibited by law or where the~~
11 ~~agency can demonstrate that providing access to the~~
12 ~~person making the request would endanger another person's~~
13 ~~safety, deprive a person of a right to a fair and~~
14 ~~impartial trial or hinder the agency's ability to secure~~
15 ~~an arrest, prosecution or civil or criminal sanction:~~

16 ~~(A) Initial incident reports, police blotters~~
17 ~~and similar records that summarize the date, time,~~
18 ~~place, purpose and cause of services performed by law~~
19 ~~enforcement agencies or investigative agencies.~~

20 ~~(B) The date, time, location and nature of a~~
21 ~~reported crime.~~

22 ~~(C) The name, sex, age and address of a person~~
23 ~~arrested, cited or otherwise charged with either a~~
24 ~~criminal or civil violation; the date, time and~~
25 ~~location of an arrest or citation; the charge or~~
26 ~~charges brought against the person; and any documents~~
27 ~~including warrants, informations, indictments,~~
28 ~~complaints and notices given or required by law to be~~
29 ~~given to the person charged.~~

30 ~~(D) The name, sex, age and place of residence of~~

1 ~~the victim of a crime or regulatory violation.~~

2 ~~(E) Traffic accident reports and compilations of~~
3 ~~data derived therefrom.~~

4 ~~(F) Audio tapes or transcripts of telephone~~
5 ~~calls or radio transmissions received by emergency~~
6 ~~dispatch personnel.~~

7 ~~(17) Records that reflect internal, predecisional~~
8 ~~deliberations by or between agency members, but this~~
9 ~~exception does not include:~~

10 ~~(i) Statistical or factual tabulations or data.~~

11 ~~(ii) Instructions to staff that affect the public.~~

12 ~~(iii) Final agency policy or determinations.~~

13 ~~(iv) Completed audits.~~

14 ~~(v) Documents that are closely connected to or form~~
15 ~~the basis for the agency decision once the decision has~~
16 ~~been made. For the purposes of this subparagraph, an~~
17 ~~agency's decision to take no action on a matter shall~~
18 ~~constitute a decision.~~

19 ~~(18) Documents that are examination questions, scoring~~
20 ~~keys or answers which are requested prior to the final~~
21 ~~administration of the examination.~~

22 ~~(19) Minutes of executive sessions and any record of~~
23 ~~discussions held in executive session, except where~~
24 ~~authorized and released by the agency or the release of which~~
25 ~~is ordered by a court.~~

26 ~~(20) The contents of real estate appraisals or~~
27 ~~engineering or feasibility estimates and evaluations made for~~
28 ~~or by a State or local agency relative to the acquisition of~~
29 ~~property, or to prospective public supply and construction~~
30 ~~contracts, until the property has been acquired or until a~~

1 ~~contract or option obtained, or until all proceedings or~~
2 ~~transactions have been terminated or abandoned. The law of~~
3 ~~eminent domain shall not be affected by this provision.~~

4 ~~(21) Test questions, scoring keys and other examination~~
5 ~~data used to administer licensing examinations, examinations~~
6 ~~for employment or academic examination before the exam is~~
7 ~~given or if it is to be given again.~~

8 ~~(22) All public records or information the disclosure of~~
9 ~~which is prohibited by Federal or State law or regulation or~~
10 ~~which is prohibited or restricted or otherwise made~~
11 ~~confidential by enactment of the General Assembly.~~

12 ~~(23) Public records the disclosure of which would have a~~
13 ~~reasonable likelihood of threatening the public safety by~~
14 ~~exposing a vulnerability in preventing, protecting against,~~
15 ~~mitigating or responding to a terrorist act and includes a~~
16 ~~criticality list resulting from consequence and vulnerability~~
17 ~~assessment; antiterrorism measures and plans, counter-~~
18 ~~terrorism measures and plans; security and response needs~~
19 ~~assessment and infrastructure records that expose~~
20 ~~vulnerability.~~

21 ~~(24) Electronic mail, provided that the electronic mail~~
22 ~~does not contain discussion of the spending of public money~~
23 ~~or the duties and powers of the office, officeholder or~~
24 ~~agency.~~

25 ~~(b) Nondescriptive information. Notwithstanding the~~
26 ~~provisions of subsection (a)(1), (2) and (14), access to~~
27 ~~information that does not identify any particular individual or~~
28 ~~business entity shall be disclosed.~~

29 ~~(c) Agency discretion. An agency may exercise its~~
30 ~~discretion to make any public record enumerated under subsection~~

1 ~~(a) accessible for inspection and copying if:~~

2 ~~(1) disclosure of that public record is not expressly~~
3 ~~prohibited by Federal or State law; and~~

4 ~~(2) the governing body, agency head or designee with~~
5 ~~eustody and control of the record determines that the public~~
6 ~~interest favoring access outweighs the individual or agency~~
7 ~~interest favoring restriction of access.~~

8 ~~(d) Strict construction of exceptions. The General Assembly~~
9 ~~finds and declares that the basic policy is that free and open~~
10 ~~examination of public records is in the public interest and the~~
11 ~~exceptions provided for by this act or otherwise provided by law~~
12 ~~shall be strictly construed, even though the examination may~~
13 ~~cause inconvenience or embarrassment to public officials or~~
14 ~~others.~~

15 ~~(e) Exception limitation. Any record that is determined to~~
16 ~~be excepted from disclosure shall only be excepted as to the~~
17 ~~contents of the record and not as to any spending of public~~
18 ~~funds related to the record; for example, telephone bills may be~~
19 ~~exempt as to who was called and how long but shall not be exempt~~
20 ~~as to the cost of the call.~~

21 ~~Section 304. Denial based on intended use prohibited.~~

22 ~~An agency may not deny a requester access to a public record~~
23 ~~due to the intended use of the public record by the requester.~~

24 ~~Section 305. Redaction.~~

25 ~~If an agency determines that a public record contains~~
26 ~~information which is subject to access as well as information~~
27 ~~which is not subject to access, the agency's response shall~~
28 ~~grant access to the information which is subject to access and~~
29 ~~deny access to the information which is not subject to access.~~
30 ~~If the information which is not subject to access is an integral~~

1 ~~part of the public record and cannot be separated, the agency~~
2 ~~shall redact from the public record the information which is not~~
3 ~~subject to access, and the response shall grant access to the~~
4 ~~information which is subject to access. The agency may not deny~~
5 ~~access to the public record if the information which is not~~
6 ~~subject to access is able to be redacted. Information which an~~
7 ~~agency redacts in accordance with this section shall be deemed a~~
8 ~~denial.~~

9 ~~Section 306.— Commonwealth Office of Access to Public Records.~~

10 ~~(a) General rule.— Upon receipt of a written request for~~
11 ~~access to a record, the OATR shall make a good faith effort to~~
12 ~~determine if the record requested is a public record and to~~
13 ~~respond as promptly as possible under the circumstances existing~~
14 ~~at the time of the request but, except as set forth in~~
15 ~~subsection (b), not more than 20 business days from the date the~~
16 ~~written request is received by the OATR head or other person~~
17 ~~designated by the OATR for receiving requests. If the OATR fails~~
18 ~~to send a response within 20 business days of receipt of the~~
19 ~~written request for access, the written request for access shall~~
20 ~~be deemed denied.~~

21 ~~(b) Extensions.—~~

22 ~~(1) Upon receipt of a written request for access, the~~
23 ~~time period under subsection (a) may be extended if the OATR~~
24 ~~determines that one of the following applies:~~

25 ~~(i) The request for access requires redaction of a~~
26 ~~public record in accordance with this act.~~

27 ~~(ii) The request for access requires the retrieval~~
28 ~~of a record stored in a remote location.~~

29 ~~(iii) A timely response to the request for access~~
30 ~~cannot be accomplished due to bona fide and specified~~

1 ~~staffing limitations.~~

2 ~~(iv) A legal review is necessary to determine~~
3 ~~whether the record is a public record subject to access~~
4 ~~under this act.~~

5 ~~(v) The requester has not complied with the OATR's~~
6 ~~policies regarding access to public records.~~

7 ~~(vi) The requester refuses to pay applicable fees~~
8 ~~authorized by this act.~~

9 ~~(2) The OATR shall send written notice to the requester~~
10 ~~within 20 business days of the OATR's receipt of the request~~
11 ~~for access. The notice shall include a statement notifying~~
12 ~~the requester that the request for access is being reviewed,~~
13 ~~the reason for the review and a reasonable date that a~~
14 ~~response is expected to be provided. If the date that a~~
15 ~~response is expected to be provided is in excess of 30 days,~~
16 ~~following the 20 business days allowed for in subsection (a),~~
17 ~~the request for access shall be deemed denied.~~

18 ~~(c) Denial. If the OATR's response is a denial of a written~~
19 ~~request for access, whether in whole or in part, a written~~
20 ~~response shall be issued and include:~~

21 ~~(1) A description of the record requested.~~

22 ~~(2) The specific reasons for the denial, including a~~
23 ~~citation of supporting legal authority. If the denial is the~~
24 ~~result of a determination that the record requested is not a~~
25 ~~public record, the specific reasons for the OATR's~~
26 ~~determination that the record is not a public record shall be~~
27 ~~included.~~

28 ~~(3) The typed or printed name, title, business address,~~
29 ~~business telephone number and signature of the public~~
30 ~~official or public employee on whose authority the denial is~~

1 issued.

2 ~~(4) Date of the response.~~

3 ~~(5) The procedure to appeal the denial of access under~~
4 ~~this act.~~

5 ~~(d) Certified copies. All Commonwealth agencies shall~~
6 ~~respond to all requests for information or documents from the~~
7 ~~OATR within ten business days from the date the requests are~~
8 ~~received and registered. All shall establish a procedure, if one~~
9 ~~does not currently exist, for recording the date and time the~~
10 ~~request from OATR is received. This procedure shall include, at~~
11 ~~a minimum, a procedure for marking the date and time of receipt~~
12 ~~on the face of the request and for filing and maintaining each~~
13 ~~request for a period of not less than five years.~~

14 ~~Section 307. Non Commonwealth agency's response to written~~
15 ~~requests for access.~~

16 ~~(a) General rule. Upon receipt of a written request for~~
17 ~~access to a record, a non Commonwealth agency shall make a good~~
18 ~~faith effort to determine if the record requested is a public~~
19 ~~record and to respond as promptly as possible under the~~
20 ~~circumstances existing at the time of the request but, except as~~
21 ~~provided under subsection (b), not more than ten business days~~
22 ~~from the date the written request is received by the non-~~
23 ~~Commonwealth agency head or other person designated in the rules~~
24 ~~established by the non Commonwealth agency for receiving~~
25 ~~requests. If the non Commonwealth agency fails to send the~~
26 ~~response within ten business days of receipt of the written~~
27 ~~request for access, the written request for access shall be~~
28 ~~deemed denied.~~

29 ~~(b) Extensions.~~

30 ~~(1) Upon receipt of a written request for access, the~~

1 ~~time period under subsection (a) may be extended if a non-~~
2 ~~Commonwealth agency determines that one of the following~~
3 ~~applies:~~

4 ~~(i) The request for access requires redaction of a~~
5 ~~public record in accordance with this act.~~

6 ~~(ii) The request for access requires the retrieval~~
7 ~~of a record stored in a remote location.~~

8 ~~(iii) A timely response to the request for access~~
9 ~~cannot be accomplished due to bona fide and specified~~
10 ~~staffing limitations.~~

11 ~~(iv) A legal review is necessary to determine~~
12 ~~whether the record is a public record subject to access~~
13 ~~under this act.~~

14 ~~(v) The requester has not complied with the non-~~
15 ~~Commonwealth agency's policies regarding access to public~~
16 ~~records.~~

17 ~~(vi) The requester refuses to pay applicable fees~~
18 ~~authorized by this act.~~

19 ~~(2) The non Commonwealth agency shall send written~~
20 ~~notice to the requester within five business days of the non-~~
21 ~~Commonwealth agency's receipt of the request notifying the~~
22 ~~requester that the request for access is being reviewed, the~~
23 ~~reason for the review and a reasonable date that a response~~
24 ~~is expected to be provided. If the date that a response is~~
25 ~~expected to be provided is in excess of 30 days following the~~
26 ~~ten business days allowed in subsection (a), the request for~~
27 ~~access shall be deemed denied.~~

28 ~~(c) Denial. If a non Commonwealth agency's response is a~~
29 ~~denial of a written request for access, whether in whole or in~~
30 ~~part, a written response shall be issued and include:~~

1 ~~(1) To receive and respond to requests for information~~
2 ~~from Commonwealth agencies pursuant to this act from the~~
3 ~~public and from other agencies.~~

4 ~~(2) To request information from Commonwealth agencies~~
5 ~~and non Commonwealth agencies.~~

6 ~~(3) To guide and oversee the compliance with this act by~~
7 ~~all Commonwealth and non Commonwealth agencies.~~

8 ~~(4) To provide a list of Federal and State laws that~~
9 ~~exempt certain types of records from disclosure.~~

10 ~~(5) To make its written decisions available for review.~~

11 ~~(6) To conduct training for public officials, public~~
12 ~~employees and third parties relating to this Commonwealth's~~
13 ~~access laws.~~

14 ~~(7) To annually report on its activities and findings~~
15 ~~regarding this act, including recommendations for changes in~~
16 ~~the law, to the Governor and the General Assembly.~~

17 ~~(c) Fees.—~~

18 ~~(1) The office may impose a reasonable filing fee for an~~
19 ~~appeal made under section 502, and any fees collected under~~
20 ~~this subsection shall be deposited in a restricted account in~~
21 ~~the General Fund which is hereby established for the office.~~
22 ~~The money from this account shall be appropriated as~~
23 ~~necessary for the operation of the office.~~

24 ~~(2) The agency may waive the filing fee if the person~~
25 ~~requesting access to the public record is unable to afford~~
26 ~~the fee based on guidelines established by the office.~~

27 ~~Section 502.— Appeals.~~

28 ~~(a) Administrative appeal to office.—~~

29 ~~(1) A party aggrieved by an agency's denial or deemed~~
30 ~~denial may, within 30 days after a request is denied or~~

1 ~~deemed denied, appeal to the office by forwarding to the~~
2 ~~office a copy of the request and the written explanation for~~
3 ~~the denial, if any, provided by the agency.~~

4 ~~(2) (i) Within 20 days after receipt of the appeal, the~~
5 ~~office shall rule either that the agency's denial or~~
6 ~~deemed denial of access to the record is upheld or that~~
7 ~~the agency's decision to deny access to the record is~~
8 ~~overturned, and the agency must provide access to the~~
9 ~~record. The office may hold a hearing and may review the~~
10 ~~record in camera.~~

11 ~~(ii) The 20 day period may be extended by agreement~~
12 ~~of the parties. If the parties do not agree to an~~
13 ~~extension or the office does not issue a ruling within 20~~
14 ~~days after the date of the appeal, the agency's denial~~
15 ~~shall be deemed affirmed.~~

16 ~~(3) If the office upholds the agency's decision to deny~~
17 ~~access to the public record, the office shall fully explain~~
18 ~~in writing to the person requesting the public record the~~
19 ~~reason for the denial. If the office rules that the agency~~
20 ~~shall provide access to the public record, the office shall~~
21 ~~fully explain in writing to the agency the reason access must~~
22 ~~be provided.~~

23 ~~(b) Judicial appeal.~~

24 ~~(1) A party aggrieved by the decision of the office may,~~
25 ~~within 30 days after formally being served notice of the~~
26 ~~office's ruling, appeal to a court of appropriate~~
27 ~~jurisdiction.~~

28 ~~(2) Within 30 days of the mailing date of the decision~~
29 ~~of the office, an aggrieved party seeking information and~~
30 ~~access from a Commonwealth agency may file a petition for~~

1 ~~review or other document as might be required by rule of~~
2 ~~court with the Commonwealth Court.~~

3 ~~(3) Within 30 days of the mailing date of the decision~~
4 ~~of the office, an aggrieved party may file a petition for~~
5 ~~review or other document as might be required by rule of~~
6 ~~court with the court of common pleas for the county where the~~
7 ~~non-Commonwealth agency's office or facility is located.~~

8 ~~(c) Notice. All parties shall be served notice of actions~~
9 ~~commenced in accordance with subsection (a) or (b) and shall~~
10 ~~have an opportunity to respond in accordance with applicable~~
11 ~~court rules.~~

12 ~~(d) Record on appeal. The record before a court shall~~
13 ~~consist of the request, the agency's response, the record before~~
14 ~~the office, including the hearing transcript, if any, and the~~
15 ~~decision of the office. A court may take additional testimony~~
16 ~~and accept additional evidence as appropriate.~~

