

**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 the current or a
11 former governor, or the current lieutenant governor, attorney
12 general, or secretary of state, the department of technology,
13 management, and budget may submit a written request to a public
14 body or person on their behalf under subsection (2). A written
15 request under this subsection must be given the same force and
16 effect as a written request submitted by a protected individual.

17 (5) On the written delegation of authority by a legislator,
18 the legislative council may submit a written request to a public
19 body or person on behalf of the legislator under subsection (2). A
20 written request under this subsection must be given the same force
21 and effect as a written request submitted by a protected
22 individual.

23 (6) A person may contact the department of technology,
24 management, and budget to obtain the following:

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

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



1 (7) A written request provided to the office of the county
2 register of deeds must include a list of all instruments to be
3 protected by liber and page or other unique identifying number.

4 Sec. 4. (1) Except as otherwise provided, a public body that
5 has received a request under section 3 shall not publicly post or
6 display or provide to a person the specified personal identifying
7 information of a protected individual or a protected individual's
8 immediate family member, as applicable. A public body that has
9 already publicly posted or displayed the specified personal
10 identifying information shall remove the personal identifying
11 information not later than 5 business days after receiving the
12 request. This act does not require a public body to permanently
13 delete personal identifying information that is not accessible to
14 the public.

15 (2) Except as otherwise provided, a person that has received a
16 request under section 3 shall not publicly post or display or
17 transfer the specified personal identifying information of a
18 protected individual or a protected individual's immediate family
19 member, as applicable. A person that has already publicly posted or
20 displayed the personal identifying information shall remove the
21 personal identifying information not later than 5 business days
22 after receiving the request.

23 (3) A public body may comply with the requirements of this
24 section by redacting the specified personal identifying information
25 that is publicly posted or displayed or by masking the entire
26 contents of a document or record that contains the specified
27 personal identifying information. This section does not alter or
28 amend a public body's obligations under the freedom of information
29 act, 1976 PA 442, MCL 15.231 to 15.246.



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

2 (a) The display of the personal identifying information of a
3 protected individual or a protected individual's immediate family
4 member if the information is relevant to and displayed as part of a
5 news story, commentary, editorial, or other speech on a matter of
6 public concern.

7 (b) After the effective date of this act, personal identifying
8 information voluntarily published by the protected individual or
9 the protected individual's immediate family member.

10 (c) The dissemination of personal identifying information made
11 at the request of the protected individual or protected
12 individual's immediate family member or that is necessary to
13 effectuate the request of the protected individual or protected
14 individual's immediate family member.

15 (d) The use of personal identifying information internally to
16 provide access to businesses under common ownership or affiliated
17 by corporate control, or to sell or provide data for a transaction
18 or service requested by or that concerns the individual whose
19 personal identifying information is being transferred.

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

23 (f) The use of personal identifying information by a consumer
24 reporting agency subject to the fair credit reporting act, 15 USC
25 1681 to 1681x.

26 (g) The use of personal identifying information by a
27 commercial entity engaged in the collection, maintenance,
28 disclosure, sale, communication, or use of personal identifying
29 information bearing on a consumer's credit worthiness, credit



1 standing, credit capacity, character, general reputation, personal
2 characteristics, or mode of living by a consumer reporting agency,
3 furnisher, or user that provides personal identifying information
4 for use in a consumer report, and by a user of a consumer report,
5 but only to the extent that such activity is regulated by and
6 authorized under the fair credit reporting act, 15 USC 1681 to
7 1681x.

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

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

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

19 (k) The use of personal identifying information by an entity
20 covered by the privacy regulations promulgated under section 1320d-
21 2(c) of the health insurance portability and accountability act of
22 1996, 42 USC 1320d-2.

23 (l) Except as otherwise provided in this subdivision, the use
24 of personal identifying information by a commercial entity to do
25 any of the following: prevent, detect, protect against, or respond
26 to security incidents, identity theft, fraud, harassment, malicious
27 or deceptive activities, or any illegal activity; preserve the
28 integrity or security of systems; or investigate, report, or
29 prosecute any person responsible for any such action. A commercial



1 entity that uses personal identifying information to do any of the
2 activities described in this subdivision shall not disseminate the
3 personal identifying information to the public or publicly post or
4 display the personal identifying information.

5 (m) The collection and sale or licensing of personal
6 identifying information incidental to conducting the activities
7 under subdivisions (a) to (l).

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

13 (o) The display of a property address on a real estate or
14 mapping platform when the address is not displayed or disclosed in
15 connection with any ownership or occupancy information or other
16 personal identifying information of a protected individual or a
17 protected individual's immediate family member.

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

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

28 (2) An action for injunctive relief against a local public
29 body or person must be commenced in the circuit court, and venue is



1 proper in any county in which the protected individual serves. An
2 action for an injunction against a state public body must be
3 commenced in the court of claims. If a protected individual or a
4 protected individual's immediate family member commences an action
5 for injunctive relief, the protected individual or the protected
6 individual's immediate family member is not required to post
7 security as a condition for obtaining a preliminary injunction or a
8 temporary restraining order.

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

11 (4) If a public body or person is not complying with this act,
12 and a protected individual or a protected individual's immediate
13 family member commences a civil action against the public body or
14 person for injunctive relief to compel compliance or to enjoin
15 further noncompliance with this act and succeeds in obtaining
16 relief in the action, the protected individual or protected
17 individual's immediate family member must recover court costs and
18 actual attorney fees for the action.

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

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

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

