

**SUBSTITUTE FOR
HOUSE BILL NO. 4397**

A bill to protect the safety of certain elected officials and certain other individuals; to protect certain information of certain elected officials and certain other individuals from disclosure; to provide for the powers and duties of certain state and local governmental officers and certain other people and entities; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "elected official
2 protection act".

3 Sec. 2. As used in this act:

4 (a) "Immediate family member" means any of the following whose
5 permanent residence is the same as the protected individual's
6 permanent residence:



(i) The protected individual's spouse.

(ii) The protected individual's child.

(iii) The protected individual's parent.

(iv) Any other familial relative of a protected individual.

(b) "Legislator" means any of the following:

(i) An elected and currently serving member of the legislature of this state.

(ii) A currently serving United States Senator or Representative in Congress who represents this state.

(c) "Person" means an individual, corporation, limited liability company, partnership, firm, organization, association, or other legal entity but does not include a public body.

(d) "Personal identifying information" means any 1 or more of the following:

(i) Except as provided in section 3(5), date of birth.

(ii) Except for the city and township of residence, permanent residential address.

(iii) Address of other real property owned and regularly used as a dwelling or for recreation by a protected individual or a protected individual's immediate family member.

(iv) Home or cellular telephone number.

(v) State identification number or driver license number.

(vi) Social Security number.

(vii) Personal email address.

(viii) Federal or state tax identification number.

(ix) Personal credit, charge, or debit card information.

(x) Bank account information, including account or PIN numbers.



1 (xi) License plate number or other unique identifier of a
2 vehicle that is owned, leased, or regularly used by a protected
3 individual or a protected individual's immediate family member.

4 (xii) Current or future school or day-care information
5 including, but not limited to, the name or address of the school or
6 day care attended, schedule of attendance, or route taken to or
7 from the school or day care by a protected individual or a
8 protected individual's immediate family member.

9 (xiii) Information on the employment location, except the
10 protected individual's official office, of a protected individual
11 or a protected individual's immediate family member including the
12 name or address of the employer, employment schedules, or routes
13 taken to or from the employer.

14 (e) "Protected individual" means any of the following:

15 (i) A legislator.

16 (ii) The current or a former governor.

17 (iii) The current lieutenant governor, attorney general, and
18 secretary of state.

19 (f) "Public body" means any of the following:

20 (i) A state officer, employee, agency, department, division,
21 bureau, board, commission, council, authority, or other body in the
22 executive branch of the state government, but does not include the
23 governor or lieutenant governor, the executive office of the
24 governor or lieutenant governor, or employees of the governor or
25 lieutenant governor.

26 (ii) An agency, board, commission, or council in the
27 legislative branch of the state government.

28 (iii) A county, city, township, village, intercounty, intercity,
29 or regional governing body, council, school district, special



1 district, or municipal corporation, or a board, department,
2 commission, council, or agency.

3 (iv) Except as provided under subparagraph (v), any other body
4 that is created by state or local authority or is primarily funded
5 by or through state or local authority, except that the judiciary,
6 including the office of the county clerk and its employees when
7 acting in the capacity of clerk to the circuit court, is not
8 included in the definition of public body.

9 (v) If approved by the supreme court, the judiciary.

10 (g) "Publicly post or display" means to communicate or
11 otherwise make personal identifying information available to the
12 general public.

13 (h) "Residential address" means the place that is the settled
14 home or domicile at which an individual legally resides and is a
15 residence as that term is defined in section 11 of the Michigan
16 election law, 1954 PA 116, MCL 168.11.

17 (i) "Transfer" means to sell, license, trade, or exchange for
18 consideration the personal identifying information of a protected
19 individual or protected individual's immediate family member.

20 Sec. 3. (1) A protected individual may request that a public
21 body or person not publicly post or display the personal
22 identifying information of a protected individual or a protected
23 individual's immediate family member.