17 ~~CHAPTER 7~~

18 ~~ADMINISTRATION AND ENFORCEMENT~~

19 ~~Section 701. Penalties, court costs and fees.~~

20 ~~(a) Grounds.—~~

21 ~~(1) If a court finds that an agency intentionally~~
22 ~~violated any provision of this act, acted in bad faith or~~
23 ~~relied upon an unreasonable interpretation of the law in not~~
24 ~~providing access to a public record:~~

25 ~~(i) The court may order the agency to pay a civil~~
26 ~~penalty of not more than \$1,000 to be paid into a~~
27 ~~restricted account established in the General Fund under~~
28 ~~section 501(c).~~

29 ~~(ii) The court shall award the prevailing party~~
30 ~~reasonable attorney fees and costs of litigation or an~~

1 ~~appropriate portion of the fees and costs.~~

2 ~~(iii) Any other sanction the court deems appropriate~~
3 ~~under the circumstances of the case.~~

4 ~~(2) If the court finds that the legal challenge was of a~~
5 ~~frivolous nature or was brought with no substantial~~
6 ~~justification, the court shall award the prevailing party~~
7 ~~reasonable attorney fees and costs of litigation or an~~
8 ~~appropriate portion of the fees and costs and a civil penalty~~
9 ~~of not less than \$1,000 and not more than \$10,000 to be paid~~
10 ~~into the restricted account established in the General Fund.~~

11 ~~(3) If the court finds that the appeal of the requester~~
12 ~~was frivolous or that the request violated this act, was made~~
13 ~~in bad faith or was made only to harass or annoy the agency,~~
14 ~~then the court shall impose a civil penalty of not less than~~
15 ~~\$100 nor more than \$1,000 to be paid into the restricted~~
16 ~~account established in the General Fund.~~

17 ~~(b) Civil penalty. An agency or public official that does~~
18 ~~not promptly comply with a court order under this act is subject~~
19 ~~to a civil penalty of not more than \$300 per day until the~~
20 ~~public records are provided, to be paid into the restricted~~
21 ~~account established in the General Fund under section 501(c).~~

22 ~~(c) Training. Any court may order agency officials and~~
23 ~~employees to attend mandatory training sessions conducted by the~~
24 ~~office, which shall include testing on compliance with the law.~~

25 ~~(d) Other appeals. Costs or attorney fees shall not be~~
26 ~~awarded under this section for administrative appeal to the~~
27 ~~office under section 502.~~

28 ~~Section 702. Immunity.~~

29 ~~(a) General rule. Except as provided in this act and other~~
30 ~~statutes governing the release of records, no agency, public~~

~~1 official or public employee shall be liable for civil or
2 eriminal damages or penalties resulting from compliance or
3 failure to comply with this act.~~

~~4 (b) Schedules. No agency, public official or public
5 employee shall be liable for civil or criminal damages or
6 penalties under this act for complying with any written public
7 record retention and disposition schedule.~~

~~8 Section 703. Fee limitations.~~

~~9 (a) Postage. Fees for postage may not exceed the actual
10 cost of mailing.~~

~~11 (b) Duplication. Fees for duplication by photocopying,
12 printing from electronic media or microfilm, copying onto
13 electronic media, transmission by facsimile or other electronic
14 means and other means of duplication must be reasonable and
15 based on prevailing fees for comparable duplication services
16 provided by local copying services.~~

~~17 (c) Certification. An agency may impose reasonable fees for
18 official certification of copies if the certification is at the
19 behest of the requester and for the purpose of legally verifying
20 the public record.~~

~~21 (d) Conversion to paper. If a public record is only
22 maintained electronically or in other nonpaper media,
23 duplication fees shall be limited to the lesser of the fee for
24 duplication on paper or the fee for duplication in the native
25 media as provided by subsection (b) unless the requester
26 specifically requests for the public record to be duplicated in
27 the more expensive medium.~~

~~28 (e) Enhanced electronic access. If an agency offers
29 enhanced electronic access to public records in addition to
30 making the public records accessible for inspection and~~

1 ~~duplication by a requester as required by this act, the agency~~
2 ~~may establish user fees specifically for the provision of the~~
3 ~~enhanced electronic access, but only to the extent that the~~
4 ~~enhanced electronic access is in addition to making the public~~
5 ~~records accessible for inspection and duplication by a requester~~
6 ~~as required by this act. The user fees for enhanced electronic~~
7 ~~access may be a flat rate, a subscription fee for a period of~~
8 ~~time, a per transaction fee, a fee based on the cumulative time~~
9 ~~of system access or any other reasonable method and any~~
10 ~~combination thereof. The user fees for enhanced electronic~~
11 ~~access must be reasonable and may not be established with the~~
12 ~~intent or effect of excluding persons from access to public~~
13 ~~records or duplicates thereof or of creating profit for the~~
14 ~~agency.~~

15 ~~(f) Waiver of fees. An agency may waive the fees for~~
16 ~~duplication of a public record, including, but not limited to,~~
17 ~~when:~~

- 18 ~~(1) the requester duplicates the public record; or~~
19 ~~(2) the agency deems it is in the public interest to do~~
20 ~~so.~~

21 ~~(g) Limitations. Except as otherwise provided by statute,~~
22 ~~no other fee may be imposed unless the agency necessarily incurs~~
23 ~~costs for complying with the request, and the fee must be~~
24 ~~reasonable. No fee may be imposed for an agency's review of a~~
25 ~~record to determine whether the record is a public record~~
26 ~~subject to access in accordance with this act. No fee relating~~
27 ~~to any search for records may be imposed unless the required~~
28 ~~search places an unreasonable burden upon agency employees and~~
29 ~~the agency can establish and itemize its costs for complying~~
30 ~~with the request, and the fee must be reasonable.~~

1 ~~(h) Prepayment. Prior to granting a request for access in~~
2 ~~accordance with this act, an agency may require a requester to~~
3 ~~prepay an estimate of the fees authorized under this section if~~
4 ~~the fees required to fulfill the request are expected to exceed~~
5 ~~\$100.~~

6 ~~Section 704. Implementation.~~

7 ~~(a) Requirement. An agency shall establish written policies~~
8 ~~and may promulgate regulations necessary to implement this act.~~

9 ~~(b) Content. The written policies shall include the name of~~
10 ~~the office to which requests for access shall be addressed and a~~
11 ~~list of applicable fees.~~

12 ~~(c) Prohibition. A policy or regulation may not include any~~
13 ~~of the following:~~

14 ~~(1) A limitation on the number of public records which~~
15 ~~may be requested or made available for inspection or~~
16 ~~duplication.~~

17 ~~(2) A requirement to disclose the purpose or motive in~~
18 ~~requesting access to records which are public records.~~

19 ~~(d) Posting. The policies shall be conspicuously posted at~~
20 ~~the agency and may be made available by electronic means.~~

21 ~~Section 705. Practice and procedure.~~

22 ~~The provisions of 2 Pa.C.S. (relating to administrative law~~
23 ~~and procedure) shall not apply to this act.~~

24 ~~Section 706. Commercial purposes.~~

25 ~~It shall be unlawful for a person to obtain a copy of any~~
26 ~~part of a public record for a:~~

27 ~~(1) Commercial purpose, without stating the commercial~~
28 ~~purpose, if a certified statement from the requester was~~
29 ~~required by the public agency.~~

30 ~~(2) Commercial purpose, if the person uses or knowingly~~

1 ~~allows the use of the public record for a different~~
2 ~~commercial purpose.~~

3 ~~(3) Noncommercial purpose, if the person uses or~~
4 ~~knowingly allows the use of the public record for a~~
5 ~~commercial purpose. A newspaper, periodical, radio or~~
6 ~~television station shall not be held to have used or~~
7 ~~knowingly allowed the use of the public record for a~~
8 ~~commercial purpose merely because of its publication or~~
9 ~~broadcast.~~

10 ~~Section 707. Damages recoverable by public agency for person's~~
11 ~~misuse of public records.~~

12 ~~A person who misuses a public record shall be liable to the~~
13 ~~agency from which the public records were obtained for damages~~
14 ~~in the amount of all of the following:~~

15 ~~(1) Three times the amount that would have been charged~~
16 ~~for the public record if the actual commercial purpose for~~
17 ~~which it was obtained or used has been stated.~~

18 ~~(2) Costs and reasonable attorney fees.~~

19 ~~(3) Any other penalty established by law.~~

20 ~~Section 708. Agency to adopt rules and regulations.~~

21 ~~(a) General rule. Each agency shall adopt rules and~~
22 ~~regulations in conformity with the provisions of this act to~~
23 ~~provide full access to public records, to protect public records~~
24 ~~from damage and disorganization, to prevent excessive disruption~~
25 ~~of its essential functions, to provide assistance and~~
26 ~~information upon request and to ensure efficient and timely~~
27 ~~action in response to application for inspection. The rules and~~
28 ~~regulations shall include, but shall not be limited to:~~

29 ~~(1) The principal office of the agency and its regular~~
30 ~~office hours.~~

1 ~~(a), or by threat of removal, destruction, mutilation, transfer~~
2 ~~or other damage to or disposition of a record may commence~~
3 ~~either or both of the following in the court of common pleas of~~
4 ~~the county in which subsection (a) allegedly was violated or is~~
5 ~~threatened to be violated:~~

6 ~~(1) A civil action for injunctive relief to compel~~
7 ~~compliance with subsection (a) and to obtain an award of the~~
8 ~~reasonable attorney fees incurred by the person in the civil~~
9 ~~action.~~

10 ~~(2) A civil action to recover a forfeiture in the amount~~
11 ~~of \$1,000 for each violation and to obtain an award of the~~
12 ~~reasonable attorney fees incurred by the person in the civil~~
13 ~~action.~~

14 ~~Section 711. Laws prohibiting the destruction of records.~~

15 ~~If any law prohibits the destruction of a record, then an~~
16 ~~agency shall not order its destruction or other disposition. If~~
17 ~~any law provides that a record shall be kept for a specified~~
18 ~~period of time, then an agency shall not order its destruction~~
19 ~~or other disposition prior to the expiration of that period.~~

20 ~~Section 712. Replevin of public records unlawfully removed.~~

21 ~~Any public record which has been unlawfully transferred or~~
22 ~~removed in violation of this act or otherwise transferred or~~
23 ~~removed unlawfully is subject to replevin by the Attorney~~
24 ~~General upon request of the office. The record shall be returned~~
25 ~~to the agency of origin and safeguards shall be established to~~
26 ~~prevent further recurrence of unlawful transfer or removal.~~

27 ~~Section 713. Authority not restricted.~~

28 ~~The provisions of this act shall not impair or restrict the~~
29 ~~authority given by other statutes over the creation of records,~~
30 ~~systems, forms, procedures or the control over purchases of~~

1 ~~equipment by agencies.~~

2 ~~Section 714. Internet.~~

3 ~~All agencies shall make all budgets, expense accounts, grants~~
4 ~~and other records related to the expenditure of public funds~~
5 ~~available on the Internet without a fee or charge.~~

6 ~~CHAPTER 21~~

7 ~~MISCELLANEOUS PROVISIONS~~

8 ~~Section 2101. Repeals.~~

9 ~~(a) Intent. The General Assembly declares that the repeal~~
10 ~~under subsection (b) is necessary to effectuate the provisions~~
11 ~~of this act.~~

12 ~~(b) Provision. The act of June 21, 1957 (P.L.390, No.212),~~
13 ~~referred to as the Right to Know Law, is repealed.~~

14 ~~Section 2102. Effective date.~~

15 ~~This act shall take effect in 60 days.~~

16 ~~CHAPTER 1~~ <—

17 ~~PRELIMINARY PROVISIONS~~

18 ~~SECTION 101. SHORT TITLE.~~

19 ~~THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE OPEN RECORDS~~
20 ~~ACT.~~

21 ~~SECTION 102. LEGISLATIVE FINDINGS.~~

22 ~~THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:~~

23 ~~(1) THE FREE FLOW OF INFORMATION BETWEEN STATE~~
24 ~~GOVERNMENT AND ITS CITIZENS IS ESSENTIAL TO THE CONTINUED~~
25 ~~GROWTH AND SUCCESS OF THE DEMOCRATIC PROCESS, AND ACCESS TO~~
26 ~~PUBLIC RECORDS ENABLES CITIZENS TO BE INFORMED ABOUT THE~~
27 ~~OFFICIAL BUSINESS OF PUBLIC OFFICIALS AND PUBLIC EMPLOYEES~~
28 ~~AND THE ACTIVITIES OF GOVERNMENT AGENCIES.~~

29 ~~(2) ACCESS TO PUBLIC RECORDS SHOULD BE BALANCED AGAINST~~
30 ~~THE PROTECTION OF PERSONAL PRIVACY RIGHTS AND ENSURING THE~~

1 PUBLIC SAFETY AND WELFARE OF THIS COMMONWEALTH AND ITS
2 CITIZENS, AS ALL ARE VITAL TO THE PRESERVATION AND
3 FUNCTIONING OF THE DEMOCRATIC PROCESS.

4 (3) ACCESS TO INFORMATION ON THE APPROPRIATION,
5 EXPENDITURE AND INVESTMENT OF PUBLIC MONEY IS IMPORTANT TO
6 ENCOURAGE PUBLIC OVERSIGHT OF ITS GOVERNMENT.

7 (4) ACCESS TO INFORMATION ABOUT THE CONDUCT AND
8 ACTIVITIES OF PUBLIC OFFICIALS, PUBLIC EMPLOYEES AND
9 GOVERNMENT AGENCIES ASSISTS THE PUBLIC IN UNDERSTANDING ITS
10 GOVERNMENT, MONITORING ITS GOVERNMENT AND MAKING INFORMED
11 JUDGMENTS ABOUT HOW TO EXERCISE ITS POLITICAL POWER.

12 (5) GOVERNMENT HAS A DUTY TO PRESERVE THE PHYSICAL
13 INTEGRITY OF PUBLIC RECORDS FOR PURPOSES OF PUBLIC ACCESS.

14 (6) TECHNOLOGICAL ADVANCES HAVE RESULTED IN NEW WAYS TO
15 CREATE, STORE AND USE PUBLIC RECORDS AND NECESSITATE RULES
16 REGARDING ACCESS TO PUBLIC RECORDS TO MAKE INFORMATION
17 AVAILABLE TO THE PUBLIC AND RULES TO PROVIDE GUIDANCE TO
18 PUBLIC OFFICIALS AND PUBLIC EMPLOYEES CHARGED WITH THE
19 RESPONSIBILITY OF MAKING PUBLIC RECORDS ACCESSIBLE.

20 SECTION 103. DEFINITIONS.

21 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
22 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
23 CONTEXT CLEARLY INDICATES OTHERWISE:

24 "ADMINISTRATIVE PROCEEDING." A PROCEEDING BY AN AGENCY THE
25 OUTCOME OF WHICH IS REQUIRED TO BE BASED ON A RECORD OR
26 DOCUMENTATION PRESCRIBED BY LAW OR IN WHICH LAW OR REGULATION IS
27 PARTICULARIZED IN APPLICATION TO INDIVIDUALS. THE TERM INCLUDES
28 AN APPEAL.

29 "AGENCY." A COMMONWEALTH AGENCY, A LOCAL AGENCY OR A
30 LEGISLATIVE AGENCY.

1 "COMMONWEALTH AGENCY." AN EXECUTIVE AGENCY, AN INDEPENDENT
2 AGENCY OR A STATE-AFFILIATED ENTITY. THE TERM INCLUDES A
3 COMMITTEE CREATED BY AN EXECUTIVE AGENCY, AN INDEPENDENT AGENCY
4 OR A STATE-AFFILIATED ENTITY WHICH IS AUTHORIZED TO RENDER
5 ADVICE OR TO TAKE OFFICIAL ACTION ON BEHALF OF THE EXECUTIVE
6 AGENCY, AN INDEPENDENT AGENCY OR A STATE-AFFILIATED ENTITY.

7 "COMPLIANCE OFFICER." THE PERSON DESIGNATED BY AN AGENCY
8 HEAD TO RESPOND TO OPEN RECORDS REQUESTS MADE PURSUANT TO THIS
9 ACT.

10 "EXECUTIVE AGENCY." THE GOVERNOR AND THE DEPARTMENTS,
11 BOARDS, COMMISSIONS, AUTHORITIES AND OTHER OFFICERS AND AGENCIES
12 OF THE COMMONWEALTH. THE TERM DOES NOT INCLUDE ANY COURT OR
13 OTHER OFFICER OR AGENCY OF THE UNIFIED JUDICIAL SYSTEM, THE
14 GENERAL ASSEMBLY AND ITS OFFICERS AND AGENCIES OR ANY
15 INDEPENDENT AGENCY OR STATE-AFFILIATED ENTITY.

