

3433

2009-2010 Regular Sessions

I N S E N A T E

March 19, 2009

Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the public officers law, in relation to electronic access to records

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The public officers law is amended by adding a new article
2 6-B to read as follows:

3 ARTICLE 6-B

4 ELECTRONIC ACCESS TO RECORDS

5 SECTION 99-A. SHORT TITLE.

6 99-B. DEFINITIONS.

7 99-C. ELECTRONIC ACCESS TO RECORDS.

8 S 99-A. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
9 THE "ELECTRONIC ACCESS TO RECORDS ACT".

10 S 99-B. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT
11 REQUIRES OTHERWISE:

12 1. "AGENCY" MEANS ANY STATE DEPARTMENT, BOARD, BUREAU, DIVISION,
13 COMMISSION, COMMITTEE, PUBLIC AUTHORITY, PUBLIC CORPORATION, COUNCIL,
14 OFFICE OR OTHER GOVERNMENTAL ENTITY PERFORMING A GOVERNMENTAL OR PROPRI-
15 ETARY FUNCTION FOR THE STATE, EXCEPT THE JUDICIARY OR THE STATE LEGISLA-
16 TURE.

17 2. "RECORD" MEANS ANY INFORMATION KEPT, HELD, FILED, PRODUCED OR
18 REPRODUCED BY, AND CAN REASONABLY BE STORED ON AN ELECTRONIC DATA SYSTEM
19 FOR PUBLIC ACCESS WITH OR FOR AN AGENCY OR THE STATE LEGISLATURE, IN ANY
20 PHYSICAL FORM WHATSOEVER INCLUDING, BUT NOT LIMITED TO, REPORTS, STATE-
21 MENTS, EXAMINATIONS, MEMORANDA, OPINIONS, FOLDERS, FILES, BOOKS, MANU-
22 ALS, PAMPHLETS, FORMS, PAPERS, DESIGNS, DRAWINGS, MAPS, PHOTOS, LETTERS,
23 MICROFILMS, COMPUTER TAPES OR DISCS, RULES, REGULATIONS OR CODES.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 3. "PERSONAL IDENTIFYING INFORMATION" MEANS A SOCIAL SECURITY NUMBER,
2 A DRIVER'S LICENSE NUMBER, MOTHER'S MAIDEN NAME, A CONSUMER CREDIT
3 ACCOUNT NUMBER OR CODE, A SAVINGS ACCOUNT NUMBER OR CODE, A CHECKING
4 ACCOUNT NUMBER OR CODE, OR A DEBIT ACCOUNT NUMBER OR CODE.

5 S 99-C. ELECTRONIC ACCESS TO RECORDS. 1. WITHIN NINETY DAYS OF THE
6 EFFECTIVE DATE OF THIS ARTICLE, THE SECRETARY OF STATE SHALL ESTABLISH A
7 MECHANISM FOR FREE PUBLIC ACCESS TO RECORDS VIA THE INTERNET DATA
8 NETWORK.

9 2. WITHIN ONE HUNDRED EIGHTY DAYS OF THE EFFECTIVE DATE OF THIS ARTI-
10 CLE:

11 (A) EVERY AGENCY SHALL PROVIDE FREE PUBLIC ACCESS, VIA THE INTERNET
12 DATA SYSTEM, PURSUANT TO THE MECHANISM ESTABLISHED BY THE SECRETARY OF
13 STATE TO RECORDS CREATED ON OR AFTER SUCH DATE; AND

14 (B) EVERY AGENCY SHALL PROVIDE THE SECRETARY OF STATE WITH

15 (I) A LIST OF ALL EXISTING RECORDS THAT ARE MADE AVAILABLE VIA THE
16 INTERNET AND

17 (II) A LIST OF ALL EXISTING RECORDS WHICH COULD BE MADE AVAILABLE AND
18 FOR WHICH THERE IS A SUBSTANTIAL PUBLIC INTEREST IN ELECTRONIC ACCESS,
19 AS DETERMINED BY THE VOLUME OF REQUESTS FOR SUCH RECORDS UNDER THE FREE-
20 DOM OF INFORMATION LAW AND OTHER INFORMATION INDICATING PUBLIC INTEREST.
21 THE SECRETARY OF STATE SHALL POST THE INFORMATION PROVIDED PURSUANT TO
22 THIS PARAGRAPH ON THE DEPARTMENT OF STATE WEBSITE. AN AGENCY SHALL
23 PROVIDE UPDATES TO ITS LISTS AT SUCH TIMES AND IN SUCH MANNER AS THE
24 SECRETARY OF STATE SHALL REQUIRE.