24 (2) A protected individual may submit a written request, on a
25 form prescribed by the department of technology, management, and
26 budget, to a public body or person to remove a public posting or
27 display of personal identifying information of the protected
28 individual or the protected individual's immediate family member.
29 The form must include both of the following:



1 (a) Proof of the protected individual's office and identity.

2 (b) The personal identifying information of the protected
3 individual or the protected individual's immediate family member
4 that the protected individual desires to protect.

5 (3) A written request provided to a public body or person
6 under subsection (2) remains in force and effect until the
7 protected individual provides a signed written request to rescind
8 or modify the prior request, or until the protected individual
9 dies, whichever occurs first.

10 (4) On the written delegation of authority by a protected
11 individual, the department of technology, management, and budget
12 may submit a written request to a public body or person on behalf
13 of a protected individual under subsection (2). A written request
14 under this subsection must be given the same force and effect as a
15 written request submitted by a protected individual.

16 (5) A person may contact the department of technology,
17 management, and budget to obtain the following:

18 (a) To comply with section 7 of article IV of the state
19 constitution of 1963, a legislator's date of birth.

20 (b) To comply with section 22 of article V of the state
21 constitution of 1963, the governor or lieutenant governor's date of
22 birth.

23 (6) A written request provided to the office of the county
24 register of deeds must include a list of all instruments to be
25 protected by liber and page or other unique identifying number.

26 Sec. 4. (1) Except as otherwise provided, a public body that
27 has received a request under section 3 shall not publicly post or
28 display or provide to a person the specified personal identifying
29 information of a protected individual or a protected individual's



1 immediate family member, as applicable. A public body that has
2 already publicly posted or displayed the specified personal
3 identifying information shall remove the personal identifying
4 information not later than 5 business days after receiving the
5 request. This act does not require a public body to permanently
6 delete personal identifying information that is not accessible to
7 the public.

8 (2) Except as otherwise provided, a person that has received a
9 request under section 3 shall not publicly post or display or
10 transfer the specified personal identifying information of a
11 protected individual or a protected individual's immediate family
12 member, as applicable. A person that has already publicly posted or
13 displayed the personal identifying information shall remove the
14 personal identifying information not later than 5 business days
15 after receiving the request.

16 (3) A public body may comply with the requirements of this
17 section by redacting the specified personal identifying information
18 that is publicly posted or displayed or by masking the entire
19 contents of a document or record that contains the specified
20 personal identifying information. This section does not alter or
21 amend a public body's obligations under the freedom of information
22 act, 1976 PA 442, MCL 15.231 to 15.246.

23 Sec. 5. This act does not apply to any of the following:

24 (a) The display of the personal identifying information of a
25 protected individual or a protected individual's immediate family
26 member if the information is relevant to and displayed as part of a
27 news story, commentary, editorial, or other speech on a matter of
28 public concern.

29 (b) After the effective date of this act, personal identifying



1 information voluntarily published by the protected individual or
2 the protected individual's immediate family member.

3 (c) The dissemination of personal identifying information made
4 at the request of the protected individual or protected
5 individual's immediate family member or that is necessary to
6 effectuate the request of the protected individual or protected
7 individual's immediate family member.

8 (d) The use of personal identifying information internally to
9 provide access to businesses under common ownership or affiliated
10 by corporate control, or to sell or provide data for a transaction
11 or service requested by or that concerns the individual whose
12 personal identifying information is being transferred.

13 (e) The provision of publicly available personal identifying
14 information by a real-time or near-real-time alert service for a
15 health or safety purpose.

16 (f) The use of personal identifying information by a consumer
17 reporting agency subject to the fair credit reporting act, 15 USC
18 1681 to 1681x.

19 (g) The use of personal identifying information by a
20 commercial entity engaged in the collection, maintenance,
21 disclosure, sale, communication, or use of personal identifying
22 information bearing on a consumer's credit worthiness, credit
23 standing, credit capacity, character, general reputation, personal
24 characteristics, or mode of living by a consumer reporting agency,
25 furnisher, or user that provides personal identifying information
26 for use in a consumer report, and by a user of a consumer report,
27 but only to the extent that such activity is regulated by and
28 authorized under the fair credit reporting act, 15 USC 1681 to
29 1681x.



