

TITLE 1: GOVERNMENT
DIVISION 9: MISCELLANEOUS PROVISIONS

§ 9918. Certain Personal and Other Records Exempt.

(a) The following are exempt from public inspection and copying:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.

(2) Personal information in files maintained for employees, appointees, or elected officials of any public agency other than names, present and past position titles, grades, salaries and duty stations.

(3) Information required of any taxpayer in connection with the assessment or collection of any tax.

(4) Specific intelligence information and specific investigative records compiled by investigative law enforcement, the Attorney General's office, penology agencies and Commonwealth agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(5) Information revealing the identity of persons who file complaints with or volunteer information to investigative agencies, law enforcement agencies, the Attorney General's office, of penology agencies, if disclosure would endanger the person's life, physical safety, or property; provided, that if at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern.

(6) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(7) Preliminary drafts, notes, recommendations, and intra-agency memoranda, including lawyer's work product and lawyer legal opinions in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(8) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the courts.

(9) Records, maps, or other information identifying the location of archaeological and specially protected environmental sites in order to avoid the looting, destruction or degradation of such sites.

(10) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(11) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(12) Juvenile, delinquency or dependency records, and any personal information which discloses or could be used to disclose the identity of, or otherwise could identify to the public, a juvenile who is the victim or alleged victim

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of a violent or abusive crime, including but not limited to rape, sexual molestation of any degree, or assault and battery.

(13) Department of Public Safety internal investigation records.

(b) The exemptions of this section are inapplicable to the extent that the information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(c) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the Commonwealth Superior Court finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary; to protect any individual's right of privacy or any vital governmental function.

(d) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part thereof) and a brief explanation of how the exemption applies to the record withheld.

Source: PL 8-41, § 19, modified; subsection (a)(12) amended by PL 10-70, § 2.

Commission Comment: PL 10-70 took effect September 4, 1997. PL 10-70 amended subsection (a)(12) of this section. According to PL 10-70, § 1:

Section 1. Findings. The Legislature finds that minors who are the victims of violent and abusive crimes such as rape, sexual molestation, and assault and battery, among others, should be protected from the release of their names and identifying information from the public record, due to the sensitivity of the issues involved and the serious potential to further traumatize or publicly stigmatize the juvenile.

PL 10-70 contained severability and savings clause provisions as follows:

Section 3. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 4. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.