16 "INDEPENDENT AGENCY." BOARDS, COMMISSIONS AND OTHER AGENCIES
17 AND OFFICERS OF THE COMMONWEALTH WHICH ARE NOT SUBJECT TO THE
18 POLICY SUPERVISION AND CONTROL OF THE GOVERNOR. THE TERM
19 INCLUDES THE OFFICE OF ATTORNEY GENERAL, THE DEPARTMENT OF THE
20 AUDITOR GENERAL, AND THE TREASURY DEPARTMENT. THE TERM DOES NOT
21 INCLUDE ANY STATE-AFFILIATED ENTITY, ANY COURT OR OTHER OFFICER
22 OR AGENCY OF THE UNIFIED JUDICIAL SYSTEM, THE GENERAL ASSEMBLY
23 AND ITS OFFICERS AND AGENCIES, ANY STATE-RELATED INSTITUTION,
24 POLITICAL SUBDIVISION OR ANY LOCAL, REGIONAL OR METROPOLITAN
25 TRANSPORTATION AUTHORITY.

26 "INTELLECTUAL PROPERTY." THE TERM INCLUDES ALL OF THE
27 FOLLOWING:

28 (1) AN IDEA, INVENTION, PROCESS, PROGRAM, DATA, FORMULA,
29 PATENT, LICENSE, COPYRIGHT, TRADEMARK OR TRADE SECRET AS
30 DEFINED UNDER 12 PA.C.S. § 5302 (RELATING TO DEFINITIONS).

1 (2) AN APPLICATION, RIGHT OR REGISTRATION RELATING TO
2 ANY IDEA, INVENTION, PROCESS, PROGRAM, DATA, FORMULA, PATENT,
3 LICENSE, COPYRIGHT, TRADEMARK OR TRADE SECRET AS DEFINED
4 UNDER 12 PA.C.S. § 5302.

5 "JUDICIAL AGENCY." THE TERM INCLUDES:

6 (1) THE PENNSYLVANIA SUPREME COURT.
7 (2) THE SUPERIOR COURT OF PENNSYLVANIA.
8 (3) THE COMMONWEALTH COURT OF PENNSYLVANIA.
9 (4) EACH COURT OF COMMON PLEAS.
10 (5) THE ADMINISTRATIVE OFFICE OF THE PENNSYLVANIA
11 COURTS.

12 (6) ANY OFFICE OR SUBORDINATE UNIT CREATED BY AN ENTITY
13 IN PARAGRAPH (1), (2), (3), (4) OR (5).

14 "LEGISLATIVE AGENCY." THE TERM INCLUDES:

15 (1) THE SENATE OF PENNSYLVANIA.
16 (2) THE REPUBLICAN AND DEMOCRATIC CAUCUSES OF THE SENATE
17 OF PENNSYLVANIA.
18 (3) THE PENNSYLVANIA HOUSE OF REPRESENTATIVES.
19 (4) THE REPUBLICAN AND DEMOCRATIC CAUCUSES OF THE
20 PENNSYLVANIA HOUSE OF REPRESENTATIVES.
21 (5) THE CAPITOL PRESERVATION COMMITTEE.
22 (6) THE CENTER FOR RURAL PENNSYLVANIA.
23 (7) THE JOINT LEGISLATIVE AIR AND WATER POLLUTION
24 CONTROL AND CONSERVATION COMMITTEE.
25 (8) THE JOINT STATE GOVERNMENT COMMITTEE.
26 (9) THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE.
27 (10) THE LEGISLATIVE DATA PROCESSING COMMITTEE.
28 (11) THE INDEPENDENT REGULATORY REVIEW COMMISSION.
29 (12) THE LEGISLATIVE REFERENCE BUREAU.
30 (13) THE LOCAL GOVERNMENT COMMISSION.

1 (14) THE PENNSYLVANIA COMMISSION ON SENTENCING.

2 "LOCAL AGENCY." THE TERM INCLUDES:

3 (1) A POLITICAL SUBDIVISION, INCLUDING ANY INTERMEDIATE
4 UNIT OR PUBLIC TRADE OR VOCATIONAL SCHOOL AND ANY DEPARTMENT,
5 OFFICE, BOARD OR OTHER SUBORDINATE UNIT CREATED UNDER AND
6 SUBJECT TO THE POLICY SUPERVISION AND CONTROL OF THE
7 POLITICAL SUBDIVISION.

8 (2) ANY LOCAL, INTERGOVERNMENTAL, REGIONAL OR MUNICIPAL
9 AGENCY, AUTHORITY, COUNCIL, BOARD, COMMISSION OR OTHER
10 GOVERNMENTAL ENTITY CREATED BY ONE OR MORE POLITICAL
11 SUBDIVISIONS, WHETHER OR NOT SUCH AUTHORITY IS SUBJECT TO THE
12 POLICY SUPERVISION AND CONTROL OF THE POLITICAL SUBDIVISION
13 OR SUBDIVISIONS.

14 (3) AN ENTITY OF A POLITICAL SUBDIVISION CREATED FOR THE
15 PURPOSE OF PERFORMING A GOVERNMENTAL FUNCTION. FOR PURPOSES
16 OF THIS PARAGRAPH, THE TERM "GOVERNMENTAL FUNCTION" INCLUDES
17 SERVICES OR FUNCTIONS WHICH ARE USUALLY, OR HAVE PREVIOUSLY
18 BEEN, PERFORMED BY A POLITICAL SUBDIVISION PRIOR TO THE
19 PERFORMANCE OF SUCH SERVICES OR FUNCTIONS BY AN ENTITY FOR
20 THE BENEFIT OF THE PUBLIC.

21 (4) AN ENTITY CONTRACTED BY A POLITICAL SUBDIVISION TO
22 PERFORM A GOVERNMENTAL FUNCTION, BUT ONLY INSOFAR AS THE
23 ENTITY'S RECORDS REGARDING THE CONTRACTED GOVERNMENTAL
24 FUNCTION ARE CONCERNED. WITH RESPECT TO RECORDS UNRELATED TO
25 THE ENTITY'S PERFORMANCE OF THE GOVERNMENTAL FUNCTION, THE
26 ENTITY SHALL NOT BE CONSIDERED A LOCAL AGENCY.

27 (5) ANY SCHOOL BOARD OR BOARD OF EDUCATION.

28 (6) ANY COMMITTEE CREATED BY AN ENTITY UNDER PARAGRAPH
29 (1), (2), (3), (4) OR (5), WHICH IS AUTHORIZED TO RENDER
30 ADVICE OR TO TAKE OFFICIAL ACTION ON BEHALF OF THE ENTITY.

1 "PRIVILEGE." THE ATTORNEY-WORK PRODUCT DOCTRINE, THE
2 ATTORNEY-CLIENT PRIVILEGE, THE DOCTOR-PATIENT PRIVILEGE, THE
3 EXECUTIVE PRIVILEGE OR ANY OTHER LIKE PRIVILEGE OR DOCTRINE
4 RECOGNIZED BY A FEDERAL OR COMMONWEALTH COURT INTERPRETING THE
5 CONSTITUTION OR LAWS OF THIS COMMONWEALTH AND THE UNITED STATES.
6 THE TERM INCLUDES COMMUNICATION BETWEEN A LEGISLATOR AND A
7 CONSTITUENT AND ALL DOCUMENTS RELATED TO THAT COMMUNICATION.

8 "PUBLIC OFFICIAL." AN ELECTED OR APPOINTED OFFICIAL OF A
9 COMMONWEALTH AGENCY, LOCAL AGENCY OR LEGISLATIVE AGENCY. THE
10 TERM DOES NOT INCLUDE AN EMPLOYEE OF AN AGENCY.

11 "PUBLIC RECORD." A RECORD THAT HAS BEEN DETERMINED TO BE
12 PUBLICLY ACCESSIBLE UNDER SECTION 301.

13 "PUBLIC RECORDS OFFICE." THE PENNSYLVANIA PUBLIC RECORDS
14 OFFICE ESTABLISHED IN SECTION 501.

15 "RECORD." INFORMATION REGARDLESS OF THE PHYSICAL FORM,
16 CHARACTERISTICS OR MEANS OF STORAGE TRANSMISSION, WHICH IS MADE,
17 RECEIVED OR RETAINED BY AN AGENCY. THE TERM INCLUDES DOCUMENTS,
18 PAPERS AND LETTERS, MAPS, BOOKS, TAPES, PHOTOGRAPHS, FILMS AND
19 SOUND RECORDINGS AND DATA PROCESSED OR IMAGE-PROCESSED
20 DOCUMENTS.

21 "SOCIAL SERVICES." CASH ASSISTANCE AND OTHER WELFARE
22 BENEFITS, MEDICAL, MENTAL AND OTHER HEALTH CARE SERVICES, DRUG
23 AND ALCOHOL TREATMENT, ADOPTION SERVICES, VOCATIONAL AND
24 OCCUPATIONAL TRAINING, EDUCATION AND COUNSELING, WORKERS'
25 COMPENSATION AND UNEMPLOYMENT COMPENSATION SERVICES, FOSTER CARE
26 SERVICES AND SERVICES FOR VICTIMS OF CRIMES.

27 "STATE-AFFILIATED ENTITY." A COMMONWEALTH AUTHORITY OR A
28 COMMONWEALTH ENTITY. THE TERM INCLUDES THE PENNSYLVANIA TURNPIKE
29 COMMISSION, THE PENNSYLVANIA HOUSING FINANCE AGENCY, THE
30 PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY, THE

1 PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM, THE PENNSYLVANIA
2 INFRASTRUCTURE INVESTMENT AUTHORITY, THE STATE PUBLIC SCHOOL
3 BUILDING AUTHORITY, THE PENNSYLVANIA HIGHER EDUCATIONAL
4 FACILITIES AUTHORITY AND THE STATE SYSTEM OF HIGHER EDUCATION.
5 THE TERM DOES NOT INCLUDE ANY COURT OR OTHER OFFICER OR AGENCY
6 OF THE UNIFIED JUDICIAL SYSTEM, THE GENERAL ASSEMBLY AND ITS
7 OFFICERS AND AGENCIES, ANY STATE-RELATED INSTITUTION, POLITICAL
8 SUBDIVISION OR ANY LOCAL, REGIONAL OR METROPOLITAN
9 TRANSPORTATION AUTHORITY.

10 "STATE-RELATED INSTITUTION." THE PENNSYLVANIA STATE
11 UNIVERSITY, THE UNIVERSITY OF PITTSBURGH, LINCOLN UNIVERSITY OR
12 TEMPLE UNIVERSITY.

13 SECTION 104. CONSTRUCTION.

14 NOTHING IN THIS ACT IS INTENDED TO MODIFY, RESCIND OR
15 SUPERSEDE ANY PUBLIC RECORD RETENTION AND DISPOSITION SCHEDULE
16 ESTABLISHED PURSUANT TO LAW.

17 CHAPTER 3

18 ACCESS TO PUBLIC RECORDS

19 SECTION 301. AUTHORIZATION.

20 (A) GENERAL RULE.--EXCEPT AS SET FORTH IN SUBSECTION (B), A
21 RECORD SHALL BE PRESUMED TO BE A PUBLIC RECORD UNLESS AN AGENCY
22 DETERMINES THAT IT IS NOT PUBLICLY ACCESSIBLE UNDER THIS ACT OR
23 IF ANY PROVISION UNDER SUBSECTION (B) APPLIES. IF A RECORD IS
24 DETERMINED TO BE ACCESSIBLE, IT SHALL BE MADE AVAILABLE BY THE
25 AGENCY FOR INSPECTION AND COPYING, SUBJECT TO THE PROVISIONS OF
26 THIS ACT.

27 (B) EXCEPTIONS.--SUBSECTION (A) DOES NOT APPLY IF THE RECORD
28 IS:

29 (1) PROHIBITED FROM BEING DISCLOSED UNDER ANY OTHER
30 FEDERAL OR STATE LAW OR REGULATION;

1 (2) PERMITTED BY FEDERAL OR STATE LAW BUT THE DISCLOSURE
2 OF WHICH WOULD RESULT IN THE LOSS OF FEDERAL OR STATE
3 FUNDING;

4 (3) PROHIBITED BY JUDICIAL DECREE;

5 (4) PROTECTED UNDER THE FREE SPEECH OR DEBATE CLAUSES
6 UNDER SECTION 15 OF ARTICLE II OF THE CONSTITUTION OF
7 PENNSYLVANIA OR SECTION 6 OF ARTICLE I OF THE CONSTITUTION OF
8 THE UNITED STATES;

9 (5) PROTECTED BY A PRIVILEGE;

10 (6) PROHIBITED FROM BEING DISCLOSED BECAUSE IT IS
11 COVERED UNDER ONE OR MORE PROVISIONS UNDER SECTION 307; OR

12 (7) E-MAIL.

13 (C) BURDEN.--FOR ANY REQUEST OF A RECORD WHICH IS DETERMINED
14 TO BE PUBLICLY INACCESSIBLE, THE BURDEN SHALL BE ON THE AGENCY
15 TO SHOW THAT SUBSECTION (B) APPLIES.
16 SECTION 302. ACCESSIBILITY.

17 SUBJECT TO THE PROVISIONS OF SECTION 305, AN AGENCY SHALL
18 MAKE A PUBLIC RECORD ACCESSIBLE DURING THE AGENCY'S REGULAR
19 BUSINESS HOURS. A PUBLIC RECORD SHALL BE PROVIDED TO THE PERSON
20 REQUESTING ACCESS EITHER IN PAPER OR IN AN ELECTRONIC FORMAT. IF
21 ACCESS TO A PUBLIC RECORD IS ROUTINELY AVAILABLE ONLY BY
22 ELECTRONIC MEANS, THE AGENCY SHALL PROVIDE ACCESS TO INSPECT THE
23 PUBLIC RECORD AT AN OFFICE OF THE AGENCY.

24 SECTION 303. DESIGNATION OF COMPLIANCE OFFICER.

25 (A) COMMONWEALTH AGENCIES AND LOCAL AGENCIES.--EVERY
26 COMMONWEALTH AGENCY AND LOCAL AGENCY SHALL DESIGNATE A
27 COMPLIANCE OFFICER TO RESPOND TO REQUESTS FOR ACCESS TO PUBLIC
28 RECORDS PURSUANT TO THIS ACT.

29 (B) LEGISLATIVE AGENCIES.--

30 (1) THE SECRETARY OF THE SENATE IS DESIGNATED AS THE

1 COMPLIANCE OFFICER FOR THE SENATE.

2 (2) THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES IS
3 DESIGNATED AS THE COMPLIANCE OFFICER FOR THE HOUSE OF
4 REPRESENTATIVES.

5 (3) EACH REMAINING LEGISLATIVE AGENCY LISTED UNDER
6 SECTION 103 SHALL DESIGNATE A COMPLIANCE OFFICER.

7 SECTION 304. METHOD OF REQUEST.

8 (A) FORM.--

9 (1) AN AGENCY MAY FULFILL ORAL REQUESTS FOR ACCESS TO
10 RECORDS, WHICH MAY BE REVIEWED BY THE COMPLIANCE OFFICER
11 DESIGNATED BY THE AGENCY UNDER SECTION 303. IF THE PERSON
12 MAKING THE REQUEST WISHES TO PURSUE THE RELIEF AND REMEDIES
13 PROVIDED UNDER THIS ACT, THE PERSON MUST MAKE A WRITTEN
14 REQUEST.

15 (2) A WRITTEN REQUEST FOR ACCESS TO RECORDS MUST BE
16 SUBMITTED IN PERSON, BY MAIL, BY FACSIMILE OR BY ANY OTHER
17 ELECTRONIC MEANS AS PROVIDED BY THE AGENCY. A WRITTEN REQUEST
18 MUST BE ADDRESSED TO THE GOVERNING BODY OR THE CHIEF
19 EXECUTIVE OFFICER OF THE AGENCY OR TO THE COMPLIANCE OFFICER
20 DESIGNATED BY THE AGENCY. A WRITTEN REQUEST MUST IDENTIFY OR
21 DESCRIBE THE RECORDS SOUGHT WITH SUFFICIENT SPECIFICITY TO
22 ENABLE THE AGENCY TO ASCERTAIN WHICH RECORDS ARE BEING
23 REQUESTED AND MUST INCLUDE THE NAME AND ADDRESS TO WHICH THE
24 AGENCY SHOULD ADDRESS ITS RESPONSE. EXCEPT AS OTHERWISE
25 PROVIDED BY LAW, A REQUEST NEED NOT INCLUDE AN EXPLANATION OF
26 THE REASON THE REQUEST IS MADE, NOR THE INTENDED USE OF THE
27 PUBLIC RECORD REQUESTED.

28 (3) AN AGENCY SHALL NOT BE REQUIRED TO COMPLY WITH A
29 REQUEST WHICH:

30 (I) LACKS SIGNIFICANT SPECIFICITY AND IS, THUS,

1 OVERLY BROAD OR BURDENSOME; OR

2 (II) IS ADJUDGED BY THE COMPLIANCE OFFICER OR BY THE
3 GOVERNING BODY OR THE CHIEF EXECUTIVE OFFICER OF THE
4 AGENCY TO BE AN ATTEMPT BY THE PERSON MAKING THE REQUEST
5 TO HARASS THE AGENCY.

