

The Commonwealth of Massachusetts



THE COMMONWEALTH OF MASSACHUSETTS
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MARGARETO PAUL CELLUCCI
GOVERNOR

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June 23, 1999

To the Honorable Senate and House of Representatives:

I am filing today for your consideration the attached legislation entitled "An Act Relative to a Consumer's Right to Privacy."

The information age has brought many good things to many people, including many of the people of Massachusetts. However, no silver lining is without its cloud, and the bill I am filing today addresses an ever-darkening cloud that the information age has brought us: an explosion of personal information about all of us, much of it easily accessible without our ever knowing who has it and who is asking for it. For a small fee, it is now possible to obtain intimate details about almost anyone from the comfort of your personal computer. The firms that provide this information are accountable to no one, and we have no right even to review the information in their files, much less require them to correct erroneous information or delete overly personal details. This situation has made identity theft one of today's fastest growing crimes. The situation is particularly troubling with respect to children: at present, parents have no control over the collection or dissemination of personal information about their children, and no recourse if they discover that information is being used in a manner to which they object.

This bill, one of the nation's most comprehensive undertakings to protect the privacy of consumers in the information age, addresses all of these issues. First, it prohibits collection and dissemination of information that could be used to identify children without the parents' express consent, and gives parents the right to review all information about their children contained in an information broker's files and to find out who has received that information. Second, the bill requires firms that collect and sell personal information for marketing or other purposes to notify consumers when profiles about them are distributed and allows consumers access to those profiles, and it adds a new civil penalty of \$1,000 per violation. Third, the bill creates new protection against identity theft by strengthening the penalties for identity theft, by allowing consumers to require credit reporting agencies to block information placed in their files by an identity thief, and by allowing consumers to take the extreme measure of blocking access to their

credit report until they can resolve the problems the theft has created. Fourth, the bill allows consumers to require information brokers to delete non-public record information from their files and to place themselves on "opt-out" lists maintained by the Secretary of State to prevent future collection of non-public information. Fifth, the bill prohibits the sale or lease of information about consumers by any retailer or credit card issuer without the consumer's express consent. This "opt-in" provision places the burden of taking action on the retailer or card issuer that wishes to sell the information, not on the consumer like most "opt-out" provisions.

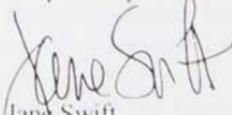
The bill also anticipates threats to our privacy that may not have arrived yet but are just around the corner. Recent media reports indicate that, for example, some banks are beginning to use retina scans and other "biometric identifiers" instead of the more familiar PIN numbers as a way of controlling electronic access to bank accounts. This bill applies sensible rules to biometric identifier information: such information cannot be collected without notice to and the consent of the person giving the information, and it cannot be sold or leased without further notice and consent. The bill further requires entities that collect biometric identifiers to use them only for identification purposes, and to employ reasonable security measures to guard against unauthorized access.

Finally, the bill expands the state wiretap law to cover cellular and other wireless communications. It adds new privacy safeguards applicable to cable TV companies, internet service providers, and financial institutions. And it requires employers to inform their employees about any electronic monitoring equipment that they may be using (except when an employer is investigating wrongdoing).

This bill, recommended by the Quality of Life Working Group of the Cellucci-Swift Transition Team, strikes a reasonable balance between the needs of the consumer and the needs of businesses who deal in information. In general, this bill does not prohibit companies from selling personal information for marketing or other purposes. It simply requires that companies first make sure that the people to whom the information pertains have agreed that information about them may be used in that way. And the bill exempts law enforcement from most of its provisions, ensuring that the bill will not hamper law enforcement's ability to conduct surveillance or other investigative activity.

The growing threat to personal privacy is an issue of paramount importance to most residents of Massachusetts. It affects all of us, whether we realize it or not. This bill represents a sensible step toward more control over personal information for consumers. I urge you to give it prompt and favorable consideration.

Respectfully submitted,



Jane Swift
Lieutenant Governor



The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Nine.

AN ACT RELATIVE TO A CONSUMER'S RIGHT TO PRIVACY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 30 of chapter 90 of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended by
3 striking out the first sentence and inserting in place thereof the
4 following sentence:— A proper record of all applications for and
5 of all certificates and licenses issued shall be kept by the registrar
6 at his main office, provided, however, that any personal informa-
7 tion, as defined in section 30C, contained in such records shall not
8 be considered public records, and provided further that such per-
9 sonal information contained in such records shall only be dissemi-
10 nated in accordance with the provisions of sections 30C and 30D
11 of this chapter.

1 SECTION 2. Chapter 90 of the General Laws is hereby
2 amended by inserting after section 30B, as so appearing, the
3 following two new sections:—

4 Section 30C. Disclosure of personal information contained in
5 records of registrar.

6 (1) As used in this section, the following terms shall have the
7 following meanings:

8 “Registrar”, the administrative head of the commonwealth of
9 Massachusetts registry of motor vehicles, or the duly authorized
10 agents or contractors thereof, responsible to compile and maintain
11 motor vehicle records.

12 “Disclose”, to engage in any practice or conduct to make avail-
13 able and make known personal information contained in a motor
14 vehicle record about a person to any other person, organization or
15 entity, by any means of communication.

16 “Motor vehicle record”, any record required to be maintained
17 by the registrar that pertains to a motor vehicle operator's or dri-

18 ver's license or permit, motor vehicle registration, motor vehicle
19 title, or identification document issued by the registrar.

20 "Person", an individual, organization or entity, but does not
21 include the commonwealth of Massachusetts or any agency
22 thereof.

23 "Personal information", information that identifies a person,
24 including an individual's photograph or computerized image,
25 social security number, driver identification number, name,
26 address (but not the five-digit zip code), telephone number, and
27 medical or disability information, but does not include informa-
28 tion on vehicular accidents, driving or equipment-related viola-
29 tions, and driver's license or registration status.

30 (2) Notwithstanding the provisions of any general or special
31 law to the contrary, except as hereinafter provided in this section,
32 the registrar, and any officer, employee, agent or contractor
33 thereof shall not knowingly disclose personal information about
34 any person obtained by the registrar in connection with a motor
35 vehicle record, and provided further that the registrar and any
36 officer, employee, agent or contractor thereof shall not knowingly
37 disclose any medical or disability information, social security
38 number or digitized or computerized image except in accordance
39 with section 30D of this chapter.

40 (3) Personal information shall be disclosed for (a) use in con-
41 nection with matters of motor vehicle or driver safety and theft,
42 motor vehicle emissions, motor vehicle product alterations,
43 recalls, or advisories, performance monitoring of motor vehicles
44 and dealers by motor vehicle manufacturers, and removal of non-
45 owner records from the original owner records of motor vehicle
46 manufacturers to carry out the purposes of the federal automobile
47 information and disclosure act, 15 U.S.C. 1231 et seq., the motor
48 vehicle information and cost saving act, 15 U.S.C. 1901 et seq.,
49 the national traffic and motor vehicle safety act of 1966, 15
50 U.S.C. 1381 et seq., the anti-car theft act of 1992, 15 U.S.C. 2021
51 et seq., and the clean air act, 42 U.S.C. 7401 et seq., as amended,
52 and all statutes and agency regulations enacted or adopted pur-
53 suant to the authority of, or to attain compliance with, the said
54 acts of congress; and (b) for use by any law enforcement or crim-
55 inal justice agency or court in carrying out its official functions;
56 for use by the special investigations unit of the plan created pur-

57 suant to section 113H of chapter 175 only to the extent authorized
58 therein; and for use by insurance companies and their authorized
59 agents and service carriers to the extent authorized in the safe
60 driver insurance plan and for the purposes of complying with the
61 requirements of sections 1A, 34A, 34B and 34H of this chapter
62 pertaining to motor vehicle liability policies.

