

ASSEMBLY BILL

No. 1682

Introduced by Assembly Member Torres

January 26, 2010

An act to amend Section 6254 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1682, as introduced, Torres. California Public Records Act.

The California Public Records Act requires public records to be open to inspection by the public except as specifically exempted from disclosure. The act requires, subject to certain exceptions, state and local law enforcement agencies to provide the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation by a private investigator as specified.

This bill would instead require state and local law enforcement agencies to provide the current city of residence of every person arrested by the agency and the current city of residence of the victim of a crime, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6254 of the Government Code is amended
- 2 to read:

1 6254. Except as provided in Sections 6254.7 and 6254.13,
2 nothing in this chapter shall be construed to require disclosure of
3 records that are any of the following:

4 (a) Preliminary drafts, notes, or interagency or intra-agency
5 memoranda that are not retained by the public agency in the
6 ordinary course of business, if the public interest in withholding
7 those records clearly outweighs the public interest in disclosure.

8 (b) Records pertaining to pending litigation to which the public
9 agency is a party, or to claims made pursuant to Division 3.6
10 (commencing with Section 810), until the pending litigation or
11 claim has been finally adjudicated or otherwise settled.

12 (c) Personnel, medical, or similar files, the disclosure of which
13 would constitute an unwarranted invasion of personal privacy.

14 (d) Contained in or related to any of the following:

15 (1) Applications filed with any state agency responsible for the
16 regulation or supervision of the issuance of securities or of financial
17 institutions, including, but not limited to, banks, savings and loan
18 associations, industrial loan companies, credit unions, and
19 insurance companies.

20 (2) Examination, operating, or condition reports prepared by,
21 on behalf of, or for the use of, any state agency referred to in
22 paragraph (1).

23 (3) Preliminary drafts, notes, or interagency or intra-agency
24 communications prepared by, on behalf of, or for the use of, any
25 state agency referred to in paragraph (1).

26 (4) Information received in confidence by any state agency
27 referred to in paragraph (1).

28 (e) Geological and geophysical data, plant production data, and
29 similar information relating to utility systems development, or
30 market or crop reports, that are obtained in confidence from any
31 person.

32 (f) Records of complaints to, or investigations conducted by,
33 or records of intelligence information or security procedures of,
34 the office of the Attorney General and the Department of Justice,
35 the California Emergency Management Agency, and any state or
36 local police agency, or any investigatory or security files compiled
37 by any other state or local police agency, or any investigatory or
38 security files compiled by any other state or local agency for
39 correctional, law enforcement, or licensing purposes. However,
40 state and local law enforcement agencies shall disclose the names

1 and addresses of persons involved in, or witnesses other than
2 confidential informants to, the incident, the description of any
3 property involved, the date, time, and location of the incident, all
4 diagrams, statements of the parties involved in the incident, the
5 statements of all witnesses, other than confidential informants, to
6 the victims of an incident, or an authorized representative thereof,
7 an insurance carrier against which a claim has been or might be
8 made, and any person suffering bodily injury or property damage
9 or loss, as the result of the incident caused by arson, burglary, fire,
10 explosion, larceny, robbery, carjacking, vandalism, vehicle theft,
11 or a crime as defined by subdivision (b) of Section 13951, unless
12 the disclosure would endanger the safety of a witness or other
13 person involved in the investigation, or unless disclosure would
14 endanger the successful completion of the investigation or a related
15 investigation. However, nothing in this division shall require the
16 disclosure of that portion of those investigative files that reflects
17 the analysis or conclusions of the investigating officer.

18 Customer lists provided to a state or local police agency by an
19 alarm or security company at the request of the agency shall be
20 construed to be records subject to this subdivision.

21 Notwithstanding any other provision of this subdivision, state
22 and local law enforcement agencies shall make public the following
23 information, except to the extent that disclosure of a particular
24 item of information would endanger the safety of a person involved
25 in an investigation or would endanger the successful completion
26 of the investigation or a related investigation:

27 (1) The full name and occupation of every individual arrested
28 by the agency, the individual's physical description including date
29 of birth, color of eyes and hair, sex, height and weight, the time
30 and date of arrest, the time and date of booking, the location of
31 the arrest, the factual circumstances surrounding the arrest, the
32 amount of bail set, the time and manner of release or the location
33 where the individual is currently being held, and all charges the
34 individual is being held upon, including any outstanding warrants
35 from other jurisdictions and parole or probation holds.