6 (B) (RESERVED).

7 SECTION 305. AGENCY RESPONSE.

8 (A) ACTION.--

9 (1) UPON RECEIPT OF A WRITTEN REQUEST FOR ACCESS TO A
10 RECORD, THE AGENCY SHALL MAKE A GOOD FAITH EFFORT TO
11 DETERMINE IF THE RECORD REQUESTED IS ONE TO WHICH PUBLIC
12 ACCESS IS PERMITTED, AND THE COMPLIANCE OFFICER SHALL RESPOND
13 WITHIN TEN BUSINESS DAYS FROM THE DATE THE REQUEST. IF THE
14 AGENCY FAILS TO RESPOND TO THE PERSON MAKING THE REQUEST
15 WITHIN TEN BUSINESS DAYS FROM THE DATE OF THE REQUEST, THE
16 REQUEST FOR ACCESS SHALL BE DEEMED DENIED.

17 (2) THE AGENCY SHALL NOTIFY THE PERSON THAT:

18 (I) THE RECORD IS DETERMINED TO BE PUBLICLY
19 ACCESSIBLE AND FULL ACCESS WILL BE GRANTED TO THE PUBLIC
20 RECORD;

21 (II) THE RECORD IS DETERMINED TO BE PUBLICLY
22 ACCESSIBLE IN PART AND LIMITED ACCESS WILL BE GRANTED TO
23 THE PUBLIC RECORD; OR

24 (III) THE RECORD IS DETERMINED TO BE INACCESSIBLE
25 AND ACCESS WILL BE DENIED.

26 (B) FULL ACCESS.--

27 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), IF THE AGENCY
28 DETERMINES THAT THE RECORD IS ACCESSIBLE IN FULL, THE AGENCY
29 SHALL PROVIDE ACCESS TO THE PUBLIC RECORD FOR THE PERSON
30 MAKING THE REQUEST WITHIN 20 BUSINESS DAYS FROM THE DATE OF

1 THE DETERMINATION.

2 (2) IF THE AGENCY DETERMINES THAT COMPLIANCE WITH THE
3 REQUEST IS LIKELY TO TAKE LONGER THAN TEN BUSINESS DAYS, THE
4 COMPLIANCE OFFICER SHALL NOTIFY THE PERSON MAKING THE REQUEST
5 OF THE EXPECTED DELAY IN PROVIDING ACCESS. IF THE PUBLIC
6 RECORD OR RECORDS REQUESTED ARE NOT PROVIDED WITHIN 20
7 BUSINESS DAYS FROM THE DATE OF NOTICE, THE REQUEST SHALL BE
8 DEEMED DENIED UNLESS THE PERSON MAKING THE REQUEST OTHERWISE
9 AGREES TO ALLOW THE AGENCY ADDITIONAL TIME FOR COMPLIANCE.

10 (C) LIMITED ACCESS.--

11 (1) EXCEPT AS SET FORTH IN THIS SUBSECTION, IF THE
12 AGENCY DETERMINES THAT THE RECORD IS PUBLICLY ACCESSIBLE IN
13 PART, THE AGENCY SHALL PROVIDE LIMITED ACCESS TO THE RECORD
14 BY THE PERSON MAKING THE REQUEST WITHIN 20 BUSINESS DAYS OF
15 MAKING THE DETERMINATION.

16 (2) THE AGENCY MAY NOT DENY ACCESS TO THE RECORD IF THE
17 INFORMATION WHICH IS NOT SUBJECT TO ACCESS IS ABLE TO BE
18 REDACTED.

19 (3) IF THE INFORMATION WHICH IS NOT SUBJECT TO ACCESS IS
20 AN INTEGRAL PART OF THE RECORD AND CANNOT BE SEPARATED, THE
21 AGENCY SHALL REDACT FROM THE RECORD THE INFORMATION WHICH IS
22 NOT SUBJECT TO ACCESS AND SHALL GRANT ACCESS TO THE
23 INFORMATION WHICH IS SUBJECT TO ACCESS.

24 (4) A REQUEST SUBJECT TO REDACTION UNDER THIS SUBSECTION
25 SHALL BE DEEMED DENIED ONLY WITH RESPECT TO THE INFORMATION
26 REDACTED.

27 (5) IF THE AGENCY DETERMINES THAT COMPLIANCE WITH THE
28 REQUEST IS LIKELY TO TAKE LONGER THAN 20 BUSINESS DAYS, THE
29 COMPLIANCE OFFICER SHALL NOTIFY THE PERSON MAKING THE REQUEST
30 OF THE EXPECTED DELAY DUE TO ONE OF THE FOLLOWING REASONS:

1 (I) THE REQUEST REQUIRES SIGNIFICANT REDACTION.

2 (II) RETRIEVAL OF A PUBLIC RECORD STORED IN A REMOTE
3 LOCATION IS REQUIRED.

4 (III) TIMELY RESPONSE TO THE REQUEST FOR ACCESS
5 CANNOT OTHERWISE BE ACCOMPLISHED DUE TO GOOD FAITH AND
6 SPECIFIED STAFFING LIMITATIONS.

7 (IV) LEGAL REVIEW IS NECESSARY TO DETERMINE WHETHER
8 THE RECORD IS A PUBLIC RECORD SUBJECT TO ACCESS.

9 (V) THE PERSON MAKING A REQUEST REFUSES TO PAY THE
10 APPLICABLE FEE OR FEES ASSOCIATED WITH THE REQUEST.

11 (VI) EXIGENT OR UNIQUE CIRCUMSTANCES AS PROVIDED IN
12 SECTION 308(1) OR (2) EFFECTIVELY PREVENT THE REQUEST
13 FROM BEING GRANTED IN A TIMELY FASHION.

14 (6) IF THE ACCESS TO INFORMATION IS NOT TIMELY GRANTED
15 DUE TO A DELAY UNDER PARAGRAPH (5), THE REQUEST SHALL BE
16 DEEMED DENIED, UNLESS THE PERSON MAKING THE REQUEST OTHERWISE
17 AGREES TO ALLOW THE AGENCY ADDITIONAL TIME FOR COMPLIANCE.

18 (D) DENIALS.--

19 (1) IF THE AGENCY DETERMINES THAT THE RECORD IS NOT
20 ACCESSIBLE, THE COMPLIANCE OFFICER SHALL TIMELY NOTIFY THE
21 PERSON MAKING THE REQUEST IN WRITING, WHICH NOTICE SHALL
22 INCLUDE:

23 (I) A DESCRIPTION OF THE RECORD REQUESTED.

24 (II) THE SPECIFIC REASON OR REASONS FOR THE DENIAL,
25 INCLUDING A CITATION OF SUPPORTING LEGAL AUTHORITY. IF
26 THE DENIAL IS THE RESULT OF A DETERMINATION THAT THE
27 PUBLIC RECORD REQUESTED IS NOT A PUBLIC RECORD, THE
28 SPECIFIC REASONS FOR THE AGENCY'S DETERMINATION THAT THE
29 PUBLIC RECORD IS NOT A PUBLIC RECORD SHALL BE INCLUDED.

30 (III) THE TYPED OR PRINTED NAME, TITLE, BUSINESS

1 ADDRESS AND BUSINESS TELEPHONE NUMBER OF THE COMPLIANCE
2 OFFICER.

3 (IV) THE DATE OF THE RESPONSE.

4 (V) A DESCRIPTION OF THE PROCEDURE UNDER THIS ACT TO
5 CHALLENGE THE DENIAL, INCLUDING THE ADDRESS OF THE PUBLIC
6 RECORDS OFFICE AND THE DEADLINE FOR APPEALING THE DENIAL.

7 (2) AN AGENCY MAY NOT DENY ACCESS TO A PUBLIC RECORD DUE
8 TO THE INTENDED USE OF THE PUBLIC RECORD BY THE PERSON MAKING
9 THE REQUEST UNLESS OTHERWISE PROVIDED BY LAW.

10 (E) EXPEDITED REQUESTS.--NOTWITHSTANDING THE MAXIMUM TIMES
11 FOR COMPLIANCE SPECIFIED UNDER THIS SECTION, IF A PUBLIC RECORD
12 IS REQUESTED PURSUANT TO AN UPCOMING MEETING SUBJECT TO 65
13 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS), THE AGENCY SHALL
14 ESTABLISH AN EXPEDITED PROCESS FOR MAKING THE PUBLIC RECORD
15 AVAILABLE TO THE PERSON MAKING THE REQUEST PRIOR TO THE OPEN
16 MEETING. THE AGENCY MAY REQUIRE THE PERSON MAKING THE REQUEST TO
17 DEMONSTRATE THE IMMEDIATE NEED FOR AN EXPEDITED REQUEST.

18 (F) ADMINISTRATIVE CHALLENGE.--A DENIAL FOR ACCESS TO
19 INFORMATION MADE UNDER THIS CHAPTER BY THE COMMONWEALTH OR LOCAL
20 AGENCY MAY BE APPEALED BY THE PERSON MAKING THE REQUEST TO THE
21 PUBLIC RECORDS OFFICE IN ACCORDANCE WITH CHAPTER 5.

22 SECTION 306. CREATION OF A PUBLIC RECORD NOT REQUIRED.

23 (1) AN AGENCY SHALL MAKE EVERY EFFORT TO ACCOMMODATE A
24 REQUEST IN THE MEDIA REQUESTED.

25 (2) EXCEPT AS SET FORTH IN PARAGRAPH (3), WHEN
26 RESPONDING TO A REQUEST FOR ACCESS, AN AGENCY SHALL NOT BE
27 REQUIRED TO:

28 (I) CREATE A PUBLIC RECORD WHICH DOES NOT CURRENTLY
29 EXIST; OR

30 (II) COMPILE, MAINTAIN, FORMAT OR ORGANIZE A PUBLIC

1 RECORD IN A MANNER IN WHICH THE AGENCY DOES NOT CURRENTLY
2 COMPILE, MAINTAIN, FORMAT OR ORGANIZE THE PUBLIC RECORD.

3 (3) PARAGRAPH (2) DOES NOT APPLY TO A PUBLIC RECORD
4 WHICH:

5 (I) IS STORED ELECTRONICALLY; AND

6 (II) CAN BE COMPILED, MAINTAINED, FORMATTED OR
7 ORGANIZED IN A MANNER REQUESTED BY A PERSON MAKING THE
8 REQUEST WITHOUT PLACING AN UNREASONABLE BURDEN UPON AN
9 AGENCY.

10 SECTION 307. RECORDS DEEMED INACCESSIBLE.

11 (A) PERSONAL AND INSTITUTIONAL SECURITY.--EXCEPT TO THE
12 EXTENT DISCLOSURE IS OTHERWISE REQUIRED BY LAW OR BY THIS
13 SECTION, THE FOLLOWING RECORDS OR PARTS OF RECORDS PERTAINING TO
14 PERSONAL AND INSTITUTIONAL SECURITY SHALL BE DEEMED NOT TO BE
15 PUBLIC RECORDS AND ARE EXEMPT FROM THE ACCESS REQUIREMENTS OF
16 THIS CHAPTER:

17 (1) A RECORD THE DISCLOSURE OF WHICH WOULD BE REASONABLY
18 LIKELY TO RESULT IN A SUBSTANTIAL AND DEMONSTRABLE RISK OF
19 PHYSICAL HARM TO AN INDIVIDUAL OR ENDANGERING THE LIFE OF AN
20 INDIVIDUAL.

21 (2) ANY PART OF A RECORD SETTING FORTH ALL OR A PORTION
22 OF AN INDIVIDUAL'S SOCIAL SECURITY NUMBER, BIRTH DATE,
23 DRIVER'S LICENSE NUMBER, HOME ADDRESS, HOME TELEPHONE NUMBER,
24 PERSONAL E-MAIL ADDRESS, EMPLOYEE NUMBER, FINANCIAL
25 INFORMATION OTHER THAN WAGE OR SALARY INFORMATION OF AN
26 AGENCY EMPLOYEE, OTHER PERSONAL IDENTIFICATION NUMBER OR
27 OTHER PERSONAL INFORMATION WHICH, IF DISCLOSED, WOULD BE
28 REASONABLY LIKELY TO EXPOSE THE INDIVIDUAL TO THE RISK OF
29 IDENTITY THEFT. THE EXEMPTION UNDER THIS PARAGRAPH RELATING
30 TO THE DISCLOSURE OF AN INDIVIDUAL'S HOME ADDRESS SHALL NOT

1 APPLY TO A PUBLIC OFFICIAL.

2 (3) ANY PART OF A RECORD REFLECTING AN INDIVIDUAL'S
3 MEDICAL, PSYCHIATRIC OR PSYCHOLOGICAL HISTORY OR DISABILITY
4 STATUS, INCLUDING EVALUATION, CONSULTATION, DIAGNOSIS OR
5 TREATMENT; RESULTS OF DRUG TESTS; ENROLLMENT IN A HEALTH CARE
6 PROGRAM OR PROGRAM DESIGNED FOR PARTICIPATION BY PERSONS WITH
7 DISABILITIES, INCLUDING VOCATIONAL REHABILITATION, WORKERS'
8 COMPENSATION AND UNEMPLOYMENT COMPENSATION; OR RELATED
9 INFORMATION WHICH WOULD DISCLOSE INDIVIDUALLY IDENTIFIABLE
10 HEALTH INFORMATION.

11 (4) WITH RESPECT TO AN AGENCY EMPLOYEE AND THE
12 EMPLOYEE'S PERSONNEL FILE, INCLUDING:

13 (I) LEAVE REQUESTS FOR REASONS OF ILLNESS, FAMILY
14 ILLNESS, CIVIC SERVICE, VACATION OR PERSONAL TIME
15 REQUESTED OR GRANTED;

16 (II) A LETTER OF REFERENCE OR RECOMMENDATION
17 PERTAINING TO THE CHARACTER OR QUALIFICATIONS OF AN
18 IDENTIFIABLE INDIVIDUAL, UNLESS IT RELATES TO THE
19 APPOINTMENT OF A PERSON TO FILL A VACANCY IN AN ELECTED
20 OFFICE OR A VACANCY IN AN APPOINTED OFFICE REQUIRING
21 SENATE CONFIRMATION;

22 (III) A PERFORMANCE RATING OR REVIEW;

23 (IV) INDIVIDUALLY IDENTIFIABLE RECORDS RELATING TO
24 AN EMPLOYEE OTHER THAN THE NAME, POSITION, SALARY, ACTUAL
25 COMPENSATION, EMPLOYMENT CONTRACT, EMPLOYMENT RELATED
26 CONTRACT OR AGREEMENT AND LENGTH OF SERVICE OF AN AGENCY
27 EMPLOYEE;

28 (V) WORKPLACE SUPPORT SERVICES PROGRAM INFORMATION;

29 (VI) WRITTEN CRITICISMS OF THE EMPLOYEE OF WHICH THE
30 EMPLOYEE IS NOT AWARE;

1 (VII) GRIEVANCE MATERIALS, INCLUDING DOCUMENTS
2 RELATED TO DISCRIMINATION OR SEXUAL HARASSMENT; AND

3 (VIII) INFORMATION REGARDING DISCIPLINE, DEMOTION OR
4 DISCHARGE, EXCEPT THAT A FINAL RESULT OF A DISCIPLINARY
5 PROCEEDING SHALL BE A PUBLIC RECORD.

6 (5) A RECORD OR INFORMATION:

7 (I) IDENTIFYING AN INDIVIDUAL WHO APPLIES FOR OR
8 RECEIVES SOCIAL SERVICES; OR

9 (II) DESCRIBING OR RELATING TO:

10 (A) THE TYPE OF SOCIAL SERVICES RECEIVED BY AN
11 INDIVIDUAL;

12 (B) AN APPLICATION TO RECEIVE SOCIAL SERVICES,
13 INCLUDING A RECORD OR INFORMATION RELATED TO AN
14 AGENCY DECISION TO GRANT, DENY, REDUCE OR RESTRICT
15 BENEFITS, INCLUDING A QUASI-JUDICIAL DECISION OF THE
16 AGENCY AND THE IDENTITY OF CAREGIVERS OR OTHERS WHO
17 PROVIDE SERVICES TO THE INDIVIDUAL; OR

18 (C) ELIGIBILITY TO RECEIVE SOCIAL BENEFITS,
19 INCLUDING AN INDIVIDUAL'S INCOME, ASSETS, PHYSICAL OR
20 MENTAL HEALTH, AGE, DISABILITY, FAMILY CIRCUMSTANCES
21 AND ANY SORT OF ABUSE.