63 (4) Personal information may be disclosed as follows;

64 (a) for use by any federal, state, or local governmental agency
65 in carrying out its official functions;

66 (b) for use in connection with matters of motor vehicle or
67 driver safety and theft, motor vehicle emissions, motor vehicle
68 product alterations, recalls, or advisories, performance monitoring
69 of motor vehicles and dealers by motor vehicle manufacturers,
70 and removal of non-owner records from the original owner
71 records of motor vehicle manufacturers;

72 (c) For use in connection with any civil, criminal, administra-
73 tive, or arbitral proceeding in any court or government agency or
74 before any self-regulatory body, including the service of process,
75 investigation in anticipation of litigation, and the execution or
76 enforcement of judgements and orders, or pursuant to an order of
77 any court;

78 (d) For use in research activities, and for use in producing sta-
79 tistical reports, so long as the personal identifiers have been
80 deleted and any personal information is not published, redis-
81 closed, or used to contact the individual;

82 (e) For use by any insurer or insurance support organization, or
83 by a self-insured entity, or its agents, employees, or contractors, in
84 connection with claims investigation activities, anti-fraud activi-
85 ties, rating or underwriting;

86 (f) For use in providing notice to the owner of towed or
87 impounded vehicles;

88 (g) For use by an employer or its agent or insurer to obtain or
89 verify information relating to a holder of a commercial driver's
90 license that is required under the commercial motor vehicle safety
91 act of 1986 (49 U.S.C. App. 2710 et seq.);

92 (h) For use in connection with the operation of private toll
93 transportation facilities;

94 (i) For use by any person if such person demonstrates that he
95 has obtained the written consent of the person who is the subject
96 of the personal information; and

97 (j) For any other use specifically authorized by law that is
98 related to the operation of a motor vehicle or public safety.

99 (5) In carrying out the provisions of this section, the registrar
100 may require such evidence of identity and purpose as he deems
101 appropriate which, in addition to any representation made with
102 respect to any individual record, may include representations of a
103 continuing nature contained in any agreement, contract or other
104 document. The registrar shall be entitled to rely on the truth of any
105 representation made by any requester of personal information, and
106 neither the commonwealth of Massachusetts nor its agencies or
107 employees shall be civilly liable for any improper use or release
108 of motor vehicle records to any person obtaining such records in
109 accordance with the terms of this section.

110 (6) A person who knowingly obtains, discloses, or uses per-
111 sonal information from a motor vehicle record for a purpose not
112 permitted under this section shall be liable to the individual to
113 whom the personal information pertains who may, in addition to
114 any other remedy available under any other law, state or federal,
115 bring a civil action under this section and, if successful, may be
116 awarded the greater of actual damages or liquidated damages of
117 \$2,500 for each violation, punitive damages upon proof of willful
118 or reckless disregard of the law, reasonable attorney's fees and
119 other litigation costs reasonably incurred and such other equitable
120 relief as the court may order.

121 (7) Any person requesting the disclosure of personal informa-
122 tion from records required to be maintained by the registrar who
123 misrepresents his identity or makes a false statement to the regis-
124 trar in connection with any request for personal information sub-
125 mitted pursuant to this section with the intent to obtain personal
126 information in a manner not authorized by this section shall be
127 fined not more than \$5,000 or imprisoned in a jail or house of cor-
128 rection for not more than one year, or both.

129 (8) Except to the extent otherwise provided by law, the restric-
130 tions upon the disclosure of personal information as provided in
131 this section shall cease upon the death of the person to whom the
132 record refers.

133 (9) Disclosure of personal information required or permitted as
134 above described shall be subject to payment by the requesting
135 person to the registrar of all fees for the information obtained as

136 provided for in section 33 of this chapter, from which the registrar
137 may retain that portion attributable to the cost of complying with
138 this section, and the balance of which shall be paid to the general
139 fund.

140 (10) The registrar may promulgate rules and regulations to
141 carry out the purposes of this section.

142 Section 30D. Disclosure of medical or disability information,
143 social security numbers or digitized or computerized images
144 maintained by the registrar.

145 (1) Notwithstanding the provisions of any general or special
146 law to the contrary, the registrar shall not disclose to any person
147 the social security number or digitized or computerized image of
148 any individual maintained by the registrar except in accordance
149 with the following provisions:

150 (a) to any criminal justice agency, as defined in section 167 of
151 chapter 6, for any purpose associated with the official duties or
152 responsibilities of such agency;

153 (b) to any state or federal trial court for any purpose associated
154 with the official duties or responsibilities of such trial courts;

155 (c) to any federal, state, or local governmental agency other
156 than a law enforcement or criminal justice agency, provided, how-
157 ever, that such information shall only be used to identify individ-
158 uals seeking official services from such agencies or to deter fraud
159 in obtaining or attempting to obtain such services; and

160 (d) To any insurance company and their authorized agents and
161 service carriers to the extent authorized in the safe driver insur-
162 ance plan and for the purposes of complying with the require-
163 ments of sections 1A, 34A, 34B and 34H pertaining to motor
164 vehicle liability policies, provided, however, that no digitized or
165 computerized image shall be provided to such insurance compa-
166 nies and their authorized agents and service carriers.

167 (2) Notwithstanding any general or special law to the contrary,
168 and without regard to the provisions of section 30C of this
169 chapter, the registrar shall not disclose medical or disability infor-
170 mation contained in any record maintained by him except in
171 accordance with the provisions of section 10 of chapter 66 and
172 sections 1 through 3, inclusive, of chapter 66A.

1 SECTION 3. Section 50 of chapter 93 of the General Laws, as
2 so appearing, is hereby amended by inserting after the definition
3 of “consumer reporting agency” the following definition:—

4 “Credit Header”, all identifying consumer information, not
5 included in the definition of “consumer report,” including, but not
6 limited to, complete first and last name, date of birth, current
7 address, current telephone number, social security number and
8 current employer.

1 SECTION 4. Said section 50, as so appearing, is hereby further
2 amended by inserting after the definition of “firm offer of credit”
3 the following definitions:—

4 “Individual reference services provider”, any person who, for
5 monetary fees, dues, or on a cooperative nonprofit basis, regularly
6 engages in the practice of creating, assembling, evaluating, or pro-
7 viding information, either directly or as a supplier to others,
8 regarding at least two of the following items: a person’s social
9 security number, mother’s maiden name, prior address, birth date,
10 criminal history, history of civil actions, driving records, vehicle
11 information, past employment history, social security information,
12 income level, tax records, or history of voter registration. For the
13 purposes of this section, individual reference services provider
14 shall not include the federal or state government or any political
15 subdivision thereof.

16 “Individual reference services report”, a report or presentation
17 provided by an individual reference services provider from private
18 or public information sources including at least two of the
19 following items of information about a person: a person’s social
20 security number, mother’s maiden name, prior address, birth date,
21 criminal history, credit history, history of civil actions, driving
22 records, vehicle information, past employment history, social
23 security information, income level, tax records, or history of voter
24 registration.

1 SECTION 5. Said section 50, as so appearing, is hereby further
2 amended by inserting after the definition of “investigative con-
3 sumer report” the following definitions:—

4 “Marketing list broker”, any person who, for monetary fees,
5 dues, or on a cooperative nonprofit basis, regularly engages in the

6 practice of creating, assembling, evaluating, or providing, either
7 directly or as a supplier to others, marketing reports.
8 “Marketing report”, a report or list containing the names and
9 addresses or telephone numbers of individuals categorized or
10 grouped by a particular trait or traits of those individuals.

1 SECTION 6. Section 51 of said chapter 93, as so appearing, is
2 hereby amended by inserting after the words “consumer report”,
3 in lines 1 and 2, the following words:— or credit header.