36 (2) Subject to the restrictions imposed by Section 841.5 of the
37 Penal Code, the time, substance, and location of all complaints or
38 requests for assistance received by the agency and the time and
39 nature of the response thereto, including, to the extent the
40 information regarding crimes alleged or committed or any other

1 incident investigated is recorded, the time, date, and location of
2 occurrence, the time and date of the report, the name and age of
3 the victim, the factual circumstances surrounding the crime or
4 incident, and a general description of any injuries, property, or
5 weapons involved. The name of a victim of any crime defined by
6 Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a,
7 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285,
8 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the
9 Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83
10 of the November 7, 2006, statewide general election), 288.5, 288.7,
11 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may
12 be withheld at the victim's request, or at the request of the victim's
13 parent or guardian if the victim is a minor. When a person is the
14 victim of more than one crime, information disclosing that the
15 person is a victim of a crime defined in any of the sections of the
16 Penal Code set forth in this subdivision may be deleted at the
17 request of the victim, or the victim's parent or guardian if the
18 victim is a minor, in making the report of the crime, or of any
19 crime or incident accompanying the crime, available to the public
20 in compliance with the requirements of this paragraph.

21 (3) Subject to the restrictions of Section 841.5 of the Penal Code
22 and this subdivision, the current ~~address~~ *city of residence* of every
23 individual arrested by the agency and the current ~~address~~ *city of*
24 *residence* of the victim of a crime, where the requester declares
25 under penalty of perjury that the request is made for a scholarly,
26 journalistic, political, or governmental purpose, or that the request
27 is made for investigation purposes by a licensed private investigator
28 as described in Chapter 11.3 (commencing with Section 7512) of
29 Division 3 of the Business and Professions Code. However, the
30 address of the victim of any crime defined by Section 220, 236.1,
31 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e,
32 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2,
33 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as
34 added by Section 6 of Proposition 83 of the November 7, 2006,
35 statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75,
36 646.9, or 647.6 of the Penal Code shall remain confidential.
37 Address information obtained pursuant to this paragraph may not
38 be used directly or indirectly, or furnished to another, to sell a
39 product or service to any individual or group of individuals, and
40 the requester shall execute a declaration to that effect under penalty

1 of perjury. Nothing in this paragraph shall be construed to prohibit
2 or limit a scholarly, journalistic, political, or government use of
3 address information obtained pursuant to this paragraph.

4 (g) Test questions, scoring keys, and other examination data
5 used to administer a licensing examination, examination for
6 employment, or academic examination, except as provided for in
7 Chapter 3 (commencing with Section 99150) of Part 65 of Division
8 14 of Title 3 of the Education Code.

9 (h) The contents of real estate appraisals or engineering or
10 feasibility estimates and evaluations made for or by the state or
11 local agency relative to the acquisition of property, or to
12 prospective public supply and construction contracts, until all of
13 the property has been acquired or all of the contract agreement
14 obtained. However, the law of eminent domain shall not be affected
15 by this provision.

16 (i) Information required from any taxpayer in connection with
17 the collection of local taxes that is received in confidence and the
18 disclosure of the information to other persons would result in unfair
19 competitive disadvantage to the person supplying the information.

20 (j) Library circulation records kept for the purpose of identifying
21 the borrower of items available in libraries, and library and museum
22 materials made or acquired and presented solely for reference or
23 exhibition purposes. The exemption in this subdivision shall not
24 apply to records of fines imposed on the borrowers.

25 (k) Records, the disclosure of which is exempted or prohibited
26 pursuant to federal or state law, including, but not limited to,
27 provisions of the Evidence Code relating to privilege.

28 (l) Correspondence of and to the Governor or employees of the
29 Governor's office or in the custody of or maintained by the
30 Governor's Legal Affairs Secretary. However, public records shall
31 not be transferred to the custody of the Governor's Legal Affairs
32 Secretary to evade the disclosure provisions of this chapter.

33 (m) In the custody of or maintained by the Legislative Counsel,
34 except those records in the public database maintained by the
35 Legislative Counsel that are described in Section 10248.

36 (n) Statements of personal worth or personal financial data
37 required by a licensing agency and filed by an applicant with the
38 licensing agency to establish his or her personal qualification for
39 the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on

1 or after April 1, 1984, the amendment, except for any portion
2 containing the rates of payment, shall be open to inspection one
3 year after it is fully executed. If the California Medical Assistance
4 Commission enters into contracts with health care providers for
5 other than inpatient hospital services, those contracts shall be open
6 to inspection one year after they are fully executed.