22 (6) A RECORD MAINTAINED BY AN AGENCY IN CONNECTION WITH
23 HOMELAND SECURITY, NATIONAL DEFENSE, THE MILITARY, LAW
24 ENFORCEMENT OR ANOTHER PUBLIC SAFETY ACTIVITY BASED ON A
25 FINDING BY THE AGENCY HEAD OR DESIGNATED DEPUTY THAT
26 DISCLOSURE WOULD BE REASONABLY LIKELY TO JEOPARDIZE PUBLIC
27 SAFETY OR PREPAREDNESS. THIS PARAGRAPH INCLUDES PUBLIC
28 RECORDS THE DISCLOSURE OF WHICH WOULD HAVE A REASONABLE
29 LIKELIHOOD OF THREATENING THE PUBLIC SAFETY BY EXPOSING A
30 VULNERABILITY IN PREVENTING, PROTECTING AGAINST, MITIGATING

1 OR RESPONDING TO A TERRORIST ACT; A CRITICALITY LIST
2 RESULTING FROM CONSEQUENCE AND VULNERABILITY ASSESSMENT;
3 ANTITERRORISM MEASURES AND PLANS; COUNTERTERRORISM MEASURES
4 AND PLANS; SECURITY AND RESPONSE NEEDS ASSESSMENT; AND
5 INFRASTRUCTURE RECORDS THAT EXPOSE VULNERABILITY.

6 (7) MILITARY RECORDS MAINTAINED BY THE PENNSYLVANIA
7 NATIONAL GUARD OR PENNSYLVANIA GUARD THAT HAVE BEEN
8 DESIGNATED AS CLASSIFIED BY THE APPROPRIATE FEDERAL OR STATE
9 MILITARY AUTHORITY.

10 (8) ANY PART OF A RECORD THE DISCLOSURE OF WHICH CREATES
11 A REASONABLE LIKELIHOOD OF THREATENING PUBLIC SAFETY OR THE
12 PHYSICAL SECURITY OF A BUILDING, RESOURCE, INFRASTRUCTURE
13 FACILITY OR INFORMATION STORAGE SYSTEM. THE FOLLOWING SHALL
14 APPLY:

15 (I) EXCEPT AS SET FORTH UNDER SUBPARAGRAPH (II),
16 THIS PARAGRAPH INCLUDES:

17 (A) DOCUMENTS, RECORDS OR DATA RELATING TO
18 COMPUTER HARDWARE, SOURCE FILES, SOFTWARE AND SYSTEM
19 NETWORKS THAT COULD JEOPARDIZE COMPUTER SECURITY
20 INCLUDING, BUT NOT LIMITED TO, EXPOSING A
21 VULNERABILITY IN PREVENTING, PROTECTING AGAINST,
22 MITIGATING OR RESPONDING TO A TERRORIST ACT;

23 (B) LISTS OF INFRASTRUCTURE, KEY RESOURCES AND
24 SIGNIFICANT SPECIAL EVENTS, INCLUDING THOSE DEFINED
25 BY THE FEDERAL GOVERNMENT IN THE NATIONAL
26 INFRASTRUCTURE PROTECTION PLAN, WHICH ARE DEEMED
27 CRITICAL DUE TO THEIR NATURE AND WHICH RESULT FROM
28 RISK ANALYSIS, THREAT ASSESSMENTS, CONSEQUENCES
29 ASSESSMENTS, VULNERABILITY ASSESSMENTS, ANTITERRORISM
30 PROTECTIVE MEASURES AND PLANS, COUNTER-TERRORISM

1 MEASURES AND PLANS AND SECURITY AND RESPONSE NEEDS
2 ASSESSMENTS; AND

3 (C) BUILDING PLANS OR INFRASTRUCTURE PUBLIC
4 RECORDS THAT EXPOSE OR CREATE VULNERABILITY THROUGH
5 DISCLOSURE OF THE LOCATION, CONFIGURATION OR SECURITY
6 OF CRITICAL SYSTEMS, INCLUDING PUBLIC UTILITY
7 CRITICAL SYSTEMS, SUCH AS INFORMATION TECHNOLOGY, AND
8 COMMUNICATION, ELECTRICAL, STRUCTURAL, FIRE
9 SUPPRESSION, VENTILATION, WATER, WASTEWATER, SEWAGE
10 AND GAS SYSTEMS.

11 (II) NOTWITHSTANDING SUBPARAGRAPH (I), THE FOLLOWING
12 ARE PUBLIC RECORDS AND SHALL BE PUBLICLY ACCESSIBLE:

13 (A) SIMPLE FLOOR PLANS OR PLANS SHOWING SPATIAL
14 ARRANGEMENTS OF BUILDINGS.

15 (B) BUDGETARY INFORMATION CONCERNING THE
16 AUTHORIZATION OF PUBLIC FUNDS TO IMPLEMENT PUBLIC
17 SECURITY PLANS AND ARRANGEMENTS OR FOR THE
18 CONSTRUCTION, RENOVATION OR REPAIR OF PUBLIC
19 BUILDINGS AND INFRASTRUCTURE FACILITIES.

20 (III) IF AN AGENCY DENIES AN INDIVIDUAL ACCESS TO A
21 RECORD LISTED UNDER SUBPARAGRAPH (II), IT MUST PROVIDE A
22 GENERAL DESCRIPTION OF THE RECORD BEING WITHHELD AND HOW
23 DISCLOSURE OF THE RECORD WOULD ENDANGER THE LIFE OR
24 SAFETY OF ANY PERSON OR CREATE A SUBSTANTIAL LIKELIHOOD
25 OF ENDANGERING PUBLIC SAFETY OR THE PHYSICAL SECURITY OF
26 A BUILDING, INFRASTRUCTURE FACILITY OR INFORMATION
27 STORAGE SYSTEM.

28 (9) A RECORD IDENTIFYING THE LOCATION OF AN
29 ARCHEOLOGICAL OR GEOPHYSICAL SITE OR AN ENDANGERED OR
30 THREATENED PLANT OR ANIMAL SPECIES.

1 (B) INVESTIGATIONS.--EXCEPT TO THE EXTENT DISCLOSURE IS
2 OTHERWISE REQUIRED BY LAW OR THIS SECTION, THE FOLLOWING RECORDS
3 OR PARTS OF RECORDS PERTAINING TO INVESTIGATIONS SHALL BE DEEMED
4 NOT TO BE PUBLIC RECORDS AND ARE EXEMPT FROM THE ACCESS
5 REQUIREMENTS OF THIS CHAPTER:

6 (1) AS FOLLOWS:

7 (I) EXCEPT AS SET FORTH UNDER SUBPARAGRAPH (II), A
8 RECORD CREATED OR RECEIVED BY ANY AGENCY IN THE PROCESS
9 OF OR RESULTING IN AN INVESTIGATION, INCLUDING:

10 (A) INVESTIGATIVE MATERIALS AND COMPLAINTS MADE
11 TO THE AGENCY.

12 (B) CRIMINAL INVESTIGATORY REPORTS AND VICTIM
13 RECORDS.

14 (C) A RECORD THAT INCLUDES THE IDENTITY OF A
15 CONFIDENTIAL SOURCE.

16 (D) A RECORD THAT INCLUDES INFORMATION MADE
17 CONFIDENTIAL BY LAW OR COURT ORDER.

18 (E) A RECORD REGARDING A JUVENILE, EXCEPT AS
19 SPECIFICALLY PERMITTED BY LAW.

20 (F) A RECORD WHICH, IF DISCLOSED, WOULD:

21 (I) REVEAL THE INSTITUTION, PROGRESS OR
22 RESULT OF AN INVESTIGATION BY AN AGENCY;

23 (II) DEPRIVE ANOTHER PERSON OF A RIGHT TO A
24 FAIR TRIAL OR AN IMPARTIAL ADJUDICATION;

25 (III) CONSTITUTE AN UNWARRANTED INVASION OF
26 PERSONAL PRIVACY;

27 (IV) DISCLOSE AN INVESTIGATIVE TECHNIQUE OR
28 PROCEDURE;

29 (V) PREJUDICE AN INVESTIGATION;

30 (VI) HINDER AN AGENCY'S ABILITY TO SECURE AN

1 ARREST, PROSECUTION OR ADMINISTRATIVE, CIVIL OR
2 CRIMINAL SANCTION; OR

3 (VII) ENDANGER THE LIFE OR PHYSICAL SAFETY
4 OF AN INDIVIDUAL.

5 (G) WORK PAPERS UNDERLYING AN AUDIT.

6 (H) AUDIO TAPES OR TRANSCRIPTS OF TELEPHONE
7 CALLS OR RADIO TRANSMISSIONS RECEIVED BY EMERGENCY
8 DISPATCH PERSONNEL.

9 (II) NOTWITHSTANDING SUBPARAGRAPH (I), THE FOLLOWING
10 ARE PUBLIC RECORDS AND SHALL BE PUBLICLY ACCESSIBLE, BUT
11 ONLY IF THEIR RELEASE DOES NOT SUBSTANTIALLY COMPROMISE
12 AN INVESTIGATION AS DETERMINED BY THE INVESTIGATOR:

13 (A) INITIAL INCIDENT REPORTS, POLICE BLOTTERS
14 AND SIMILAR RECORDS THAT SUMMARIZE THE DATE, TIME,
15 PLACE, PURPOSE AND CAUSE OF SERVICES PERFORMED BY LAW
16 ENFORCEMENT AGENCIES OR INVESTIGATIVE AGENCIES.

17 (B) THE DATE, TIME, LOCATION AND NATURE OF A
18 REPORTED CRIME.

19 (C) TRAFFIC ACCIDENT REPORTS AND COMPILATIONS OF
20 DATA DERIVED FROM THE REPORTS OR COMPILATIONS.

21 (2) ANY PART OF AN AUTOPSY RECORD OR OTHER OFFICIAL
22 RECORD OF THE CORONER OR MEDICAL EXAMINER THAT IS AN
23 AUDIOTAPE OF A POSTMORTEM EXAMINATION OR AUTOPSY OR A COPY,
24 REPRODUCTION OR FACSIMILE OF A PHOTOGRAPH, NEGATIVE OR PRINT,
25 INCLUDING A PHOTOGRAPH OR VIDEOTAPE OF THE BODY OR ANY
26 PORTION OF THE BODY OF A DECEASED PERSON TAKEN BY OR FOR THE
27 MEDICAL EXAMINER AT THE SCENE OF DEATH OR IN THE COURSE OF A
28 POSTMORTEM EXAMINATION OR AUTOPSY MADE BY OR CAUSED TO BE
29 MADE BY THE CORONER OR MEDICAL EXAMINER.

30 (C) WORK PRODUCT.--EXCEPT TO THE EXTENT DISCLOSURE IS

1 OTHERWISE REQUIRED BY LAW OR THIS SECTION, THE FOLLOWING RECORDS
2 OR PARTS OF RECORDS PERTAINING TO PERSONAL WORK PRODUCT,
3 ACADEMIC WORK PRODUCT OR INSTITUTIONAL PROCESS TO WHICH AN
4 INDIVIDUAL HAS A REASONABLE EXPECTATION OF PRIVACY SHALL BE
5 DEEMED NOT TO BE PUBLIC RECORDS AND ARE EXEMPT FROM THE ACCESS
6 REQUIREMENTS OF THIS CHAPTER:

7 (1) CORRESPONDENCE AND RELATED RECORDS BY AND AMONG A
8 PUBLIC OFFICIAL, A PUBLIC OFFICIAL'S STAFF AND AN AGENCY.

9 (2) CORRESPONDENCE AND RELATED RECORDS BETWEEN A PUBLIC
10 OFFICIAL, A PUBLIC OFFICIAL'S STAFF OR AN AGENCY AND A
11 PRIVATE INDIVIDUAL WHICH CONTAINS INFORMATION THAT THE
12 PRIVATE INDIVIDUAL IS NOT REQUIRED BY LAW TO TRANSMIT AND
13 WHICH WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF
14 PERSONAL PRIVACY IF DISCLOSED.

15 (3) NOTES AND WORKING PAPERS PERSONALLY PREPARED BY A
16 PUBLIC OFFICIAL OR EMPLOYEE OF AN AGENCY AND TELEPHONE
17 MESSAGING SLIPS, ROUTING SLIPS AND OTHER MATERIALS MADE BY OR
18 FOR A PUBLIC OFFICIAL'S OR AN AGENCY EMPLOYEE'S PERSONAL USE
19 THAT DO NOT HAVE AN OFFICIAL PURPOSE.

20 (4) ELECTRONIC MAIL, IF THAT THE ELECTRONIC MAIL DOES
21 NOT CONTAIN A DETAILED DISCUSSION OF THE SPENDING OF PUBLIC
22 MONEY.

23 (5) A RECORD THAT CONSTITUTES INTELLECTUAL PROPERTY,
24 WHICH IS SUBMITTED TO AN AGENCY BY A COMMERCIAL ENTERPRISE
25 AND WHICH, IF DISCLOSED, WOULD CAUSE SUBSTANTIAL INJURY TO
26 THE COMPETITIVE POSITION OF THE SUBJECT ENTERPRISE INCLUDING
27 ANY DOCUMENT MARKED AS CONFIDENTIAL WITH RESPECT TO THE
28 INTELLECTUAL PROPERTY. THE COMMERCIAL ENTERPRISE SUBMITTING
29 THE INFORMATION MUST PROVIDE A WRITTEN CLAIM THAT THE
30 INFORMATION CONTAINS INTELLECTUAL PROPERTY REGARDING THE

1 ENTERPRISE AND A CONCISE STATEMENT OF THE REASONS SUPPORTING
2 THE CLAIM. THE CLAIM SHALL BE CONSTRUED AS A PUBLIC RECORD
3 FOR PURPOSES OF THIS ACT.

4 (6) UNPUBLISHED LECTURE NOTES, UNPUBLISHED MANUSCRIPTS,
5 UNPUBLISHED ARTICLES, CREATIVE WORKS IN PROGRESS AND
6 SCHOLARLY CORRESPONDENCE, ANY OF WHICH HAVE BEEN DEVELOPED,
7 DISCOVERED OR RECEIVED BY OR ON BEHALF OF:

8 (I) ANY STATE RELATED INSTITUTION, COMMUNITY COLLEGE
9 OR INSTITUTION WITHIN THE STATE SYSTEM OF HIGHER
10 EDUCATION; OR

11 (II) THE FACULTY, THE STAFF, AN EMPLOYEE, A GUEST
12 SPEAKER OR A STUDENT OF ANY STATE-RELATED INSTITUTION,
13 COMMUNITY COLLEGE OR INSTITUTION WITHIN THE STATE SYSTEM
14 OF HIGHER EDUCATION.

15 (7) EXAMINATION QUESTIONS, SCORING KEYS OR ANSWERS IN AN
16 ACADEMIC INSTITUTION, WHICH ARE REQUESTED PRIOR TO THE FINAL
17 ADMINISTRATION OF AN EXAMINATION OR WHICH MIGHT BE USED IN A
18 SUBSEQUENT EXAMINATION.

19 (8) A RECORD WHICH RELATES TO RESEARCH OR RESEARCH AND
20 DEVELOPMENT ACTIVITIES UNDERTAKEN BY AN AGENCY IN CONJUNCTION
21 WITH A NONGOVERNMENTAL ENTITY, EXCEPT THAT THE CONTRACT
22 BETWEEN THE AGENCY AND THE NONGOVERNMENTAL ENTITY SHALL BE A
23 PUBLIC RECORD.

24 (9) LIBRARY AND ARCHIVE CIRCULATION AND ORDER RECORDS
25 PERTAINING TO IDENTIFIABLE INDIVIDUALS OR GROUPS OF
26 INDIVIDUALS.

27 (10) LIBRARY ARCHIVED AND MUSEUM MATERIALS CONTRIBUTED
28 BY PRIVATE PERSONS, TO THE EXTENT OF ANY LIMITATIONS IMPOSED
29 BY THE DONOR AS CONDITIONS OF THE CONTRIBUTION.

30 (11) DRAFTS OF BILLS, RESOLUTIONS OR AMENDMENTS PREPARED

1 BY A PUBLIC OFFICIAL OR PUBLIC EMPLOYEE ACTING IN A
2 LEGISLATIVE CAPACITY UNTIL THE DRAFTS HAVE BEEN NUMBERED AND
3 FILED WITH THE SECRETARY OF THE SENATE OR THE CHIEF CLERK OF
4 THE HOUSE OF REPRESENTATIVES OR, IN THE CASE OF A POLITICAL
5 SUBDIVISION, UNTIL THE DRAFTS HAVE BEEN PRESENTED TO A NUMBER
6 OF MEMBERS OF THE GOVERNING BODY OF THE POLITICAL SUBDIVISION
7 EQUAL TO OR GREATER THAN A QUORUM.

8 (12) REQUESTS FROM PUBLIC OFFICIALS OR AGENCY EMPLOYEES
9 TO A LEGISLATIVE AGENCY OR THE STAFF OF A LEGISLATIVE AGENCY
10 STAFF. THIS PARAGRAPH SHALL NOT APPLY TO REPORTS PRODUCED BY
11 LEGISLATIVE AGENCIES AS MANDATED BY STATUTE OR DIRECTED BY
12 RESOLUTION.