1 SECTION 7. Said chapter 93 is hereby amended by inserting
2 after section 51A, as so appearing, the following seven new sec-
3 tions:—

4 Section 51B. (a) Upon request and proper identification by a
5 consumer a credit reporting agency shall, upon receipt of the clo-
6 sure statement described in subsection (b), close the consumer’s
7 credit file to access in those circumstances specified by clause (3)
8 of paragraph (a) of section 51 of this chapter.

9 (b) Access to a consumer’s credit file shall not be closed until
10 the consumer has returned to the agency a signed and notarized
11 closure statement, prepared by the agency, stating that the con-
12 sumer acknowledges that the consumer’s ability to obtain a
13 checking account, credit, employment, insurance, housing, or a
14 license required by a governmental agency may be both (1)
15 restricted as long as access to the consumer’s credit file remains
16 closed, and (2) delayed while the consumer rescinds the election
17 to close access to the consumer’s credit file pursuant to
18 subsection (c).

19 (c) Access will be closed until the consumer requests in writing
20 with proper identification that the closure request shall no longer
21 be effective.

22 (d) The closure statement to be signed and notarized shall be
23 sent by the agency to the consumer within 15 days of the initial
24 request and access shall be closed within two business days of
25 receipt of the signed and notarized closure statement.

26 (e) Access to a consumer’s credit file shall not be closed to any
27 credit grantor or lender, or subsidiary, affiliate or agency thereof,
28 with whom the consumer has an existing contractual relationship,
29 or to any person to whom the contractual relationship has been
30 assigned or transferred.

31 Section 51C. Upon request and proper identification by a con-
32 sumer, a credit reporting agency shall insert a permanent state-
33 ment within his or her credit file to notify any prospective user
34 that the consumer does not authorize the issuance of credit in his
35 or her name unless the issuer of credit obtains oral authorization
36 from the consumer at a telephone number designated by the con-
37 sumer.

38 Section 51D. Consumers may require, either through a written
39 or oral statement, that the credit reporting agency send written
40 notice when access to their consumer credit report is requested.
41 Such notice shall contain a description, in terms easily understood
42 by the consumer, of who requested access to the consumer's credit
43 report and the date of such request.

44 Section 51E. (a) If a consumer submits to a credit reporting
45 agency a copy of a valid criminal complaint form filed for a crime
46 committed against the consumer that meets the description set out
47 in section 37E of chapter 266, the consumer reporting agency
48 shall promptly and permanently block reporting any information
49 that the consumer alleges appears on his or her credit report as a
50 result of an alleged violation of said section 37E so that the infor-
51 mation cannot be reported. The consumer reporting agency shall
52 promptly notify the furnisher of the information that the informa-
53 tion has been so blocked. Furnishers of information and consumer
54 reporting agencies shall ensure that information is unblocked only
55 upon an objectively reasonable belief that:

- 56 (1) the information was blocked due to fraud, or
- 57 (2) the consumer agrees that the blocked information, or por-
58 tions of the blocked information, were blocked in error, or
- 59 (3) the consumer knowingly obtained possession of goods,
60 services, or moneys as a result of the blocked transaction or trans-
61 actions or the consumer should have known that he or she
62 obtained possession of goods, services, or moneys as a result of
63 the blocked transaction or transactions.

64 (b) If blocked information is unblocked pursuant to this section,
65 the consumer shall be promptly notified in the same manner as
66 consumers are notified of the reinsertion of information pursuant
67 to paragraph (i) of section 58. The prior presence of the blocked
68 information in the consumer credit reporting agency's file on the
69 consumer is not evidence of whether the consumer knew or should
70 have known that he or she obtained possession of any goods, serv-

71 ices, or moneys as a result of the blocked information. In
72 unblocking information pursuant to this section, furnishers of
73 information and consumer reporting agencies shall be subject to
74 their respective requirements pursuant to this chapter regarding
75 the completeness and accuracy of information.

76 Section 51F. (a) A consumer may elect to have his or her per-
77 sonal information that is not public record information deleted
78 from any files maintained by an individual reference service
79 provider by notifying the individual reference service provider, by
80 telephone or in writing, or through a notification system pursuant
81 to paragraph (c) of this section, or through the notification system
82 maintained by the secretary of state pursuant to paragraph (d) of
83 this section.

84 (b) An election by a consumer under this section shall be effec-
85 tive with respect to an individual reference service provider, and
86 any affiliate of the individual reference service provider, on the
87 date on which the consumer notifies the individual reference
88 service provider.

89 (c) Each individual reference service provider shall establish
90 and maintain a notification system, including a toll-free telephone
91 number, which permits any consumer, with appropriate identifica-
92 tion, to notify the individual reference service provider of the con-
93 sumer's election to have any personal information on such
94 consumer that is not public record information deleted from any
95 files maintained by the individual reference service provider and
96 to ensure that any personal information that is not public record
97 information is not disseminated by the individual reference
98 service provider after the date of such election. Each individual
99 reference service provider who compiles and maintains files on
100 consumers on a nationwide basis shall establish and maintain a
101 notification system jointly with its affiliated individual reference
102 service providers.

103 (d) Individual reference service providers that provide indi-
104 vidual reference services reports about individuals residing in the
105 commonwealth shall register with the secretary of state's corpo-
106 rate division. The secretary of state shall maintain a list of persons
107 residing in this state who want to have their personal information
108 that is not public record information deleted from files held by
109 individual reference service providers. A person placing their

110 name on the list shall have the option of having their personal
111 information that is not public record information deleted from
112 individual reference service provider files, as specified in para-
113 graph (c), for their lifetimes or for a renewable three year period.

114 Individual reference service providers shall not be subject to
115 any civil liability, as set out in sections 63, 64, and 67A, to any
116 person who fails to notify the secretary of state's office of a
117 change in name or a change in address, or to any person who
118 chooses to be placed on the three year list and who fails to renew
119 his or her status on the secretary of state's list at the end of the
120 three year term.

121 (e) For the purposes of this section, the following definitions
122 shall apply:

123 "Public information", information about or related to an indi-
124 vidual which has been obtained originally from the records of a
125 federal, state, or local government entity that are open for public
126 inspection.

127 "Personal information", information about an individual,
128 including, but not limited to, purchasing history, financial records,
129 social security number, and mother's maiden name.

130 (f) The office of consumer affairs and business regulation shall
131 promulgate regulations further defining "personal information"
132 and "public information". Said office may include different cate-
133 gories of personal information in the definition of personal infor-
134 mation to reflect the different reporting practices applicable to
135 individual reference service providers and marketing list brokers.
136 The definition for personal information may include name and
137 address when such name and address appear on a marketing list.

138 Section 51G. (a) A consumer may elect to have his or her name
139 and address deleted from any lists maintained by a marketing list
140 broker by notifying the marketing list broker, by telephone or in
141 writing, or through a notification system pursuant to paragraph (c)
142 of this section, or through the notification system maintained by
143 the secretary of state pursuant to paragraph (d) of this section.

144 (b) An election by a consumer under this section shall be effec-
145 tive with respect to a marketing list broker, and any affiliate of the
146 marketing list broker, on the date on which the consumer notifies
147 the marketing list broker.

148 (c) Each marketing list broker shall establish and maintain a
149 notification system, including a toll-free telephone number, which

150 permits any consumer, with appropriate identification, to notify
151 the marketing list broker of the consumer's election to have his or
152 her name and address deleted from any files maintained by the
153 marketing list broker and to ensure that the consumer's name and
154 address are not disseminated by the marketing list broker after the
155 date of such election. Each marketing list broker who compiles
156 and maintains files on consumers on a nationwide basis shall
157 establish and maintain a notification system jointly with its affili-
158 ated marketing list brokers.