7 Three years after a contract or amendment is open to inspection
8 under this subdivision, the portion of the contract or amendment
9 containing the rates of payment shall be open to inspection.

10 Notwithstanding any other provision of law, the entire contract
11 or amendment shall be open to inspection by the Joint Legislative
12 Audit Committee and the Legislative Analyst's Office. The
13 committee and that office shall maintain the confidentiality of the
14 contracts and amendments until the time a contract or amendment
15 is fully open to inspection by the public.

16 (r) Records of Native American graves, cemeteries, and sacred
17 places and records of Native American places, features, and objects
18 described in Sections 5097.9 and 5097.993 of the Public Resources
19 Code maintained by, or in the possession of, the Native American
20 Heritage Commission, another state agency, or a local agency.

21 (s) A final accreditation report of the Joint Commission on
22 Accreditation of Hospitals that has been transmitted to the State
23 Department of Health Care Services pursuant to subdivision (b)
24 of Section 1282 of the Health and Safety Code.

25 (t) Records of a local hospital district, formed pursuant to
26 Division 23 (commencing with Section 32000) of the Health and
27 Safety Code, or the records of a municipal hospital, formed
28 pursuant to Article 7 (commencing with Section 37600) or Article
29 8 (commencing with Section 37650) of Chapter 5 of Part 2 of
30 Division 3 of Title 4 of this code, that relate to any contract with
31 an insurer or nonprofit hospital service plan for inpatient or
32 outpatient services for alternative rates pursuant to Section 10133
33 of the Insurance Code. However, the record shall be open to
34 inspection within one year after the contract is fully executed.

35 (u) (1) Information contained in applications for licenses to
36 carry firearms issued pursuant to Section 12050 of the Penal Code
37 by the sheriff of a county or the chief or other head of a municipal
38 police department that indicates when or where the applicant is
39 vulnerable to attack or that concerns the applicant's medical or
40 psychological history or that of members of his or her family.

1 (2) The home address and telephone number of peace officers,
2 judges, court commissioners, and magistrates that are set forth in
3 applications for licenses to carry firearms issued pursuant to
4 Section 12050 of the Penal Code by the sheriff of a county or the
5 chief or other head of a municipal police department.

6 (3) The home address and telephone number of peace officers,
7 judges, court commissioners, and magistrates that are set forth in
8 licenses to carry firearms issued pursuant to Section 12050 of the
9 Penal Code by the sheriff of a county or the chief or other head of
10 a municipal police department.

11 (v) (1) Records of the Managed Risk Medical Insurance Board
12 related to activities governed by Part 6.3 (commencing with Section
13 12695) and Part 6.5 (commencing with Section 12700) of Division
14 2 of the Insurance Code, and that reveal the deliberative processes,
15 discussions, communications, or any other portion of the
16 negotiations with entities contracting or seeking to contract with
17 the board, or the impressions, opinions, recommendations, meeting
18 minutes, research, work product, theories, or strategy of the board
19 or its staff, or records that provide instructions, advice, or training
20 to employees.

21 (2) (A) Except for the portion of a contract that contains the
22 rates of payment, contracts for health coverage entered into
23 pursuant to Part 6.3 (commencing with Section 12695) or Part 6.5
24 (commencing with Section 12700) of Division 2 of the Insurance
25 Code, on or after July 1, 1991, shall be open to inspection one year
26 after their effective dates.

27 (B) If a contract that is entered into prior to July 1, 1991, is
28 amended on or after July 1, 1991, the amendment, except for any
29 portion containing the rates of payment, shall be open to inspection
30 one year after the amendment has been fully executed.

31 (3) Three years after a contract or amendment is open to
32 inspection pursuant to this subdivision, the portion of the contract
33 or amendment containing the rates of payment shall be open to
34 inspection.

35 (4) Notwithstanding any other provision of law, the entire
36 contract or amendments to a contract shall be open to inspection
37 by the Joint Legislative Audit Committee. The committee shall
38 maintain the confidentiality of the contracts and amendments
39 thereto, until the contracts or amendments to the contracts are open
40 to inspection pursuant to paragraph (3).

1 (w) (1) Records of the Managed Risk Medical Insurance Board
2 related to activities governed by Chapter 8 (commencing with
3 Section 10700) of Part 2 of Division 2 of the Insurance Code, and
4 that reveal the deliberative processes, discussions, communications,
5 or any other portion of the negotiations with health plans, or the
6 impressions, opinions, recommendations, meeting minutes,
7 research, work product, theories, or strategy of the board or its
8 staff, or records that provide instructions, advice, or training to
9 employees.