25 3. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE, EVERY AGENCY
26 SHALL PROVIDE FREE PUBLIC ACCESS VIA THE INTERNET DATA NETWORK, PURSUANT
27 TO THE MECHANISM ESTABLISHED BY THE SECRETARY OF STATE, TO RECORDS
28 CREATED ON OR AFTER SUCH DATE.

29 4. THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEM-
30 BLY SHALL PROMULGATE POLICIES FOR ACCESS TO THOSE STATE LEGISLATIVE
31 RECORDS, AS DESCRIBED IN SECTION EIGHTY-EIGHT OF THIS CHAPTER, WHICH MAY
32 REASONABLY BE STORED ON AN ELECTRONIC DATA SYSTEM FOR FREE PUBLIC ACCESS
33 VIA THE INTERNET DATA NETWORK.

34 5. UNLESS AN AGENCY IS EXPLICITLY REQUIRED BY LAW TO POST PERSONAL
35 IDENTIFYING INFORMATION ON THE INTERNET, AN AGENCY SHALL REMOVE FROM ANY
36 IMAGE OR COPY OF A RECORD PLACED ON SUCH AGENCY'S INTERNET WEBSITE OR AN
37 INTERNET WEBSITE USED BY SUCH AGENCY TO DISPLAY PUBLIC RECORDS OR OTHER-
38 WISE MAKE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC, PERSONAL IDEN-
39 TIFYING INFORMATION CONTAINED IN SUCH RECORD.

40 6. THE SECRETARY OF STATE MAY PROMULGATE SUCH REGULATIONS AS ARE
41 NECESSARY FOR THE IMPLEMENTATION OF THIS ARTICLE.

42 7. NOTHING IN THIS SECTION SHALL REQUIRE AN AGENCY TO PROVIDE ACCESS
43 TO RECORDS TO A GREATER EXTENT THAN REQUIRED FOR SUCH RECORDS BY ARTICLE
44 SIX OF THIS CHAPTER. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS
45 AUTHORIZING ACCESS TO OR DISCLOSURE OF ANY RECORDS WHEN SUCH ACTION
46 WOULD BE PROHIBITED BY ARTICLE SIX-A OF THIS CHAPTER.

47 8. THE OFFICE FOR TECHNOLOGY, THE STATE UNIVERSITY OF NEW YORK, THE
48 STATE ARCHIVES AND RECORDS ADMINISTRATION AND OTHER AGENCIES SHALL
49 PROVIDE SUCH INFORMATION AND ASSISTANCE AS THE SECRETARY OF STATE SHALL
50 REQUIRE IN IMPLEMENTING THIS ARTICLE.

51 S 2. Subparagraph iii of paragraph (b) of subdivision 1 of section 89
52 of the public officers law, as amended by chapter 182 of the laws of
53 2006, is amended to read as follows:

54 iii. promulgate rules and regulations with respect to the implementa-
55 tion of subdivision one and paragraph (c) of subdivision three of

1 section eighty-seven of this article AND WITH RESPECT TO THE IMPLEMENTA-
2 TION OF ARTICLE SIX-B OF THIS CHAPTER;

3 S 3. Severability. If any provision of this act or the application
4 thereof to any person or circumstance is adjudged invalid by a court of
5 competent jurisdiction, such judgment shall not affect or impair the
6 validity of the other provisions of this act or the application thereof
7 to other persons and circumstances.

8 S 4. This act shall take effect on the sixtieth day after it shall
9 have become a law.