159 (d) Marketing list brokers that provide marketing reports about
160 individuals residing in the commonwealth shall register with the
161 secretary of state's corporate division. The secretary of state shall
162 maintain a list of persons residing in this state who want to have
163 their names and addresses deleted from lists held by marketing list
164 brokers. A person placing their name on the list shall have the
165 option of having their name and address deleted from marketing
166 list broker files, as specified in paragraph (c), for their lifetimes or
167 for a renewable three year period. A person placing their name on
168 the secretary of state's list shall also have the option of having
169 their name and address deleted only from marketing lists main-
170 tained by marketing list brokers who are not classified as non-
171 profit institutions pursuant to section 501(c)(3) of the United
172 States Internal Revenue Code.

173 Marketing list brokers shall not be subject to any civil liability,
174 as set out in sections 63, 64, and 67A, to any person who fails to
175 notify the secretary of state's office of a change in name or a
176 change in address, or to any person who chooses to be placed on
177 the three year list and who fails to renew his or her status on the
178 secretary of state's list at the end of the three year term.

179 Section 51H. Individual reference service providers shall send
180 written notice to a consumer whenever access to said consumer's
181 individual reference services report information is requested. Such
182 notice shall contain, in terms easily understood by the consumer, a
183 description of who requested access to the consumer's individual
184 reference services report, the address of the person or entity who
185 made the request, the date of such request, a statement that the
186 consumer has the option to receive a copy of the report, a state-
187 ment that the consumer has the option to object to any future
188 reports of personal information that is not public record informa-

189 tion, and a statement describing how the consumer may exercise
190 these options. Such notice shall be sent no later than the date
191 when such report information is sent to such person or entity
192 making such a request.

1 SECTION 8. Section 54 of said chapter 93, as so appearing, is
2 hereby amended by striking out subsection (b) and inserting in
3 place thereof the following five subsections:—

4 (b) No consumer credit reporting agency may furnish a con-
5 sumer credit report to any person unless the person provides the
6 consumer credit reporting agency with at least four distinct items
7 of identification regarding a consumer that correctly matches
8 information within the file maintained by the consumer credit
9 reporting agency on a consumer pursuant to subsection (c). The
10 items of information may include, but are not limited to, complete
11 first and last name, date of birth, complete current address, social
12 security number, drivers license number, mother's maiden name,
13 and current employer.

14 (c) Whenever a consumer credit reporting agency prepares or
15 disseminates a consumer report it shall follow reasonable proce-
16 dures to assure maximum possible accuracy of the information
17 concerning the individual to whom the report relates.

18 (d) Whenever a credit reporting agency receives a written or
19 oral request for a change of the consumer's address it shall not
20 record such change in the consumer's permanent credit file until it
21 verifies the change of address with the consumer.

22 (e) Whenever a credit card issuer receives a written or oral
23 request for a change of the cardholder's billing address and a
24 request for an additional card within 10 days of the requested
25 change the credit card issuer shall not mail the requested credit
26 card to the new address or activate the requested card unless the
27 credit card issuer verifies the change of address.

28 (f) Whenever an individual reference services provider or mar-
29 keting list broker prepares or disseminates an individual reference
30 services report or marketing list report it shall follow reasonable
31 procedures to assure maximum possible accuracy of the informa-
32 tion concerning the individual about whom the report relates.

1 SECTION 9. Section 54A of said chapter 93, as so appearing,
2 is hereby amended by inserting after the words “consumer
3 reporting agency”, in lines 1 and 2, 3, 4 and 5, 11 and 12, 12 and
4 13, 13 and 14, 16, 43, 45 and 46, 47 and 48, and 51 and 52, in
5 each instance, the following words:— or individual reference
6 services provider.

1 SECTION 10. Said section 54A, as so appearing, is hereby fur-
2 ther amended by inserting after the words “consumer reporting
3 agencies”, in lines 8 and 9, the following words:— or individual
4 reference services providers.

1 SECTION 11. Section 55 of said chapter 93, as so appearing, is
2 hereby amended by inserting after the words “consumer reporting
3 agency”, in line 2, the following words:— or individual reference
4 services provider.

1 SECTION 12. Said chapter 93 is hereby further amended by
2 inserting after section 56, as so appearing, the following new
3 section:—

4 Section 56A. (a) Every individual reference services provider
5 shall, upon request and proper identification of any consumer,
6 clearly and accurately disclose to the consumer: (1) the nature,
7 contents and substance of all information in its file on the con-
8 sumer at the time of the request, and which is obtainable based
9 upon the identifying information supplied by the consumer when
10 making such request, and if such consumer has made a written
11 request, deliver a written copy or photocopy of all such informa-
12 tion; provided, that the individual reference services provider shall
13 provide a clear, simple and plain meaning explanation of the
14 information provided under this paragraph in a readable format
15 and type, which shall in no case be smaller than ten point type;
16 and (2) the recipients of any individual reference services report
17 on the consumer which it has furnished for employment purposes
18 within the two year period preceding the request, and for any
19 other purpose within the six-month period preceding the request.

20 (b) Every individual reference services provider, upon contact
21 by a consumer by phone, mail, or in person regarding information
22 which may be contained in the individual reference services
23 provider files regarding that consumer, shall with each written dis-

24 closure, or in response to a request by the consumer to be advised
25 as to his rights, promptly advise the consumer of the consumer's
26 rights under this section. The written notice shall be in a clear and
27 conspicuous format and be no smaller than ten point type. The
28 notice shall inform the consumer of the consumer's rights under
29 this chapter, provided in a clear and conspicuous manner, in sub-
30 stantially the following manner:

31 "You have a right to obtain a copy of the information on you
32 contained in our files. You may be charged a reasonable fee not
33 exceeding eight dollars. There is no fee, however, if you have
34 been turned down for credit, employment, insurance, or rental
35 dwelling because of information in your individual reference serv-
36 ices report within the preceding sixty days. Upon your request,
37 someone will be provided to help you interpret the information in
38 your individual reference services file. Each calendar year you are
39 entitled to receive, upon request, one free individual reference
40 services report.

41 You have the right to dispute inaccurate information by con-
42 tacting our company directly. You have no right to force a change
43 in information which is inaccurate because of inaccuracies in
44 public records. Such public record inaccuracies must first be cured
45 before we are required to correct such information in our records.
46 If you have notified us in writing that you dispute the accuracy of
47 information in your file, our agency must then, within thirty busi-
48 ness days, reinvestigate and modify or remove inaccurate informa-
49 tion. We may not charge a fee for this service.

50 If reinvestigation does not resolve the dispute to your satisfac-
51 tion, you may dispute the report in court or through state arbitra-
52 tion under applicable Massachusetts law."

1 SECTION 13. Section 57 of said chapter 93, as so appearing, is
2 hereby amended by inserting after the words "consumer reporting
3 agency", in lines 1, 13, 18, 19, 24 and 25 and 26, in each instance,
4 the following words:— or individual reference services provider.

1 SECTION 14. Said section 57, as so appearing, is hereby fur-
2 ther amended by inserting after the words "fifty-six", in lines 2, 4,
3 15, and 26, in each instance, the following words:— or 56A.

1 SECTION 15. Section 58 of said chapter 93, as so appearing, is
2 hereby amended by inserting after the words “consumer reporting
3 agency”, in lines 3, 4, 6, 10, 11, 13, 16, 18, 21, 23 and 24, 29, 41
4 and 42, 47, 50 and 51, 55 and 56, 62, 64, 67, 74, 76 and 77, 78, 83
5 and 85, in each instance, the following words:— or individual ref-
6 erence services provider.

1 SECTION 16. Said section 58, as so appearing, is hereby fur-
2 ther amended by inserting after the words “fifty-six”, in line 49,
3 the following words:— or 56A.

1 SECTION 17. Said section 58, as so appearing, is hereby fur-
2 ther amended by inserting after the word “agency”, in lines 14
3 and 81, in each instance, the following words:— or provider.