13 (13) A RECORD PERTAINING TO STRATEGY AND NEGOTIATIONS
14 WITH RESPECT TO CLAIMS, THREATENED LITIGATION OR LITIGATION.

15 (14) A RECORD PERTAINING TO STRATEGY AND NEGOTIATIONS
16 WITH RESPECT TO LABOR RELATIONS OR COLLECTIVE BARGAINING. ANY
17 FINAL OR EXECUTED CONTRACT OR AGREEMENT BETWEEN THE PARTIES
18 OTHER THAN AN ARBITRATION AWARD SHALL BE A PUBLIC RECORD AND
19 SHALL BE PUBLICLY ACCESSIBLE.

20 (15) A RECORD, INCLUDING, BUT NOT LIMITED TO, A BUDGET
21 RECOMMENDATION, LEGISLATIVE PROPOSAL OR PROPOSED POLICY
22 STATEMENT OF A PUBLIC OFFICIAL OR PUBLIC OFFICIAL'S STAFF
23 WHICH WOULD REVEAL A CONTEMPLATED POLICY OR COURSE OF ACTION
24 BEFORE THE RECOMMENDATION, LEGISLATIVE PROPOSAL OR POLICY
25 STATEMENT IS PUBLICLY PROPOSED.

26 (16) AN AUDIT, INCLUDING UNDERLYING WORK PAPERS
27 DEVELOPED IN THE COURSE OF THE AUDIT, PREPARED BY OR FOR AN
28 AGENCY OF ITS OWN INTERNAL PROGRAMS OR PROCEDURES FOR THE
29 PURPOSE OF IDENTIFYING AND IMPROVING UPON DEFICIENCIES IN THE
30 DELIVERY OF SERVICES TO THE PUBLIC UNDER THE PROGRAMS OR

1 PROCEDURES.

2 (17) A RECORD THAT REFLECTS INTERNAL, PRE-DECISIONAL
3 DELIBERATIONS BY AND BETWEEN PUBLIC OFFICIALS OR AGENCY
4 EMPLOYEES.

5 (18) MINUTES OF EXECUTIVE SESSIONS AND ANY RECORD OF
6 DISCUSSIONS HELD IN EXECUTIVE SESSION, EXCEPT WHERE
7 AUTHORIZED AND RELEASED BY THE AGENCY OR THE RELEASE OF WHICH
8 IS ORDERED BY A COURT.

9 (19) DOCUMENTS OR RECORDS PREPARED EXCLUSIVELY FOR ANY
10 MEETING NOT SUBJECT TO 65 PA.C.S. CH. 7 (RELATING TO OPEN
11 MEETINGS).

12 (20) STATE EMPLOYMENT OR LICENSING EXAMINATION
13 QUESTIONS, SCORING KEYS OR ANSWERS THAT ARE REQUESTED PRIOR
14 TO THE FINAL ADMINISTRATION OF AN EXAMINATION OR WHICH MIGHT
15 BE USED IN A SUBSEQUENT EXAMINATION.

16 (21) DRAFT MINUTES OF ANY MEETING OF AN AGENCY.

17 (D) GENERAL PROPERTY.--EXCEPT TO THE EXTENT DISCLOSURE IS
18 OTHERWISE REQUIRED BY LAW OR THIS SECTION, THE FOLLOWING RECORD
19 OR PARTS OF RECORDS PERTAINING TO REAL ESTATE AND TANGIBLE
20 PROPERTY WITHIN THE CUSTODY AND CONTROL OF THE GOVERNMENT
21 GENERALLY SHALL BE DEEMED NOT TO BE PUBLIC RECORDS AND ARE
22 EXEMPT FROM THE ACCESS REQUIREMENTS OF THIS CHAPTER:

23 (1) THE FOLLOWING INFORMATION REGARDING DONATIONS TO
24 AGENCIES:

25 (I) THE IDENTITY OF AN INDIVIDUAL WHO LAWFULLY MAKES
26 A DONATION, IF ANONYMITY OF THE DONOR IS A CONDITION OF
27 THE DONATION, UNLESS THE DONATION IS INTENDED FOR OR
28 RESTRICTED TO PROVIDING REMUNERATION OR PERSONAL TANGIBLE
29 BENEFIT TO A NAMED PUBLIC OFFICIAL OR EMPLOYEE OF AN
30 AGENCY OR IS REQUIRED TO BE REPORTED BY LAW.

1 (II) A LIST OF POTENTIAL DONORS COMPILED BY AN
2 AGENCY AND USED IN PURSUIT OF DONATIONS.

3 (2) A VALUABLE OR RARE COLLECTION OF BOOKS OR DOCUMENTS
4 OBTAINED BY GIFT, GRANT, BEQUEST OR DEVISE UPON THE CONDITION
5 THAT PUBLIC ACCESS TO THE COLLECTION BE LIMITED.

6 (3) THE CONTENTS OF REAL ESTATE APPRAISALS, ENGINEERING
7 OR FEASIBILITY ESTIMATES, ENVIRONMENTAL REVIEWS, AUDITS OR
8 EVALUATIONS MADE FOR OR BY AN AGENCY RELATIVE TO THE LEASING,
9 ACQUIRING OR DISPOSING OF REAL PROPERTY. THIS EXEMPTION SHALL
10 CEASE TO APPLY TO ANY RECORD ONCE THE REAL PROPERTY HAS BEEN
11 LEASED, ACQUIRED OR DISPOSED OF.

12 (4) THE CONTENTS OF REAL ESTATE APPRAISALS, ENGINEERING
13 OR FEASIBILITY ESTIMATES, ENVIRONMENTAL REVIEWS, AUDITS OR
14 EVALUATIONS MADE FOR OR BY AN AGENCY RELATIVE TO PROSPECTIVE
15 PUBLIC SUPPLY OR A CONSTRUCTION PROJECT. THIS EXEMPTION SHALL
16 CEASE TO APPLY TO ANY RECORD ONCE THE DECISION IS MADE TO
17 PROCEED WITH THE PUBLIC SUPPLY OR CONSTRUCTION PROJECT.

18 (5) A PROPOSAL PERTAINING TO AGENCY PROCUREMENT OR
19 DISPOSAL OF SUPPLIES, SERVICES OR CONSTRUCTION UNTIL AWARD OF
20 THE CONTRACT; A PROPOSAL PERTAINING TO AGENCY LEASING,
21 ACQUISITION OR DISPOSITION OF REAL PROPERTY UNTIL AWARD OF
22 THE CONTRACT; FINANCIAL INFORMATION OF A BIDDER OR OFFEROR
23 REQUESTED IN AN INVITATION FOR BIDS OR REQUEST FOR PROPOSALS
24 TO DEMONSTRATE THE BIDDER'S OR OFFEROR'S ECONOMIC CAPABILITY;
25 A COMMERCIAL OR FINANCIAL RECORD GIVEN IN CONFIDENCE
26 CONTAINING INFORMATION NOT OTHERWISE AVAILABLE TO THE PUBLIC;
27 HOWEVER, THE IDENTITY OF MEMBERS OF AGENCY PROPOSAL
28 EVALUATION COMMITTEES ESTABLISHED UNDER 62 PA.C.S. § 513
29 (RELATING TO COMPETITIVE SEALED PROPOSALS) SHALL BECOME A
30 PUBLIC RECORD AFTER THE CONTRACT IS AWARDED OR UPON THE

1 REJECTION OF ALL PROPOSALS.

2 (6) A RECORD RELATING TO A COMMUNICATION BETWEEN AN
3 AGENCY AND ITS INSURANCE CARRIER, ADMINISTRATIVE SERVICE
4 ORGANIZATION OR RISK MANAGEMENT OFFICE.

5 SECTION 308. AGENCY DISCRETION.

6 THE FOLLOWING SHALL APPLY:

7 (1) AN AGENCY MAY DENY A REQUEST FOR ACCESS DUE TO FIRE,
8 FLOOD, TERRORIST ACT OR OTHER DISASTER, AS DETERMINED BY THE
9 GOVERNING BODY OR CHIEF EXECUTIVE OFFICER OF THE AGENCY. IN
10 THE EVENT OF A DENIAL UNDER THIS PARAGRAPH, THE AGENCY SHALL
11 COMPLY WITH THE REQUEST WHEN IT DETERMINES THAT THE CAUSE FOR
12 THE DENIAL NO LONGER EXISTS.

13 (2) AN AGENCY MAY DENY A REQUEST FOR ACCESS TO
14 HISTORICAL, ANCIENT OR RARE RECORDS, ARCHIVES, MANUSCRIPTS OR
15 DOCUMENTS WHEN ACCESS MAY CAUSE PHYSICAL DAMAGE OR
16 IRREPARABLE HARM TO THE RECORD, AS DETERMINED BY THE
17 GOVERNING BODY OR CHIEF EXECUTIVE OFFICER OF THE AGENCY. TO
18 THE EXTENT POSSIBLE, THE CONTENTS OF ANY SUCH RECORD
19 REQUESTED SHALL BE MADE ACCESSIBLE TO A PERSON MAKING A
20 REQUEST EVEN WHEN THE RECORD IS PHYSICALLY UNAVAILABLE.

21 (3) AN AGENCY MAY EXERCISE ITS DISCRETION TO MAKE ANY
22 RECORD ENUMERATED UNDER SECTION 307 ACCESSIBLE FOR INSPECTION
23 AND COPYING ONLY IF:

24 (I) DISCLOSURE OF THE RECORD IS NOT EXPRESSLY
25 PROHIBITED BY FEDERAL OR STATE LAW OR JUDICIAL ORDER; AND

26 (II) THE GOVERNING BODY OR THE CHIEF EXECUTIVE
27 OFFICER OF A COMMONWEALTH OR LOCAL AGENCY DETERMINES THAT
28 THE PUBLIC INTEREST FAVORING ACCESS OUTWEIGHS THE
29 INDIVIDUAL OR AGENCY INTEREST FAVORING RESTRICTION OF
30 ACCESS.

1 (4) IN THE EVENT THE AGENCY EXERCISES ITS DISCRETION TO
2 MAKE A RECORD AVAILABLE UNDER THIS SECTION, THEN PRIOR TO THE
3 RELEASE OF ANY INFORMATION WHICH CONSTITUTES CONFIDENTIAL OR
4 PROPRIETARY INFORMATION RELATED TO INTELLECTUAL PROPERTY OF A
5 THIRD PARTY, THE AGENCY SHALL GIVE NOTICE TO THE THIRD PARTY
6 THAT PROVIDED THE DOCUMENT TO THE AGENCY AND ALLOW THE PARTY
7 FIVE BUSINESS DAYS TO OBJECT TO THE DISCLOSURE OF THE
8 INFORMATION. THE AGENCY SHALL, WITHIN FIVE BUSINESS DAYS
9 AFTER RECEIVING THE OBJECTION, INFORM THE THIRD PARTY WHETHER
10 IT PLANS TO MAKE THE RECORDS AVAILABLE OVER THE PARTY'S
11 OBJECTION.

12 SECTION 309. FEE LIMITATIONS.

13 (A) FEES.--UNLESS OTHERWISE PROVIDED BY LAW OR A REGULATION
14 OF THE PUBLIC RECORDS OFFICE OR UNLESS WAIVED UNDER THIS
15 SECTION, AN AGENCY MAY CHARGE A REASONABLE FEE FOR THE
16 FOLLOWING:

17 (1) FOR MAILING A PUBLIC RECORD UPON REQUEST OF THE
18 INDIVIDUAL WHICH SHALL NOT EXCEED THE ACTUAL COST OF MAILING.

19 (2) FOR COPYING A PUBLIC RECORD, BUT ANY FEE FOR
20 DUPLICATION BY PHOTOCOPYING, PRINTING FROM ELECTRONIC MEDIA
21 OR MICROFILM, COPYING ONTO ELECTRONIC MEDIA, TRANSMISSION BY
22 FACSIMILE OR OTHER ELECTRONIC MEANS AND OTHER MEANS OF
23 DUPLICATION MUST BE REASONABLE AND BASED ON PREVAILING FEES
24 FOR COMPARABLE DUPLICATION SERVICES PROVIDED BY LOCAL COPYING
25 SERVICES.

26 (3) FOR COMPILING OR ASSEMBLING PUBLIC RECORDS, BUT ANY
27 FEE FOR RECORDS WHICH MUST BE COMPILED OR ASSEMBLED FROM
28 VARIOUS SOURCES OR FORMATS MAY BE CHARGED ONLY TO COVER THE
29 ACTUAL COST OF COMPILING OR ASSEMBLING THE REQUESTS
30 REQUESTED.

1 (4) A REASONABLE FEE FOR OFFICIAL CERTIFICATION OF
2 COPIES IF THE CERTIFICATION IS MADE BY THE PERSON MAKING THE
3 REQUEST FOR THE PURPOSE OF CERTIFYING THE PUBLIC RECORD.

4 (5) IF A PUBLIC RECORD IS ONLY MAINTAINED ELECTRONICALLY
5 OR IN OTHER NONPAPER MEDIA, DUPLICATION FEES SHALL BE LIMITED
6 TO THE LESSER OF THE FEE FOR DUPLICATION ON PAPER OR THE FEE
7 FOR DUPLICATION IN THE NATIVE MEDIA AS PROVIDED UNDER
8 PARAGRAPH (2) UNLESS THE PERSON MAKING THE REQUEST
9 SPECIFICALLY REQUESTS THAT THE PUBLIC RECORD BE DUPLICATED IN
10 THE MORE EXPENSIVE MEDIUM.

11 (6) IF AN AGENCY OFFERS ENHANCED ELECTRONIC ACCESS TO
12 PUBLIC RECORDS IN ADDITION TO MAKING THE PUBLIC RECORDS
13 ACCESSIBLE FOR INSPECTION AND DUPLICATION BY A PERSON MAKING
14 THE REQUEST AS REQUIRED BY THIS ACT, THE AGENCY MAY ESTABLISH
15 USER FEES SPECIFICALLY FOR THE PROVISIONS OF THE ENHANCED
16 ELECTRONIC ACCESS, BUT ONLY TO THE EXTENT THAT THE ENHANCED
17 ELECTRONIC ACCESS IS IN ADDITION TO MAKING THE PUBLIC RECORDS
18 ACCESSIBLE FOR INSPECTION AND DUPLICATION BY A PERSON MAKING
19 A REQUEST AS REQUIRED BY THIS ACT. THE USER FEES FOR ENHANCED
20 ELECTRONIC ACCESS MAY BE A FLAT RATE, A SUBSCRIPTION FEE FOR
21 A PERIOD OF TIME, A PER-TRANSACTION FEE, A FEE BASED ON THE
22 CUMULATIVE TIME OF SYSTEM ACCESS OR ANY OTHER REASONABLE
23 METHOD AND ANY COMBINATION THEREOF. THE USER FEES FOR
24 ENHANCED ELECTRONIC ACCESS MUST BE REASONABLE AND MAY NOT BE
25 ESTABLISHED WITH THE INTENT OR EFFECT OF EXCLUDING PERSONS
26 FROM ACCESS TO PUBLIC RECORDS OR DUPLICATES THEREOF OR OF
27 CREATING PROFIT FOR THE AGENCY.

28 (B) WAIVER OF FEES.--AN AGENCY MAY WAIVE FEES FOR
29 DUPLICATION OF A PUBLIC RECORD, INCLUDING IF:

30 (1) THE REQUEST RESULTS IN A DOCUMENT THAT DOES NOT

1 EXCEED TEN PAGES;

2 (2) THE PERSON MAKING THE REQUEST DUPLICATES THE PUBLIC
3 RECORD, IF THE RECORD REMAINS IN THE CUSTODY AND CONTROL OR
4 IN THE PHYSICAL PRESENCE OF THE AGENCY OR A REPRESENTATIVE
5 THEREOF AND DOES NOT DISRUPT OR UNNECESSARILY INFRINGE UPON
6 THE NORMAL WORKING PROCESS OF THE AGENCY;

7 (3) THE PERSON MAKING THE REQUEST CANNOT AFFORD TO PAY
8 THE FEE AND ATTESTS OR CERTIFIES IN WRITING THAT HE OR SHE
9 CANNOT AFFORD TO PAY THE FEE; OR

10 (4) THE AGENCY DEEMS IT IS IN THE PUBLIC INTEREST TO DO
11 SO.

12 (C) LIMITATION.--NO FEE MAY BE IMPOSED FOR AN AGENCY'S
13 REVIEW OF A RECORD TO DETERMINE WHETHER THE RECORD IS A PUBLIC
14 RECORD SUBJECT TO ACCESS IN ACCORDANCE WITH THIS ACT.

