

**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) "Designated contact" means either of the following:

5 (i) For an individual who is the current or a former governor
6 or the current lieutenant governor, attorney general, or secretary

1 of state, the department of technology, management, and budget.

2 (ii) For an individual who is a legislator, the legislative
3 council.

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

7 (i) The protected individual's spouse.

8 (ii) The protected individual's child.

9 (iii) The protected individual's parent.

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

11 (c) "Legislator" means any of the following:

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

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

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

19 (e) "Personal identifying information" means any 1 or more of
20 the following:

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

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

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

27 (iv) Home or cellular telephone number.

28 (v) State identification number or driver license number.

1 (vi) Social Security number.

2 (vii) Personal email address.

3 (viii) Federal or state tax identification number.

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

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

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

10 (xii) Current or future school or day-care information,
11 including, but not limited to, the name or address of the school or
12 day care attended, schedule of attendance, or route taken to or
13 from the school or day care by a protected individual or a
14 protected individual's immediate family member.

15 (xiii) Information on the employment location, except the
16 protected individual's official office, of a protected individual
17 or a protected individual's immediate family member, including the
18 address of the employer, employment schedules, or routes taken to
19 or from the employer.

20 (f) "Protected individual" means any of the following:

21 (i) A legislator.

22 (ii) The current or a former governor.

23 (iii) The current lieutenant governor, attorney general, and
24 secretary of state.

25 (g) "Public body" means any of the following:

26 (i) A state officer, employee, agency, department, division,
27 bureau, board, commission, council, authority, or other body in the
28 executive branch of the state government, but does not include the
29 governor or lieutenant governor, the executive office of the

1 governor or lieutenant governor, or employees of the governor or
2 lieutenant governor.

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

5 (iii) A county, city, township, village, intercounty, intercity,
6 or regional governing body, council, school district, special
7 district, or municipal corporation, or a board, department,
8 commission, council, or agency.

9 (iv) Except as provided under subparagraph (v), any other body
10 that is created by state or local authority or is primarily funded
11 by or through state or local authority, except that the judiciary,
12 including the office of the county clerk and its employees when
13 acting in the capacity of clerk to the circuit court, is not
14 included in the definition of public body.

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

16 (h) "Publicly post or display" means to communicate or
17 otherwise make personal identifying information available to the
18 general public.

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

23 (j) "Transfer" means to sell, license, trade, or exchange for
24 consideration the personal identifying information of a protected
25 individual or protected individual's immediate family member.

26 Sec. 3. (1) A protected individual may request that a public
27 body or person not publicly post or display the personal
28 identifying information of a protected individual or a protected
29 individual's immediate family member.

1 (2) A protected individual may submit a written request, on a
2 form prescribed by the protected individual's designated contact,
3 to a public body or person to remove a public posting or display of
4 personal identifying information of the protected individual or the
5 protected individual's immediate family member. The form must
6 include both of the following:

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

8 (b) The personal identifying information of the protected
9 individual or the protected individual's immediate family member
10 that the protected individual desires to protect.

11 (3) A written request provided to a public body or person
12 under subsection (2) remains in force and effect until the
13 protected individual provides a signed written request to rescind
14 or modify the prior request, or until the protected individual
15 dies, whichever occurs first.

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

22 (5) A person may contact the designated contact to obtain
23 information on the following:

24 (a) An individual's eligibility under section 7 of article IV
25 of the state constitution of 1963, to be a legislator.

26 (b) An individual's eligibility under section 22 of article V
27 of the state constitution of 1963, to be the governor or lieutenant
28 governor.

29 (6) A written request provided to the office of the county

1 register of deeds must include a list of all instruments to be
2 protected by liber and page or other unique identifying number.

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

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

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

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

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

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

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

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

19 (e) The provision of publicly available personal identifying
20 information by a real-time or near-real-time alert service for a
21 health or safety purpose, including, but not limited to, an amber
22 alert issued under the Michigan amber alert act, 2002 PA 712, MCL
23 28.751 to 28.755.

24 (f) The use of personal identifying information by a consumer
25 reporting agency subject to the fair credit reporting act, 15 USC
26 1681 to 1681x.

27 (g) The use of personal identifying information by a
28 commercial entity engaged in the collection, maintenance,
29 disclosure, sale, communication, or use of personal identifying

1 information bearing on a consumer's credit worthiness, credit
2 standing, credit capacity, character, general reputation, personal
3 characteristics, or mode of living by a consumer reporting agency,
4 furnisher, or user that provides personal identifying information
5 for use in a consumer report, and by a user of a consumer report,
6 but only to the extent that such activity is regulated by and
7 authorized under the fair credit reporting act, 15 USC 1681 to
8 1681x.

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

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

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

20 (k) The use of personal identifying information by an entity
21 covered by the privacy regulations promulgated under section 1320d-
22 2(c) of the health insurance portability and accountability act of
23 1996, 42 USC 1320d-2.

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

1 prosecute any person responsible for any such action. A commercial
2 entity that uses personal identifying information to do any of the
3 activities described in this subdivision shall not disseminate the
4 personal identifying information to the public or publicly post or
5 display the personal identifying information.

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

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

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

19 (p) The use and display of personal identifying information
20 required under the sex offenders registration act, 1994 PA 295, MCL
21 28.721 to 28.730.

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

26 Sec. 7. (1) If 5 business days after a public body or a person
27 has received a written request under section 4 the public body or
28 person is not in compliance with this act, the protected individual
29 or the protected individual's immediate family member may commence

1 a civil action to compel compliance or to enjoin further
2 noncompliance with this act.

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

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

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

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

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

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