1 SECTION 18. Said section 58, as so appearing, is hereby fur-
2 ther amended by inserting after the word “report”, in lines 36, 38,
3 51, and 58, in each instance, the following words:— or individual
4 reference services report.

1 SECTION 19. Section 59 of said chapter 93, as so appearing, is
2 hereby amended by inserting after the words “consumer reporting
3 agency”, in lines 1, 5, 8 and 9, 11, 19, and 25, in each instance,
4 the following words:— or individual reference services provider.

1 SECTION 20. Said section 59, as so appearing, is hereby fur-
2 ther amended by inserting after the words “fifty-six”, in lines 2, 7
3 and 13, in each instance, the following words:— or 56A.

1 SECTION 21. Said section 59, as so appearing, is hereby fur-
2 ther amended by inserting after the word “report” in lines 10, 23,
3 29, and 30, in each instance, the following words:— or individual
4 reference services report.

1 SECTION 22. Section 60 of said chapter 93, as so appearing, is
2 hereby amended by inserting after the words “consumer reporting
3 agency”, in lines 1, 8, and 19, in each instance, the following
4 words:— or individual reference services provider.

1 SECTION 23. Said section 60, as so appearing, is hereby fur-
2 ther amended by inserting after the word “report”, in lines 19, 21,
3 and 23, in each instance, the following words:— or individual ref-
4 erence services report.

1 SECTION 24. Section 60A of said chapter 93, as so appearing,
2 is hereby amended by inserting after the words “consumer
3 reporting agency”, in lines 1, 7, and 11, in each instance, the
4 following words:— or individual reference services provider.

1 SECTION 25. Said section 60A, as so appearing, is hereby
2 amended by inserting after the words “consumer report” in lines 3
3 and 5, in each instance, the following words:— or individual ref-
4 erence services report.

1 SECTION 26. Section 62 of said chapter 93, as so appearing, is
2 hereby amended by inserting after subsection (a) the following
3 new subsection:—

4 (a½) Whenever credit or insurance for personal, family or
5 household purposes, or employment involving a consumer is
6 denied or terminated or the charge for such credit or insurance is
7 increased either wholly or partly or whenever a consumer’s line of
8 credit is reduced, except when the consumer is delinquent with
9 regard to such line of credit, because of information contained in
10 an individual reference services report from a individual reference
11 services provider the user of the individual reference services
12 report shall, within 10 business days of its decision to deny or ter-
13 minate such credit, insurance or employment, or to increase the
14 charge for such credit or insurance, or to reduce a consumer’s line
15 of credit, except when the consumer is delinquent with regard to
16 such line of credit notify such consumer in writing against whom
17 such adverse action has been taken. Said notice shall be in a clear
18 and conspicuous format, no smaller than 10 point type, and shall
19 contain the name, address, and toll-free telephone number of any
20 individual reference services provider which provided any indi-
21 vidual reference services report which was reviewed or otherwise
22 taken into account in the making of such adverse action and shall
23 inform the consumer of his rights in substantially the following
24 manner:

25 “You have the right to obtain a free copy of your individual ref-
26 erence services report within 60 days from the individual refer-
27 ence services provider which has been identified on this notice.
28 The individual reference services provider must provide someone
29 to help you interpret the information on your individual reference
30 services report.

31 You have the right to dispute inaccurate information by con-
32 tacting the individual reference services provider directly. You
33 have no right to force the individual reference services provider to
34 change information which is inaccurate because of inaccuracies in
35 public records. Such public record inaccuracies must first be cured
36 before the individual reference services provider is required to
37 correct such information in its records. If you have notified an
38 individual reference services provider in writing that you dispute
39 the accuracy of information in your file, the agency must then,
40 within 30 business days, reinvestigate and modify or remove inac-
41 curate information. The individual reference services provider
42 may not charge a fee for this service.

43 If reinvestigation does not resolve the dispute to your satisfac-
44 tion, you may dispute the report in court or through state arbitra-
45 tion under applicable Massachusetts law.”

1 SECTION 27. Said section 62, as so appearing, is hereby fur-
2 ther amended by inserting in line 40 after the words “consumer
3 reporting agency” the following words:— or individual reference
4 services provider.

1 SECTION 28. Said section 62, as so appearing, is hereby fur-
2 ther amended by inserting in line 53 after the words “subsections
3 (a)” the following words: — , (a½),.

1 SECTION 29. Section 63 of said chapter 93, as so appearing, is
2 hereby amended by inserting after the words “consumer reporting
3 agency”, in lines 1 and 2, in each instance, the following words:—
4 , individual reference services provider, or marketing list broker.

1 SECTION 30. Section 64 of said chapter 93, as so appearing, is
2 hereby amended by inserting after the words “consumer reporting
3 agency”, in lines 1 and 2, in each instance, the following words:—
4 , individual reference services provider, or marketing list broker.

1 SECTION 31. Said chapter 93 is hereby further amended by
2 inserting after section 65, as so appearing, the following new
3 section:—

4 Section 65A. Consumer's right to arbitrate disputes.

5 (a) An action to enforce any obligation of a consumer credit
6 reporting agency or an individual reference services provider to a
7 consumer under this chapter may be submitted to binding arbitra-
8 tion after the consumer has followed all dispute procedures in
9 section 58. No decision by an arbitrator pursuant to this section
10 shall affect the validity of any obligations or debts owed to any
11 party. A successful consumer in any such arbitration proceeding
12 shall be compensated for the costs and attorney fees of the pro-
13 ceeding as determined by the arbitrator. No consumer may submit
14 more than one action to arbitration against any consumer credit
15 reporting agency or individual reference services provider during
16 any 120 day period. If, as a result of an arbitration, a determina-
17 tion is made in favor of the consumer, any adverse information in
18 the consumer's file or record shall be removed or stricken in a
19 timely manner. If such adverse information is not so removed or
20 stricken, the consumer may bring an action against the noncom-
21 plying agency or individual reference services provider pursuant
22 to section 58 and this section, notwithstanding the 120 day
23 waiting period.

24 (b) The arbitration will be carried out in accordance with
25 chapter 251 and the rules prescribed by the American Arbitration
26 Association.

27 (c) All consumer reporting agencies and individual reference
28 services providers who provide information to a person in the
29 state impliedly consent to the provisions contained in this chapter.

1 SECTION 32. Section 66 of said chapter 93, as so appearing, is
2 hereby amended by inserting after the words "consumer reporting
3 agency", in line 2, the following words:— , individual reference
4 services provider, or marketing list broker.

1 SECTION 33. Section 66A of said chapter 93, as so appearing,
2 is hereby amended by inserting after the words "agency's" in
3 line 3 the following words:— or individual reference services
4 provider's.

1 SECTION 34. Said chapter 93 is hereby further amended by
2 inserting after section 67, as so appearing, the following new
3 section:—

4 Section 67A. (a) Any consumer credit reporting agency, indi-
5 vidual reference services provider, marketing list broker, person
6 who furnishes information to any consumer reporting agency,
7 individual reference services provider, marketing list broker or
8 user of information which fails to comply with any requirement
9 imposed under sections 50 to 62, inclusive, shall be punished by a
10 fine of not more than \$1,000 per violation. The assessment of
11 such a fine shall not affect the aggrieved consumer's right of
12 action under sections 63 and 64.

13 (b) Injunctive relief shall be available to any applicant
14 aggrieved by a violation or a threatened violation of this chapter.