15 (D) PREPAYMENT.--PRIOR TO GRANTING A REQUEST FOR ACCESS IN
16 ACCORDANCE WITH THIS ACT, AN AGENCY MAY REQUIRE A PERSON MAKING
17 A REQUEST TO PREPAY A PORTION OF THE FEES AUTHORIZED UNDER THIS
18 SECTION BASED ON AN ESTIMATE REQUIRED TO FULFILL THE REQUEST
19 WHEN SUCH FEES ARE EXPECTED TO EXCEED \$100.

20 CHAPTER 5

21 PUBLIC RECORDS OFFICE

22 SECTION 501. PENNSYLVANIA PUBLIC RECORDS OFFICE.

23 (A) ESTABLISHMENT.--THE PENNSYLVANIA PUBLIC RECORDS OFFICE
24 IS ESTABLISHED WITHIN THE STATE ETHICS COMMISSION. THE GOVERNOR
25 SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE PUBLIC RECORDS OFFICE
26 WHO SHALL HIRE OTHER STAFF AS NECESSARY TO OPERATE THE OFFICE.

27 (B) POWERS AND DUTIES.--THE DIRECTOR OF THE PUBLIC RECORDS
28 OFFICE HAS THE FOLLOWING POWERS AND DUTIES:

29 (1) TO RECEIVE AND RESPOND TO REQUESTS FOR INFORMATION
30 FROM PERSONS WHO HAVE BEEN DENIED ACCESS TO PUBLIC RECORDS BY

1 A COMMONWEALTH AGENCY OR A LOCAL AGENCY UNDER THIS ACT.

2 (2) TO RECEIVE AND RESPOND TO REQUESTS FOR INFORMATION
3 FROM A COMMONWEALTH AGENCY OR LOCAL AGENCY REGARDING
4 COMPLIANCE WITH THIS ACT.

5 (3) TO ORDER A COMMONWEALTH OR LOCAL AGENCY TO COMPLY
6 WITH PROVISIONS OF THIS ACT UPON FINDING THAT A REQUEST FOR
7 ACCESS TO A PUBLIC RECORD WAS PROPERLY MADE.

8 (4) TO ISSUE ADVISORY OPINIONS ON COMPLIANCE WITH THIS
9 ACT.

10 (5) TO REQUEST INFORMATION FROM COMMONWEALTH AGENCIES
11 AND LOCAL AGENCIES IN ORDER TO MAKE COMPLIANCE DETERMINATIONS
12 UNDER THIS ACT. ALL INFORMATION SUPPLIED BY A COMMONWEALTH
13 AGENCY OR LOCAL AGENCY WHICH IS RELEVANT TO A REQUEST SHALL
14 BE SUBJECT TO CONFIDENTIALITY UNDER SUBSECTION (C).

15 (6) TO GUIDE AND OVERSEE THE COMPLIANCE WITH THIS ACT BY
16 ALL COMMONWEALTH AND LOCAL AGENCIES.

17 (7) TO PROVIDE A LIST TO ANY REQUESTING AGENCY OR
18 INDIVIDUAL OF FEDERAL AND STATE LAWS THAT EXEMPT CERTAIN
19 TYPES OF RECORDS FROM DISCLOSURE.

20 (8) TO MAKE ITS ADVISORY OPINIONS AND WRITTEN DECISIONS
21 AVAILABLE FOR REVIEW.

22 (9) TO CONDUCT TRAINING FOR PUBLIC OFFICIALS, PUBLIC
23 EMPLOYEES AND THIRD PARTIES RELATING TO THE COMMONWEALTH'S
24 ACCESS LAWS WITH ASSISTANCE FROM THE DEPARTMENT OF COMMUNITY
25 AND ECONOMIC DEVELOPMENT'S CENTER FOR LOCAL GOVERNMENT.

26 (10) TO ISSUE A REPORT SEMI-ANNUALLY TO THE GENERAL
27 ASSEMBLY AND TO THE GOVERNOR, WHICH REPORT SHALL INCLUDE, BUT
28 NOT BE LIMITED TO:

29 (I) THE NUMBER OF REQUESTS TO REVIEW DENIALS FROM
30 PERSONS MAKING PUBLIC RECORD REQUESTS.

1 (II) THE NUMBER OF PUBLIC RECORD REQUESTS WHICH WERE
2 DETERMINED, UPON REVIEW OF THE ACCESS OFFICE, TO HAVE
3 BEEN IMPROPERLY DENIED.

4 (III) THE NUMBER OF REQUESTS MADE BY AGENCIES
5 SEEKING CLARIFICATION ON COMPLIANCE WITH THIS ACT.

6 (IV) THE NUMBER OF ORDERS ISSUED BY THE PUBLIC
7 RECORDS OFFICE DIRECTING AN AGENCY TO COMPLY WITH THIS
8 ACT.

9 (V) THE NUMBER OF ADVISORY OPINIONS ISSUED BY THE
10 ACCESS OFFICE.

11 (VI) THE NUMBER OF REQUESTS FOR THE LIST OF FEDERAL
12 AND STATE EXEMPTIONS TO PUBLIC ACCESS OF RECORDS.

13 (VII) THE NUMBER OF TRAINING SESSIONS CONDUCTED FOR
14 PUBLIC OFFICIALS, PUBLIC EMPLOYEES AND THIRD PARTIES
15 RELATING TO PUBLIC ACCESS OF RECORDS, INCLUDING THE
16 NUMBER OF PERSONS ATTENDING SUCH TRAINING SESSIONS.

17 (11) TO PROMULGATE ANY REGULATIONS NECESSARY TO
18 ADMINISTER THIS ACT.

19 (C) CONFIDENTIALITY.--ALL INFORMATION REQUESTED BY THE
20 PUBLIC RECORDS OFFICE FROM AN AGENCY IN ORDER TO MAKE A
21 DETERMINATION OF WHETHER AN AGENCY IS COMPLYING WITH THIS ACT
22 SHALL REMAIN CONFIDENTIAL AND SHALL NOT BE SUBJECT TO PUBLIC
23 ACCESS.

24 (D) FEES.--THE FOLLOWING SHALL APPLY:

25 (1) THE PUBLIC RECORDS OFFICE MAY IMPOSE A REASONABLE
26 FILING FEE FOR AN APPEAL MADE UNDER SECTION 502, AND ANY FEES
27 COLLECTED UNDER THIS SUBSECTION SHALL BE DEPOSITED IN A
28 RESTRICTED ACCOUNT IN THE GENERAL FUND WHICH IS ESTABLISHED
29 FOR THE PUBLIC RECORDS OFFICE. THE MONEY FROM THIS ACCOUNT
30 SHALL BE APPROPRIATED AS NECESSARY FOR THE OPERATION OF THE

1 PUBLIC RECORDS OFFICE.

2 (2) THE PUBLIC RECORDS OFFICE MAY WAIVE THE FILING FEE
3 IF THE PERSON REQUESTING ACCESS TO THE PUBLIC RECORD IS
4 UNABLE TO AFFORD THE FEE BASED ON GUIDELINES ESTABLISHED BY
5 THE ACCESS OFFICE.

6 SECTION 502. ADMINISTRATIVE APPEALS FROM COMMONWEALTH AGENCIES
7 AND LOCAL AGENCIES.

8 (A) GENERAL RULE.--NOTWITHSTANDING ANY OTHER PROVISION OF
9 LAW, A PARTY AGGRIEVED BY A DENIAL OR DEEMED DENIAL OF ACCESS TO
10 A PUBLIC RECORD BY A COMMONWEALTH AGENCY OR A LOCAL AGENCY MAY,
11 WITHIN 30 DAYS AFTER A REQUEST IS DENIED OR DEEMED DENIED,
12 APPEAL TO THE PUBLIC RECORDS OFFICE BY FORWARDING TO THE OFFICE
13 A COPY OF THE REQUEST AND THE WRITTEN EXPLANATION FOR THE
14 DENIAL, IF ANY, PROVIDED BY THE COMMONWEALTH AGENCY OR LOCAL
15 AGENCY, AND REQUESTING A REVIEW OF THE MATTER.

16 (B) RULING.--

17 (1) WITHIN 30 BUSINESS DAYS AFTER RECEIPT OF THE APPEAL,
18 THE PUBLIC RECORDS OFFICE SHALL RULE EITHER THAT THE DENIAL
19 OR DEEMED DENIAL OF ACCESS TO THE RECORD BY THE COMMONWEALTH
20 AGENCY OR LOCAL AGENCY IS UPHELD OR THAT THE DECISION TO DENY
21 ACCESS TO THE RECORD WAS IMPROPER, AND THE COMMONWEALTH
22 AGENCY OR LOCAL AGENCY MUST PROVIDE ACCESS TO THE RECORD. THE
23 PUBLIC RECORDS OFFICE MAY HOLD A PRIVATE HEARING ON THE
24 MATTER AND MAY REVIEW THE RECORD.

25 (2) THE 30-BUSINESS-DAY PERIOD MAY BE EXTENDED BY
26 AGREEMENT OF THE PARTIES. IF THE PARTIES DO NOT AGREE TO AN
27 EXTENSION OR THE PUBLIC RECORDS OFFICE DOES NOT ISSUE A
28 RULING WITHIN 30 BUSINESS DAYS AFTER THE DATE OF THE APPEAL,
29 THE DENIAL FROM THE COMMONWEALTH AGENCY OR LOCAL AGENCY SHALL
30 BE DEEMED AFFIRMED.

1 (C) EXPLANATION.--IF THE PUBLIC RECORDS OFFICE UPHOLDS THE
2 DECISION OF THE COMMONWEALTH AGENCY OR LOCAL AGENCY TO DENY
3 ACCESS TO THE PUBLIC RECORD, THE OFFICE SHALL FULLY EXPLAIN IN
4 WRITING TO THE PERSON REQUESTING THE PUBLIC RECORD THE REASON
5 FOR THE DENIAL. IF THE PUBLIC RECORDS OFFICE RULES THAT THE
6 COMMONWEALTH AGENCY OR LOCAL AGENCY SHALL PROVIDE ACCESS TO THE
7 PUBLIC RECORD, IT SHALL ORDER THE COMMONWEALTH AGENCY OR LOCAL
8 AGENCY TO PROVIDE THE INDIVIDUAL WITH ACCESS TO THE RECORD AND
9 SHALL FULLY EXPLAIN IN WRITING THE REASON ACCESS MUST BE
10 PROVIDED.

11 (D) OTHER APPEALS.--COSTS OR ATTORNEY FEES SHALL NOT BE
12 AWARDED UNDER THIS SECTION FOR ADMINISTRATIVE APPEAL TO THE
13 PUBLIC RECORDS OFFICE UNDER THIS SECTION.

14 SECTION 503. JUDICIAL REVIEW.

15 (A) JUDICIAL APPEAL.--A PERSON AGGRIEVED BY A DECISION OF
16 THE PUBLIC RECORDS OFFICE OR A LEGISLATIVE AGENCY AND WHO HAS A
17 DIRECT INTEREST IN THE RECORD THAT IS THE SUBJECT OF THE
18 DECISION MAY, WITHIN 30 DAYS AFTER RECEIPT OF ACTUAL KNOWLEDGE
19 OF THE ISSUANCE OF THE OFFICE'S ORDER AND OPINION, APPEAL THE
20 DECISION AS FOLLOWS:

21 (1) WITH RESPECT TO THE ACTIONS OF A COMMONWEALTH AGENCY
22 OR A LEGISLATIVE AGENCY, AN AGGRIEVED PERSON MAY FILE A
23 PETITION FOR REVIEW OR OTHER DOCUMENT AS MIGHT BE REQUIRED BY
24 RULE OF COURT WITH THE COMMONWEALTH COURT.

25 (2) WITH RESPECT TO THE ACTIONS OF A NON-COMMONWEALTH
26 AGENCY, AN AGGRIEVED PERSON MAY FILE A PETITION FOR REVIEW OR
27 OTHER DOCUMENT AS MIGHT BE REQUIRED BY RULE OF COURT WITH THE
28 COURT OF COMMON PLEAS FOR THE COUNTY WHERE THE NON-
29 COMMONWEALTH AGENCY'S OFFICE OR FACILITY IS LOCATED.

30 (B) NOTICE.--ALL PARTIES IN INTEREST SHALL BE SERVED NOTICE

1 OF ACTIONS COMMENCED IN ACCORDANCE WITH SUBSECTION (A) AND SHALL
2 HAVE AN OPPORTUNITY TO RESPOND IN ACCORDANCE WITH THE
3 ESTABLISHED RULES OF THE OFFICE AND APPLICABLE COURT RULES, AS
4 APPROPRIATE.

5 (C) RECORD ON APPEAL.--THE RECORD BEFORE THE COURT UNDER
6 SUBSECTION (A) SHALL CONSIST OF THE REQUEST, THE RECORD BEFORE
7 THE OFFICE, INCLUDING THE HEARING TRANSCRIPT, IF ANY, AND THE
8 OFFICE'S ORDER AND OPINION. THE COURT, ON ITS OWN MOTION, MAY
9 AUGMENT THE RECORD AS IT SEES FIT.

10 (D) SCOPE OF REVIEW.--THE COURT SHALL HEAR AN APPEAL WITH
11 RESPECT TO A DECISION OF THE OFFICE WITHOUT A JURY ON THE RECORD
12 CERTIFIED BY THE OFFICE. AFTER HEARING, THE COURT SHALL AFFIRM
13 THE DECISION OF THE OFFICE UNLESS IT FINDS THAT THE DECISION IS
14 IN VIOLATION OF THE CONSTITUTIONAL RIGHTS OF AN AGGRIEVED PARTY,
15 IS NOT IN ACCORDANCE WITH LAW OR THAT ANY FINDING OF FACT MADE
16 BY THE OFFICE NECESSARY TO SUPPORT THE DECISION IS NOT SUPPORTED
17 BY SUBSTANTIAL EVIDENCE. IF THE DECISION IS NOT AFFIRMED, THE
18 COURT MAY ENTER ANY ORDER AUTHORIZED BY 42 PA.C.S. § 706
19 (RELATING TO DISPOSITION OF APPEALS).

20 (E) EFFECT OF NOTICE OF APPEAL.--THE FILING OF A NOTICE OF
21 APPEAL UNDER SUBSECTION (A) SHALL HAVE THE EFFECT OF STAYING
22 ACCESS TO THE RECORDS REQUESTED IF SUCH ACCESS HAS NOT YET BEEN
23 MADE AVAILABLE. IF ACCESS TO THE RECORDS REQUESTED HAS ALREADY
24 BEEN MADE AVAILABLE TO THE REQUESTER AT THE TIME THE NOTICE OF
25 APPEAL HAS BEEN FILED AND IF A COPY OF THE NOTICE HAS BEEN
26 PROVIDED TO THE REQUESTER, THE REQUESTER SHALL BE REQUIRED TO
27 KEEP THE CONTENTS OF THE RECORDS CONFIDENTIAL UNTIL THE APPEAL
28 HAS BEEN FINALLY DISPOSED OF.

29 (F) TRAINING.--ANY COURT MAY ORDER AGENCY OFFICIALS AND
30 EMPLOYEES TO ATTEND MANDATORY TRAINING SESSIONS CONDUCTED BY THE

1 OFFICE, WHICH SHALL INCLUDE TESTING ON COMPLIANCE WITH THE LAW.

2 (G) CIVIL PENALTY.--IF THE COURT FINDS THAT AN AGENCY OR
3 PUBLIC OFFICIAL DOES NOT PROMPTLY COMPLY WITH A COURT ORDER
4 UNDER THIS ACT, THE AGENCY SHALL PAY A CIVIL PENALTY OF NOT MORE
5 THAN \$300 PER DAY UNTIL THE PUBLIC RECORDS ARE PROVIDED. THE
6 CIVIL PENALTY SHALL BE PAID INTO THE RESTRICTED ACCOUNT
7 ESTABLISHED IN THE GENERAL FUND UNDER SECTION 501(D).

8 (H) PROCEDURES.--THE PROVISIONS OF 2 PA.C.S. (RELATING TO
9 ADMINISTRATIVE LAW AND PROCEDURE) SHALL NOT APPLY TO THIS
10 SECTION. WITHIN 180 DAYS FOLLOWING THE EFFECTIVE DATE OF THIS
11 SUBSECTION, THE OFFICE SHALL ADOPT PROCEDURES FOR APPEALS TO THE
12 OFFICE UNDER THIS SECTION AND SHALL FORWARD THEM TO THE
13 LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION AS A NOTICE IN THE
14 PENNSYLVANIA BULLETIN.

15 SECTION 504. PENALTIES, COURT COSTS AND ATTORNEY FEES.

16 (A) GROUNDS FOR DAMAGES.--

17 (1) IF A COURT FINDS THAT AN AGENCY INTENTIONALLY
18 VIOLATED ANY PROVISION OF THIS CHAPTER, ACTED IN BAD FAITH OR
19 RELIED UPON AN UNREASONABLE INTERPRETATION OF THE LAW IN NOT
20 PROVIDING ACCESS TO A PUBLIC RECORD THE COURT MAY ORDER THE
21 AGENCY TO PAY A CIVIL PENALTY OF NOT MORE THAN \$500 TO BE
22 PAID INTO THE RESTRICTED ACCOUNT ESTABLISHED IN THE GENERAL
23 FUND UNDER SECTION 501(D)(1).