10 (2) Except for the portion of a contract that contains the rates
11 of payment, contracts for health coverage entered into pursuant to
12 Chapter 8 (commencing with Section 10700) of Part 2 of Division
13 2 of the Insurance Code, on or after January 1, 1993, shall be open
14 to inspection one year after they have been fully executed.

15 (3) Notwithstanding any other provision of law, the entire
16 contract or amendments to a contract shall be open to inspection
17 by the Joint Legislative Audit Committee. The committee shall
18 maintain the confidentiality of the contracts and amendments
19 thereto, until the contracts or amendments to the contracts are open
20 to inspection pursuant to paragraph (2).

21 (x) Financial data contained in applications for registration, or
22 registration renewal, as a service contractor filed with the Director
23 of Consumer Affairs pursuant to Chapter 20 (commencing with
24 Section 9800) of Division 3 of the Business and Professions Code,
25 for the purpose of establishing the service contractor's net worth,
26 or financial data regarding the funded accounts held in escrow for
27 service contracts held in force in this state by a service contractor.

28 (y) (1) Records of the Managed Risk Medical Insurance Board
29 related to activities governed by Part 6.2 (commencing with Section
30 12693) or Part 6.4 (commencing with Section 12699.50) of
31 Division 2 of the Insurance Code, and that reveal the deliberative
32 processes, discussions, communications, or any other portion of
33 the negotiations with entities contracting or seeking to contract
34 with the board, or the impressions, opinions, recommendations,
35 meeting minutes, research, work product, theories, or strategy of
36 the board or its staff, or records that provide instructions, advice,
37 or training to employees.

38 (2) (A) Except for the portion of a contract that contains the
39 rates of payment, contracts entered into pursuant to Part 6.2
40 (commencing with Section 12693) or Part 6.4 (commencing with

1 Section 12699.50) of Division 2 of the Insurance Code, on or after
2 January 1, 1998, shall be open to inspection one year after their
3 effective dates.

4 (B) If a contract entered into pursuant to Part 6.2 (commencing
5 with Section 12693) or Part 6.4 (commencing with Section
6 12699.50) of Division 2 of the Insurance Code is amended, the
7 amendment shall be open to inspection one year after the
8 amendment has been fully executed.

9 (3) Three years after a contract or amendment is open to
10 inspection pursuant to this subdivision, the portion of the contract
11 or amendment containing the rates of payment shall be open to
12 inspection.

13 (4) Notwithstanding any other provision of law, the entire
14 contract or amendments to a contract shall be open to inspection
15 by the Joint Legislative Audit Committee. The committee shall
16 maintain the confidentiality of the contracts and amendments
17 thereto until the contract or amendments to a contract are open to
18 inspection pursuant to paragraph (2) or (3).

19 (5) The exemption from disclosure provided pursuant to this
20 subdivision for the contracts, deliberative processes, discussions,
21 communications, negotiations, impressions, opinions,
22 recommendations, meeting minutes, research, work product,
23 theories, or strategy of the board or its staff shall also apply to the
24 contracts, deliberative processes, discussions, communications,
25 negotiations, impressions, opinions, recommendations, meeting
26 minutes, research, work product, theories, or strategy of applicants
27 pursuant to Part 6.4 (commencing with Section 12699.50) of
28 Division 2 of the Insurance Code.

29 (z) Records obtained pursuant to paragraph (2) of subdivision
30 (c) of Section 2891.1 of the Public Utilities Code.

31 (aa) A document prepared by or for a state or local agency that
32 assesses its vulnerability to terrorist attack or other criminal acts
33 intended to disrupt the public agency's operations and that is for
34 distribution or consideration in a closed session.

35 (ab) Critical infrastructure information, as defined in Section
36 131(3) of Title 6 of the United States Code, that is voluntarily
37 submitted to the California Emergency Management Agency for
38 use by that office, including the identity of the person who or entity
39 that voluntarily submitted the information. As used in this
40 subdivision, "voluntarily submitted" means submitted in the

1 absence of the office exercising any legal authority to compel
2 access to or submission of critical infrastructure information. This
3 subdivision shall not affect the status of information in the
4 possession of any other state or local governmental agency.

5 (ac) All information provided to the Secretary of State by a
6 person for the purpose of registration in the Advance Health Care
7 Directive Registry, except that those records shall be released at
8 the request of a health care provider, a public guardian, or the
9 registrant's legal representative.