1 SECTION 35. Said chapter 93 is hereby further amended by
2 striking out section 106, as so appearing, and inserting in place
3 thereof the following section:—

4 Section 106. (1) No persons engaged in the business of leasing
5 or renting videos or broadcasting pay per view movies or events
6 or any employee thereof shall maintain records that would indi-
7 cate the title or category of any leased or rented video, pay per
8 view movie or event other than the records necessary to ensure a
9 completed transaction of such video, movie or event. Records
10 indicating the name of the borrower together with the title or cate-
11 gory of the video, pay per view movie or event shall be eliminated
12 within 30 days after the transaction is completed. A transaction
13 shall not be considered complete until all contractual rights or
14 obligations between the parties regarding a particular video, pay
15 per view movie or event have been satisfied, including any credit
16 due, late fees, rewinding charges or settlement of property damage
17 and any investigation related thereto.

18 (2) No persons engaged in the business of leasing or renting
19 videos or broadcasting pay per view movies or events or any
20 employees thereof shall make available to a third party records
21 that would indicate the name of the borrower or pay per view pur-
22 chaser or the title or category of any video leased or rented by a
23 borrower or pay per view movie or event purchased, except under
24 a proceeding authorized by 18 USC 2710(b)(2)(C) and (F).

25 (3) Any violation of this section shall be punishable by impris-
26 onment in a house of correction for not more than 60 days or a
27 fine of \$1,000, or both such fine and imprisonment.

1 SECTION 36. Said chapter 93 is hereby further amended by
2 inserting after section 114, as inserted by section 80 of
3 chapter 463 of the acts of 1998, the following eight new sec-
4 tions:—

5 Section 115. For the purposes of this section and section 116,
6 the following words shall have the following meanings, unless the
7 context requires otherwise:

8 “Bank”, a bank as defined in section 2A of chapter 167.

9 “Consumer”, an individual who resides in this state.

10 “Discount card”, any card issued by a retailer to a consumer
11 that the consumer may use to obtain a discount when making pur-
12 chases from the retailer, including, but not limited to, a scanner
13 card.

14 “Retailer”, any person who sells goods or services used pri-
15 marily for personal, family or household purposes to a person who
16 is not in the business of reselling such goods or services.

17 Section 116. (a) No retailer, card issuer as that term is defined
18 in section 1 of chapter 140D whether located within or without the
19 commonwealth, or person who issues credit cards, debit cards or
20 discount cards in this state, whether such person is located within
21 or without the commonwealth, may sell, lease, share or exchange
22 any information concerning a consumer that identifies the con-
23 sumer in any manner and is obtained by such retailer or person in
24 the course of such retailer’s or person’s business, to any other
25 person for marketing purposes, unless the consumer, in response
26 to a specific request by such retailer or person who issues credit
27 cards, debit cards, or discount cards in this state, specifically con-
28 sents to the sale, lease, sharing, or exchange of information.

29 (b) No retailer, card issuer as that term is defined in section 1 of
30 chapter 140D whether located within or without the common-
31 wealth, or person who issues credit cards, debit cards or discount
32 cards in this state may condition the sale of goods or services or a
33 discount of the price of any goods or services to any person on
34 that person’s consent to the sale, lease, sharing, or exchange of the
35 information about that person for marketing purposes as set out in
36 paragraph (a) of this section.

37 (c) Any request for consent provided to a consumer pursuant to
38 paragraph (a) of this section shall include:

39 (1) a statement that information identifying the consumer may,
40 if the consumer consents, be sold or leased to or exchanged or
41 shared with other businesses for marketing purposes; and

42 (2) a statement that consumers need not consent to such sale,
43 lease, sharing or exchange of information in order to purchase
44 goods or services or receive a discount.

45 (c) Nothing in this section shall prohibit any bank from: (1)
46 selling or transferring the names of any of its credit cardholders:
47 (A) as part of the sale, transfer or pledge of some or all of the
48 credit card issuer's credit card accounts or credit card business; or
49 (B) to a direct or indirect subsidiary of the issuer, a direct or indi-
50 rect parent of the issuer, or to another subsidiary of a common
51 direct or indirect parent of the issuer; (2) transferring the names of
52 any of its credit cardholders to persons or entities providing credit
53 card account processing services, billing services, fraud preven-
54 tion services, charge-back services, credit reporting services, debt
55 collection services or other account-related services; (3) providing
56 the names of any of its credit cardholders to any person that:
57 (A) assisted the issuer in attracting, soliciting or persuading such
58 cardholder to apply for or to accept a credit card issued by the
59 issuer; or (B) was a party to a transaction involving the cardhold-
60 er's credit card; or (4) transferring or selling the names of any of
61 its credit cardholders to any person or entity, with the permission
62 of such cardholders.

63 (d) A violation of any provision of this section shall be deemed
64 an unfair or deceptive trade practice under chapter 93A.

65 (e) The office of consumer affairs and business regulation shall
66 promulgate rules and regulations to implement the provisions of
67 section 115 and this section.

68 Section 117. (a) As used in this section, the following words
69 shall have the following meanings:

70 "Child", a person who has not attained the age of 13 years.

71 "List broker", a person who, in the course of business, provides
72 mailing lists, computerized or telephone reference services, or the
73 like containing children's personal information.

74 "Parent", a natural parent, adoptive parent, step parent, or legal
75 guardian.

76 “Personal information”, information including name, address,
77 telephone number, social security number, electronic mail address,
78 and physical description about an individual identified as a child,
79 that would suffice to locate and contact that individual.

80 “Trade or commerce,” trade or commerce as defined in subsec-
81 tion (b) of section 1 of chapter 93A.

82 (b) Whoever:

83 (1) being a person engaged in trade or commerce with a child
84 who collects personal information concerning that child in the
85 course of a transaction, knowingly (A) collects, uses, sells, pur-
86 chases, or receives remuneration for providing personal informa-
87 tion about that child without the affirmative consent of the parent
88 of that child, or (B) conditions any sale or service to a child or to
89 the parent of a child on behalf of the child on the granting of such
90 consent by the parent of the child; or

91 (2) being a list broker, knowingly (A) collects, uses, sells, pur-
92 chases, or receives remuneration for providing, personal informa-
93 tion about a child without the affirmative written consent of a
94 parent of that child, or (B) conditions any sale or service to a child
95 or to that child’s parent on the granting of such consent; or

96 (3) being a list broker, knowingly fails to comply with the
97 request of a parent (A) to disclose the source of personal informa-
98 tion about that parent’s child; (B) to disclose all information that
99 has been sold by that list broker about that child and all other
100 information in the possession of that list broker about that child,
101 except information which may not be disclosed by law; or (C) to
102 disclose the identity of all persons to whom personal information
103 about that child has been disclosed; or

104 (4) being a person who, using any personal information about a
105 child that was obtained for commercial purposes, has directly con-
106 tacted that child or a parent of that child to offer a commercial
107 product or service to that child, knowingly fails to comply with
108 the request of a parent (A) to disclose the source of personal infor-
109 mation about that parent’s child; (B) to disclose all information
110 that has been sold by that person about that child and all other
111 information in the possession of that individual about that child,
112 except information which may not be disclosed by law; or (C) to
113 disclose the identity of all persons to whom personal information
114 about that child has been disclosed; or

115 (5) knowingly uses personal information about a child that was
116 collected from the child by the user for commercial purposes in
117 connection with a game, contest, or club, sponsored by that user,
118 to contact that child other than in direct connection with that
119 game, contest, or club, without the affirmative consent of a parent
120 of that child; or

121 (6) knowingly distributes or receives any personal information
122 about a child, knowing or having reason to believe that the infor-
123 mation will be used to abuse the child or physically to harm the
124 child;

125 Shall be fined not more than \$2,500 or imprisoned in a house of
126 correction for not more than one year, or both.

127 (c) A child or other person with respect to whom a violation of
128 this section occurs may in a civil action obtain appropriate relief,
129 including statutory money damages of not less than \$1,000. The
130 court shall award a prevailing plaintiff in a civil action under this
131 subsection a reasonable attorney's fee.