24 (2) A DECISION BY THE OFFICE AFFIRMING AN AGENCY'S
25 DENIAL OR DEEMED DENIAL SHALL CONSTITUTE PRIMA FACIE EVIDENCE
26 THAT THE AGENCY DID NOT ACT IN BAD FAITH OR IN RELIANCE UPON
27 AN UNREASONABLE INTERPRETATION OF THE LAW.

28 (B) ATTORNEY FEES AND COURT COSTS.--

29 (1) IN AN ACTION SEEKING ENFORCEMENT OF RIGHTS UNDER
30 THIS ACT, THE PARTY PREVAILING IN OBTAINING INFORMATION OR

1 RECORDS SHALL BE AWARDED REASONABLE ATTORNEY FEES AND COURT
2 COSTS BY THE COURT.

3 (2) IF THE COURT FINDS THAT AN APPEAL BROUGHT BY ANY
4 PARTY WAS FRIVOLOUS, THE COURT MAY AWARD THE PREVAILING PARTY
5 REASONABLE ATTORNEY FEES AND COURT COSTS OR AN APPROPRIATE
6 PORTION OF SUCH FEES AND COSTS.

7 (C) OTHER APPEALS.--COSTS OR ATTORNEY FEES SHALL NOT BE
8 AWARDED UNDER THIS SECTION WITH RESPECT TO ADMINISTRATIVE
9 APPEALS TO THE OFFICE UNDER SECTION 503.
10 SECTION 505. IMMUNITY.

11 (A) GENERAL RULE.--EXCEPT AS MAY BE PROVIDED IN SECTION
12 504(A)(1) AND IN OTHER STATUTES GOVERNING THE RELEASE OF
13 RECORDS, NO AGENCY, PUBLIC OFFICIAL OR AGENCY EMPLOYEE SHALL BE
14 LIABLE FOR CIVIL OR CRIMINAL DAMAGES OR PENALTIES RESULTING FROM
15 COMPLIANCE OR FAILURE TO COMPLY WITH THIS CHAPTER.

16 (B) SCHEDULES.--NO AGENCY, PUBLIC OFFICIAL OR AGENCY
17 EMPLOYEE SHALL BE LIABLE FOR CIVIL OR CRIMINAL DAMAGES OR
18 PENALTIES UNDER THIS CHAPTER FOR COMPLYING WITH ANY WRITTEN
19 RECORD RETENTION AND DISPOSITION SCHEDULE.

20 CHAPTER 7

21 ADMINISTRATION AND ENFORCEMENT

22 SECTION 701. POLICIES AND REGULATIONS.

23 (A) PUBLIC RECORDS OFFICE.--THE PUBLIC RECORDS OFFICE SHALL
24 ESTABLISH WRITTEN POLICIES PRIOR TO PROMULGATING REGULATIONS
25 NECESSARY TO IMPLEMENT THIS ACT FOR ALL COMMONWEALTH AND LOCAL
26 AGENCIES SUBJECT TO THIS ACT.

27 (B) AGENCY POLICIES.--

28 (1) PRIOR TO THE PROMULGATION OF REGULATIONS BY THE
29 PUBLIC RECORDS OFFICE, AN AGENCY MAY ADOPT POLICIES TO HANDLE
30 OPEN RECORDS REQUESTS THAT ARE NOT INCONSISTENT WITH THIS

1 ACT. FOLLOWING THE PROMULGATION OF REGULATIONS BY THE PUBLIC
2 RECORDS OFFICE, AGENCIES SHALL REVISE OPEN RECORDS POLICIES
3 THAT ARE INCONSISTENT WITH THE REGULATIONS.

4 (2) ANY AGENCY POLICY ADOPTED UNDER THIS SECTION SHALL,
5 AT A MINIMUM:

6 (I) IDENTIFY THE PRINCIPAL OFFICE OF THE AGENCY AND
7 ITS REGULAR OFFICE HOURS.

8 (II) LIST THE NAME AND BUSINESS ADDRESS OF THE
9 AGENCY'S COMPLIANCE OFFICER.

10 (III) INCLUDE A SCHEDULE OF FEES ADOPTED BY THE
11 AGENCY AS PERMITTED BY THIS ACT.

12 (IV) SPECIFY THE PROCEDURES TO BE FOLLOWED IN
13 REQUESTING RECORDS.

14 (C) PROHIBITION.--A POLICY OR REGULATION MAY NOT INCLUDE ANY
15 OF THE FOLLOWING:

16 (1) A LIMITATION ON THE NUMBER OF PUBLIC RECORDS WHICH
17 MAY BE REQUESTED OR MADE AVAILABLE FOR INSPECTION OR
18 DUPLICATION.

19 (2) A REQUIREMENT TO DISCLOSE THE PURPOSE OR MOTIVE IN
20 REQUESTING ACCESS TO RECORDS WHICH ARE PUBLIC RECORDS.

21 (D) POSTING.--ANY PUBLIC RECORDS POLICY DEVELOPED BY AN
22 AGENCY SHALL BE CONSPICUOUSLY POSTED AT THE AGENCY'S PRINCIPAL
23 OFFICE AND MAY BE MADE AVAILABLE BY ELECTRONIC MEANS.

24 SECTION 702. CONFIDENTIALITY AGREEMENTS.

25 IF AN AGENCY RECEIVED A REQUEST FOR A RECORD THAT IS SUBJECT
26 TO A CONFIDENTIALITY AGREEMENT EXECUTED BEFORE THE EFFECTIVE
27 DATE OF THIS SECTION, THE LAW IN EFFECT AT THE TIME THE
28 AGREEMENT WAS EXECUTED, INCLUDING JUDICIAL INTERPRETATION OF THE
29 LAW, SHALL GOVERN ACCESS TO THE RECORD, UNLESS ALL PARTIES TO
30 THE CONFIDENTIALITY AGREEMENT AGREE IN WRITING THAT ACCESS OR

1 NONACCESS TO THE RECORD SHALL BE GOVERNED BY THIS ACT.

2 SECTION 703. PRACTICE AND PROCEDURE.

3 THE PROVISIONS OF 2 PA.C.S. (RELATING TO ADMINISTRATIVE LAW
4 AND PROCEDURE) SHALL NOT APPLY TO THIS ACT.

5 SECTION 704. ACCESS TO PERSONAL RECORD.

6 ANY PERSON SHALL HAVE ACCESS TO ANY PUBLIC RECORD RELATING TO
7 THE PERSON, OR IN WHICH THE PERSON IS MENTIONED BY NAME, UPON
8 PRESENTATION OF APPROPRIATE IDENTIFICATION, SUBJECT TO THE
9 PROVISIONS OF THIS ACT. ACCESS UNDER THIS SECTION SHALL INCLUDE
10 LIMITED ACCESS UNDER SECTION 305 WHERE APPROPRIATE.

11 SECTION 705. PROHIBITION AGAINST DESTRUCTION OR DAMAGE OF
12 RECORDS.

13 (A) PROHIBITION.--AGENCY RECORDS SHALL NOT BE REMOVED,
14 DESTROYED, MUTILATED, TRANSFERRED OR OTHERWISE DAMAGED OR
15 DISPOSED OF, IN WHOLE OR IN PART, EXCEPT AS PROVIDED BY LAW
16 UNDER ANY APPLICABLE RECORDS RETENTION SCHEDULE OR UNDER THE
17 RULES ADOPTED BY THE PUBLIC RECORDS OFFICE. RECORDS SHALL BE
18 DELIVERED BY OUTGOING OFFICIALS AND EMPLOYEES TO THEIR
19 SUCCESSORS AND SHALL NOT BE OTHERWISE REMOVED, TRANSFERRED OR
20 DESTROYED UNLAWFULLY.

21 (B) CIVIL ACTION.--ANY PERSON WHO IS AGGRIEVED BY THE
22 REMOVAL, DESTRUCTION, MUTILATION OR TRANSFER OF OR BY OTHER
23 DAMAGE TO OR DISPOSITION OF A RECORD IN VIOLATION OF SUBSECTION
24 (A), OR BY THREAT OF REMOVAL, DESTRUCTION, MUTILATION, TRANSFER
25 OR OTHER DAMAGE TO OR DISPOSITION OF A RECORD MAY COMMENCE
26 EITHER OR BOTH OF THE FOLLOWING IN THE COURT OF COMMON PLEAS OF
27 THE COUNTY IN WHICH SUBSECTION (A) ALLEGEDLY WAS VIOLATED OR IS
28 THREATENED TO BE VIOLATED:

29 (1) A CIVIL ACTION FOR INJUNCTIVE RELIEF TO COMPEL
30 COMPLIANCE WITH SUBSECTION (A) AND TO OBTAIN AN AWARD OF THE

1 REASONABLE ATTORNEY FEES INCURRED BY THE PERSON IN THE CIVIL
2 ACTION.

3 (2) A CIVIL ACTION TO RECOVER A FORFEITURE IN THE AMOUNT
4 OF \$1,000 FOR EACH VIOLATION AND TO OBTAIN AN AWARD OF THE
5 REASONABLE ATTORNEY FEES INCURRED BY THE PERSON IN THE CIVIL
6 ACTION.

7 SECTION 706. REPLEVIN OF PUBLIC RECORDS UNLAWFULLY REMOVED.

8 ANY RECORD WHICH HAS BEEN UNLAWFULLY TRANSFERRED OR REMOVED
9 IN VIOLATION OF THIS ACT OR OTHERWISE TRANSFERRED OR REMOVED
10 UNLAWFULLY IS SUBJECT TO REPLEVIN BY THE ATTORNEY GENERAL UPON
11 REQUEST OF THE PUBLIC RECORDS OFFICE. THE RECORD SHALL BE
12 RETURNED TO THE AGENCY OF ORIGIN AND SAFEGUARDS SHALL BE
13 ESTABLISHED TO PREVENT FURTHER RECURRENCE OF UNLAWFUL TRANSFER
14 OR REMOVAL.

15 SECTION 707. AUTHORITY NOT RESTRICTED.

16 THE PROVISIONS OF THIS ACT SHALL NOT IMPAIR OR RESTRICT THE
17 AUTHORITY GIVEN BY OTHER STATUTES OVER THE CREATION OF RECORDS,
18 SYSTEMS, FORMS, PROCEDURES OR THE CONTROL OVER PURCHASES OF
19 EQUIPMENT BY AGENCIES.

20 SECTION 708. INTERNET.

21 ALL AGENCIES SHALL MAKE ALL BUDGETS, EXPENSE ACCOUNTS, GRANTS
22 AND OTHER RECORDS RELATED TO THE EXPENDITURE OF PUBLIC FUNDS
23 EXCEPT FOR CHECKS, AS THE TERM IS DEFINED IN 13 PA.C.S. § 3104
24 (RELATING TO NEGOTIABLE INSTRUMENT), AVAILABLE ON THE INTERNET
25 WITHOUT A FEE OR CHARGE.

26 SECTION 709. TRANSCRIPTS PREPARED BY COURT REPORTER OR OTHER
27 TRANSCRIBER.

28 IF A TRANSCRIPT OF A HEARING OR OTHER ADMINISTRATIVE
29 PROCEEDING IS A PUBLIC RECORD AS DEFINED BY THIS ACT, COPIES OF
30 THE TRANSCRIPT SHALL BE PROVIDED UPON REQUEST AS FOLLOWS:

1 (1) IF PREPARED BY A COURT REPORTER OR OTHER TRANSCRIBER
2 WHO IS AN EMPLOYEE OF AN AGENCY, THE AGENCY SHALL PROVIDE A
3 COPY TO THE REQUESTER IN ACCORDANCE WITH THE PROVISIONS OF
4 THIS ACT.

5 (2) IF PREPARED BY A COURT REPORTER OR OTHER TRANSCRIBER
6 UNDER CONTRACT WITH AN AGENCY, THE AGENCY SHALL REFER A
7 REQUESTER OF THAT TRANSCRIPT TO THE COURT REPORTER OR
8 TRANSCRIBER TO OBTAIN A COPY OF THAT TRANSCRIPT.

9 CHAPTER 9

10 STATE-RELATED INSTITUTIONS

11 SECTION 901. REPORTING.

12 NO LATER THAN 180 DAYS AFTER THE CLOSE OF THE FISCAL YEAR FOR
13 WHICH STATE FUNDS ARE RECEIVED, A STATE-RELATED INSTITUTION
14 SHALL FILE WITH THE GOVERNOR'S OFFICE, THE GENERAL ASSEMBLY, THE
15 AUDITOR GENERAL AND THE STATE LIBRARY THE INFORMATION SET FORTH
16 IN SECTION 902.

17 SECTION 902. CONTENTS OF REPORT.

18 THE REPORT REQUIRED UNDER SECTION 901 SHALL INCLUDE ALL OF
19 THE FOLLOWING:

20 (1) ALL INFORMATION REQUIRED BY FORM 990 OR AN
21 EQUIVALENT FORM, OF THE UNITED STATES DEPARTMENT OF THE
22 TREASURY, INTERNAL REVENUE SERVICE REGARDLESS OF WHETHER THE
23 STATE-RELATED INSTITUTION IS REQUIRED TO FILE THE FORM BY THE
24 FEDERAL GOVERNMENT.

25 (2) THE SALARIES OF ALL OFFICERS AND DIRECTORS OF THE
26 STATE-RELATED INSTITUTION.

27 (3) THE HIGHEST 25 SALARIES PAID TO EMPLOYEES OF THE
28 INSTITUTION THAT ARE NOT INCLUDED UNDER PARAGRAPH (2).

29 SECTION 903. COPIES AND POSTING.

30 A STATE-RELATED INSTITUTION SHALL MAINTAIN FOR AT LEAST SEVEN

1 YEARS A COPY OF THE REPORT IN THE INSTITUTION'S LIBRARY AND
2 SHALL PROVIDE FREE ACCESS TO THE REPORT ON THE INSTITUTION'S
3 INTERNET WEBSITE.

4 CHAPTER 21

5 MISCELLANEOUS PROVISIONS

6 SECTION 2101. APPLICABILITY.

7 (A) PROSPECTIVE.--THIS ACT SHALL APPLY TO REQUESTS FOR
8 INFORMATION MADE ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

9 (B) EFFECT.--WITH RESPECT TO ALL AGENCIES, APPLICATION OF
10 THIS ACT SHALL NOT CAUSE A RECORD IN EXISTENCE ON THE EFFECTIVE
11 DATE OF THIS SECTION TO BECOME A PUBLIC RECORD IF IT WAS NOT
12 PUBLICLY ACCESSIBLE UNDER THE FORMER ACT OF JUNE 21, 1957
13 (P.L.390, NO.212), REFERRED TO AS THE RIGHT-TO-KNOW LAW, EXCEPT
14 THAT A RECORD WHICH REFLECTS CURRENT POLICY OF A COMMONWEALTH
15 AGENCY OR LOCAL AGENCY AND IS USED OR RELIED UPON BY AN AGENCY
16 IN THE COURSE OF AGENCY BUSINESS SHALL BE A PUBLIC RECORD.

17 (C) SPECIFIC DESIGNATION.--NOTWITHSTANDING ANY OTHER
18 PROVISION OF THIS ACT, THE GENERAL ASSEMBLY MAY PROVIDE THAT A
19 RECORD IN THE CUSTODY OF AN AGENCY SHALL BE A PUBLIC RECORD IF
20 SPECIFICALLY DESIGNATED BY STATUTE.

21 (D) RELATION TO OTHER JUDICIAL ACTIONS.--IF THE PROVISIONS
22 OF THIS CHAPTER REGARDING ACCESS TO PUBLIC RECORDS CONFLICT WITH
23 ANY JUDICIAL ORDER OR DECREE, THE PROVISIONS OF THIS CHAPTER
24 SHALL NOT CONTROL.

25 SECTION 2102. REPEALS.

26 THE FOLLOWING SHALL APPLY:

27 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
28 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE PROVISIONS OF
29 THIS ACT.

30 (2) THE ACT OF JUNE 21, 1957 (P.L.390, NO.212), REFERRED

1 TO AS THE RIGHT-TO-KNOW LAW, IS REPEALED.

2 SECTION 2103. EFFECTIVE DATE.

3 THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

4 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
5 IMMEDIATELY:

6 (I) SECTIONS 303, 501(A), (B)(7), (9) AND (11), 701,
7 705, 706 AND 707.

8 (II) THIS SECTION.

9 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN ONE
10 YEAR OR UPON THE PROMULGATION OF REGULATIONS BY THE PUBLIC
11 RECORDS OFFICE UNDER SECTION 501(B)(11), WHICHEVER IS
12 EARLIER.