1 (h) The use of personal identifying information by a
2 commercial entity using personal identifying information that was
3 collected, processed, sold, or disclosed in compliance with the
4 driver's privacy protection act of 1994, 18 USC 2721 to 2725.

5 (i) The use of personal identifying information subject to the
6 Gramm-Leach-Bliley act, 15 USC 6801 to 6809.

7 (j) The use of personal identifying information by a financial
8 institution, 1 or more of a financial institution's affiliates, or
9 an independent contractor acting on behalf of a financial
10 institution or a financial institution's affiliates, subject to the
11 Gramm-Leach-Bliley Act, 15 USC 6801 to 6809.

12 (k) The use of personal identifying information by an entity
13 covered by the privacy regulations promulgated under section 1320d-
14 2(c) of the health insurance portability and accountability act of
15 1996, 42 USC 1320d-2.

16 (l) Except as otherwise provided in this subdivision, the use
17 of personal identifying information by a commercial entity to do
18 any of the following: prevent, detect, protect against, or respond
19 to security incidents, identity theft, fraud, harassment, malicious
20 or deceptive activities, or any illegal activity; preserve the
21 integrity or security of systems; or investigate, report, or
22 prosecute any person responsible for any such action. A commercial
23 entity that uses personal identifying information to do any of the
24 activities described in this subdivision shall not disseminate the
25 personal identifying information to the public or publicly post or
26 display the personal identifying information.

27 (m) The collection and sale or licensing of personal
28 identifying information incidental to conducting the activities
29 under subdivisions (a) to (l).



1 (n) Nothing in this section prohibits a public body from
2 providing access to records that contain the personal identifying
3 information of a protected individual or protected individual's
4 immediate family member to a person when the access is incidental
5 to conducting the activities under subdivisions (a) to (l).

6 (o) The display of a property address on a real estate or
7 mapping platform when the address is not displayed or disclosed in
8 connection with any ownership or occupancy information or other
9 personal identifying information of a protected individual or a
10 protected individual's immediate family member.

11 Sec. 6. Any personal identifying information covered by a
12 written request under section 4(1) is exempt from disclosure under
13 section 13(1)(d) of the freedom of information act, 1976 PA 442,
14 MCL 15.243, by the public body that received the written request.

15 Sec. 7. (1) If 5 business days after a public body or a person
16 has received a written request under section 3 the public body or
17 person is not in compliance with this act, the protected individual
18 or the protected individual's immediate family member may commence
19 a civil action to compel compliance or to enjoin further
20 noncompliance with this act.

21 (2) An action for injunctive relief against a local public
22 body or person must be commenced in the circuit court, and venue is
23 proper in any county in which the protected individual serves. An
24 action for an injunction against a state public body must be
25 commenced in the court of claims. If a protected individual or a
26 protected individual's immediate family member commences an action
27 for injunctive relief, the protected individual or the protected
28 individual's immediate family member is not required to post
29 security as a condition for obtaining a preliminary injunction or a



1 temporary restraining order.

2 (3) An action for mandamus against a public body under this
3 act must be commenced in the court of appeals.

4 (4) If a public body or person is not complying with this act,
5 and a protected individual or a protected individual's immediate
6 family member commences a civil action against the public body or
7 person for injunctive relief to compel compliance or to enjoin
8 further noncompliance with this act and succeeds in obtaining
9 relief in the action, the protected individual or protected
10 individual's immediate family member must recover court costs and
11 actual attorney fees for the action.

12 (5) It is not a defense to a violation of this act that the
13 personal identifying information disclosed was publicly available
14 from another source.

15 Enacting section 1. This act takes effect 180 days after the
16 date it is enacted into law.

17 Enacting section 2. This act does not take effect unless
18 Senate Bill No. 82 of the 103rd Legislature is enacted into law.