132 (d) The following shall be exempt from subsections (a), (b),
133 and (c):

134 (1) Any federal, state, or local government agency or law
135 enforcement agency;

136 (2) The National Center for Missing and Exploited Children;

137 (3) Any educational institution, consortium, organization, or
138 professional association, which shall include, but not be limited to
139 the Massachusetts community colleges; the University of
140 Massachusetts, and each campus, branch, and function thereof, the
141 Massachusetts Maritime Academy; or any independent institution
142 of higher education accredited by an agency recognized by the
143 federal department of education. For the purposes of this para-
144 graph, "independent institution of higher education" means any
145 nonpublic higher education institution that grants undergraduate
146 degrees, is formed as a nonprofit corporation, and is accredited by
147 an agency recognized by the federal department of education; or
148 any private post secondary vocational institution registered,
149 approved, or exempted by the board of education.

150 (e) The office of consumer affairs and business regulation shall
151 promulgate rules and regulations to implement the provisions of
152 this section.

153 Section 118. (a) As used in this section, the following words
154 shall have the following meanings:

155 “Marketing list broker”, marketing list broker as defined in
156 section 50 of chapter 93.

157 “Personal information,” information including name, address,
158 telephone number, social security number, electronic mail address,
159 and physical description about an individual that would suffice to
160 locate and contact that individual.

161 (b) Any marketing list broker who knowingly uses prison
162 inmate labor, or any worker who is registered pursuant
163 section 178E of chapter 6, for data processing of personal infor-
164 mation, shall be fined not more than \$2,500 or imprisoned in a
165 house of correction for not more than one year, or both.

166 (c) A person with respect to whom a violation of this section
167 occurs may in a civil action obtain appropriate relief, including
168 statutory money damages of not less than \$1,000. The court shall
169 award a prevailing plaintiff in a civil action under this subsection
170 a reasonable attorney’s fee.

171 Section 119. (a) As used in this section, the following words
172 shall have the following meanings:

173 “Biometric identifier”, a fingerprint, voice print, retinal scan,
174 facial geometric information, identifying thermographic informa-
175 tion, or other biologically based characteristic unique to that indi-
176 vidual and which may be used to uniquely identify an individual.

177 “Health care facility”, any facility as defined in section 70E of
178 chapter 111.

179 “Health care practitioner”, an individual who is licensed, certi-
180 fied, registered, or otherwise authorized by law to provide an item
181 or service that constitutes health care, in the ordinary course of
182 business or practice of a profession.

183 “Health researcher”, a person who conducts systematic investi-
184 gation, testing, evaluation or other inquiry using health informa-
185 tion to determine or otherwise investigate causes of disease or
186 medical conditions, the relationship between patient characteris-
187 tics, medical care and disease or health status, or otherwise
188 develop and contribute to health services or equipment.

189 “Health research organization”, any educational or health orga-
190 nization which conducts systematic investigation, testing, evalua-
191 tion or other inquiry using health information to determine or
192 otherwise investigate causes of disease or medical conditions, the
193 relationship between patient characteristics, medical care and dis-

194 ease or health status, or otherwise develop and contribute to health
195 services or equipment.

196 (b) No person, business, or institution may collect biometric
197 identifier information about an individual without notice to and
198 the affirmative consent of the individual or, if the individual is
199 under 18 years of age, the individual's parent or guardian. The
200 provisions of this subsection shall not apply to photographs or
201 videotape images of commercially available resolution, as defined
202 in regulations promulgated by the office of consumer affairs and
203 business regulation, unless such photographs or videotape images
204 are captured or collected in digital form and used to create or
205 verify the unique biometric characteristics of the facial geometry
206 of an individual.

207 (c) Biometric identifier information may only be used for iden-
208 tification purposes.

209 (d) No person, business, or institution may, without prior notice
210 to and the affirmative consent of a person, sell, lease, exchange,
211 transfer, or share biometric identifier information of such person
212 with any person, business, or institution, except to a federal, state,
213 or local law enforcement agency pursuant to a search warrant or
214 subpoena issued in connection with an ongoing investigation. A
215 subpoena is not required in those instances in which a biometric
216 identifier, or evidence containing a biometric identifier, is pro-
217 vided to a federal, state, or local law enforcement agency by a
218 person who is the victim or complaining party with respect to a
219 crime or suspected crime.

220 (e) Persons, businesses, or institutions creating, maintaining,
221 using or disseminating records of biometric information shall take
222 reasonable measures to ensure its reliability for its intended use
223 and shall take reasonable precautions to protect it from loss,
224 misuse, unauthorized access or disclosure, alteration, or destruc-
225 tion.

226 (f) Subsections (a) through (d) shall not apply to the federal or
227 state government, or any of the state's political subdivisions,
228 acting in accordance with any other state or federal general or
229 special law.

230 (g) No person's deoxyribonucleic acid (DNA) may be collected
231 for identification purposes, except by a state, federal, or local law
232 enforcement agency pursuant to a search warrant or subpoena

233 issued in connection with an ongoing investigation or pursuant to
234 chapter 22E. Nothing in this paragraph shall apply to or be con-
235 strued to limit:

236 (1) collection or use of DNA by any health care practitioner,
237 health care facility, health researcher, or health research organiza-
238 tion otherwise permitted to collect or use DNA by any federal or
239 state general or special law;

240 (2) collection or disclosure necessary to determine paternity in
241 accordance with the provisions of section 4A of chapter 210 ;

242 (3) collection or disclosure pursuant to newborn screening
243 requirements established by state or federal law;

244 (4) collection or disclosure that is authorized by the parent or
245 guardian of a newborn child whose DNA is given to such parent
246 or guardian in order to identify the child at a later date, provided
247 that such DNA shall not be maintained by anyone except by such
248 parent or guardian, unless the parent or guardian provides express
249 consent upon disclosure of the potential consequences of improper
250 release of such DNA information;

251 (5) collection or disclosure for the purpose of furnishing
252 genetic information relating to a decedent for medical diagnosis of
253 blood relatives of the decedent;

254 (6) collection or disclosure that is authorized by order of a court
255 of competent jurisdiction;

256 (7) collection or disclosure that is necessary for the purposes of
257 a criminal or death investigation or a criminal or juvenile pro-
258 ceeding;

259 (8) collection or disclosure that is required by federal law for
260 the identification of persons; or

261 (9) collection or disclosure for testing purposes that is autho-
262 rized by the tested individual or the tested individual's representa-
263 tive by signing a consent which complies with regulations which
264 shall be promulgated by the department of public health.

265 (h) Nothing in this section shall be construed to apply to the
266 donation of human organs pursuant to section 7 of chapter 113.

267 (i) Any person who violates this section shall be liable to the
268 person affected for a civil penalty of not less than \$5,000 and not
269 more than \$25,000 for each violation, in addition to any other
270 remedy provided by law.

271 (j) The office of consumer affairs and business regulation, in
272 consultation with the executive office of public safety and the

273 department of public health, shall promulgate rules and regula-
274 tions to implement the provisions of this section.

275 Section 120. Unless otherwise required by federal law, no
276 person shall require that a consumer of goods or services disclose
277 a social security number to complete the sale of such goods or
278 services; provided, however, that: (1) insurance companies and
279 institutions licensed by the state or federal government to provide
280 financial services may require applicants for those services to dis-
281 close their social security number; and (2) social security numbers
282 may be required for the providing and billing of health care or
283 pharmaceutical-related services, including the issuance of identifi-
284 cation cards and account numbers for users of such services; and
285 (3) disclosure may be required of a consumer as a condition of
286 applying for a credit card for the purchase of goods or services.

287 Any person violating the provisions of this section shall be sub-
288 ject to a civil penalty of not less than \$1,000 and not more than
289 \$10,000 for each violation of this section.