10 (ad) The following records of the State Compensation Insurance
11 Fund:

12 (1) Records related to claims pursuant to Chapter 1
13 (commencing with Section 3200) of Division 4 of the Labor Code,
14 to the extent that confidential medical information or other
15 individually identifiable information would be disclosed.

16 (2) Records related to the discussions, communications, or any
17 other portion of the negotiations with entities contracting or seeking
18 to contract with the fund, and any related deliberations.

19 (3) Records related to the impressions, opinions,
20 recommendations, meeting minutes of meetings or sessions that
21 are lawfully closed to the public, research, work product, theories,
22 or strategy of the fund or its staff, on the development of rates,
23 contracting strategy, underwriting, or competitive strategy pursuant
24 to the powers granted to the fund in Chapter 4 (commencing with
25 Section 11770) of Part 3 of Division 2 of the Insurance Code.

26 (4) Records obtained to provide workers' compensation
27 insurance under Chapter 4 (commencing with Section 11770) of
28 Part 3 of Division 2 of the Insurance Code, including, but not
29 limited to, any medical claims information, policyholder
30 information provided that nothing in this paragraph shall be
31 interpreted to prevent an insurance agent or broker from obtaining
32 proprietary information or other information authorized by law to
33 be obtained by the agent or broker, and information on rates,
34 pricing, and claims handling received from brokers.

35 (5) (A) Records that are trade secrets pursuant to Section
36 6276.44, or Article 11 (commencing with Section 1060) of Chapter
37 4 of Division 8 of the Evidence Code, including without limitation,
38 instructions, advice, or training provided by the State Compensation
39 Insurance Fund to its board members, officers, and employees
40 regarding the fund's special investigation unit, internal audit unit,

1 and informational security, marketing, rating, pricing, underwriting,
2 claims handling, audits, and collections.

3 (B) Notwithstanding subparagraph (A), the portions of records
4 containing trade secrets shall be available for review by the Joint
5 Legislative Audit Committee, the Bureau of State Audits, Division
6 of Workers' Compensation, and the Department of Insurance to
7 ensure compliance with applicable law.

8 (6) (A) Internal audits containing proprietary information and
9 the following records that are related to an internal audit:

10 (i) Personal papers and correspondence of any person providing
11 assistance to the fund when that person has requested in writing
12 that his or her papers and correspondence be kept private and
13 confidential. Those papers and correspondence shall become public
14 records if the written request is withdrawn, or upon order of the
15 fund.

16 (ii) Papers, correspondence, memoranda, or any substantive
17 information pertaining to any audit not completed or an internal
18 audit that contains proprietary information.

19 (B) Notwithstanding subparagraph (A), the portions of records
20 containing proprietary information, or any information specified
21 in subparagraph (A) shall be available for review by the Joint
22 Legislative Audit Committee, the Bureau of State Audits, Division
23 of Workers' Compensation, and the Department of Insurance to
24 ensure compliance with applicable law.

25 (7) (A) Except as provided in subparagraph (C), contracts
26 entered into pursuant to Chapter 4 (commencing with Section
27 11770) of Part 3 of Division 2 of the Insurance Code shall be open
28 to inspection one year after the contract has been fully executed.

29 (B) If a contract entered into pursuant to Chapter 4 (commencing
30 with Section 11770) of Part 3 of Division 2 of the Insurance Code
31 is amended, the amendment shall be open to inspection one year
32 after the amendment has been fully executed.

33 (C) Three years after a contract or amendment is open to
34 inspection pursuant to this subdivision, the portion of the contract
35 or amendment containing the rates of payment shall be open to
36 inspection.

37 (D) Notwithstanding any other provision of law, the entire
38 contract or amendments to a contract shall be open to inspection
39 by the Joint Legislative Audit Committee. The committee shall
40 maintain the confidentiality of the contracts and amendments

1 thereto until the contract or amendments to a contract are open to
2 inspection pursuant to this paragraph.

3 (E) Nothing in this paragraph is intended to apply to documents
4 related to contracts with public entities that are not otherwise
5 expressly confidential as to that public entity.

6 (F) For purposes of this paragraph, “fully executed” means the
7 point in time when all of the necessary parties to the contract have
8 signed the contract.

9 Nothing in this section prevents any agency from opening its
10 records concerning the administration of the agency to public
11 inspection, unless disclosure is otherwise prohibited by law.

12 Nothing in this section prevents any health facility from
13 disclosing to a certified bargaining agent relevant financing
14 information pursuant to Section 8 of the National Labor Relations
15 Act (29 U.S.C. Sec. 158).