290 In any civil action alleging a violation of this section, the court
291 may award damages, reasonable attorney's fees and costs to a pre-
292 vailing consumer, and afford injunctive relief against any person
293 or business which commits or proposes to commit a violation of
294 this section.

295 Section 121. As used in this section and in section 122, the
296 following terms shall have the following meanings:

297 "Internet computer service", any information service that pro-
298 vides computer access to multiple users for remuneration to the
299 internet.

300 "Internet", the international computer network of both federal
301 and nonfederal interoperable packet switched data networks.

302 "Informed written consent", a statement in writing and freely
303 signed by the subscriber consenting to the disclosures such service
304 will make of the information provided and which describes the
305 rights of the subscriber under this chapter.

306 "Third party" means, with respect to the disclosure of person-
307 ally identifiable information provided by a subscriber to an
308 Internet computer service, a person or entity other than the
309 service, an employee of the service, the subscriber of the service,
310 or, with respect to subscribers who are under 18 years of age, the
311 subscriber's parent or legal guardian.

312 Section 122. (a) Except as otherwise provided for in this
313 section, an internet computer service shall, not disclose to a third
314 party any personally identifiable information provided by a sub-
315 scriber to the computer service without the prior informed written
316 consent of the subscriber. The computer service shall permit a
317 subscriber to revoke consent that has been granted under this sub-
318 section at any time, and upon such revocation the computer
319 service shall cease disclosing personally identifiable information
320 to third parties.

321 (b) An internet computer service or an employee of the com-
322 puter service shall not knowingly disclose to a third party any per-
323 sonally identifiable information provided by a subscriber to the
324 computer service that the computer service or an employee of the
325 computer service has knowingly falsified.

326 (c) At the subscriber's request an internet computer service
327 shall: (1) provide to the subscriber the personally identifiable
328 information about the subscriber maintained by the computer
329 service; (2) permit the subscriber to verify any personally identi-
330 fiable information maintained by the computer service; and (3)
331 permit the subscriber to correct any error in the personally identi-
332 fiable information about the subscriber.

333 (d) At the request of a subscriber an internet computer service
334 shall provide to the subscriber the identity of any third party who
335 has received personally identifiable information about the sub-
336 scriber.

337 (e) An internet computer service shall not charge a fee to the
338 subscriber for making available to subscribers the information
339 required to be provided pursuant to this section.

340 (f) An internet computer service may disclose personally identi-
341 fiable information: (1) to law enforcement officials pursuant to a
342 lawful warrant, order, or other process; (2) when necessary to pro-
343 tect the network security of the internet computer service; (3) to
344 protect against an imminent threat to the safety of others or when
345 there is evidence of a crime; or (4) to prevent interference with
346 another person's use of the services provided by the Internet com-
347 puter service.

348 (g) Any violation of this section shall constitute a violation of
349 chapter 93A.

350 (h) The office of consumer affairs and business regulations, in
351 consultation with the department of telecommunications and

352 energy, shall promulgate regulations to implement section 121 and
353 this section.

1 SECTION 37. Chapter 149 of the General Laws is hereby
2 amended by inserting after section 20E, as appearing in the 1996
3 Official Edition, the following new section:—

4 Section 20F. (a) As used in this section, the following terms
5 shall have the following meanings:

6 “Employer”, any person, firm or corporation, including the
7 commonwealth and any of its political subdivisions, which has 25
8 employees or more.

9 “Employee”, any person who performs services for an
10 employer in a business of the employer, if the employer has the
11 right to control and direct the person as to (A) the result to be
12 accomplished by the services, and (B) the details and means by
13 which such result is accomplished.

14 “Electronic monitoring”, the collection of information on an
15 employer’s premises concerning employees’ activities or commu-
16 nications by any means other than direct observation, including
17 the use of computer, telephone, wire, radio, camera, electromag-
18 netic, photoelectronic or photo-optical systems, but not including
19 the collection of information (A) for security purposes in common
20 areas of the employer’s premises which are held out for use by the
21 public, or (B) which is prohibited under state or federal law.

22 (b) (1) Except as provided in paragraph (2) of this subsection,
23 each employer who engages in any type of electronic monitoring
24 shall give prior written notice to all employees who may be
25 affected, informing them of the types of monitoring which may
26 occur. Each employer shall post, in a conspicuous place which is
27 readily available for viewing by its employees, a notice con-
28 cerning the types of electronic monitoring in which the employer
29 may engage. Such posting shall constitute such prior written
30 notice.

31 (2) When (A) an employer has reasonable grounds to believe
32 that employees are engaged in conduct which either (i) violates
33 the law, (ii) violates the legal rights of the employer or the
34 employer’s employees, or (iii) creates a hostile workplace envi-
35 ronment, and (B) electronic monitoring may produce evidence of
36 this conduct, the employer may conduct electronic monitoring
37 without giving prior written notice.

38 (c) The provisions of this section shall not apply to a criminal
39 investigation. Any information obtained in the course of a crim-
40 inal investigation through the use of electronic monitoring may be
41 used in a disciplinary proceeding against an employee.

42 (d) Any employer violating any provision of this section shall
43 be punished by a fine of not more than \$500 for the first offense,
44 \$1,000 for the second offense, and \$3,000 for the third and each
45 subsequent offense.

46 (e) Any person whose rights under this section have been vio-
47 lated may file a civil action. Any employer that violates the provi-
48 sions of this section shall be liable to the person aggrieved for
49 special and general damages, together with attorney's fees and
50 costs.

51 (f) Any employer that commits, or proposes to commit, an act
52 in violation of any provision of this section may be enjoined
53 therefrom by any court of competent jurisdiction.

54 (g) No employer may discharge, discipline, or in any other
55 manner discriminate against an employee because the employee
56 has asserted his or her rights under this section, assisted other
57 employees in asserting their rights, reported violations of this
58 section, or participated in enforcement actions of this section.

1 SECTION 38. Chapter 166A of the General Laws is hereby
2 amended by inserting after section 22, as so appearing, the
3 following new section:—

4 Section 23. (a) No CATV operator or person who leases chan-
5 nels on a cable system shall: (1) Use any electronic device to
6 record, transmit, or observe any events or listen to, record, or
7 monitor any conversations which take place inside a subscriber's
8 residence, workplace, or place of business, without obtaining the
9 express written consent of the subscriber. A CATV operator may
10 conduct electronic sweeps of subscriber households to monitor for
11 signal quality. (2) Provide any person with any individually identi-
12 fiable information regarding any of its subscribers, including, but
13 not limited to, the subscriber's television viewing habits, shopping
14 choices, interests, opinions, energy uses, medical information,
15 banking data or information, or any other personal or private
16 information, without the subscriber's express written consent.

17 (b) Individual subscriber viewing responses or other individu-
18 ally identifiable information derived from subscribers may be

19 retained and used by a CATV operator only to the extent reason-
20 ably necessary for billing purposes and to render cable service or
21 other services provided by the CATV operator, and to monitor for
22 unauthorized reception of services.

23 (c) A CATV operator shall not make individual subscriber
24 information available to government agencies in the absence of
25 legal compulsion, including, but not limited to, a court order or
26 subpoena. If requests for such information are made, a CATV
27 operator shall promptly notify the subscriber of the nature of the
28 request and what government agency has requested the informa-
29 tion prior to responding unless otherwise prohibited from doing so
30 by law. This information shall be provided so as to omit individu-
31 ally identifiable subscriber information whenever possible.

32 (d) Any individually identifiable subscriber information gath-
33 ered by a CATV operator shall be made available for subscriber
34 examination within 30 days of receiving a request by a subscriber
35 to examine such information on the premises of the corporation.
36 Upon a reasonable showing by the subscriber that the information
37 is inaccurate, a CATV operator shall correct such information.
38 Subscribers shall bear all costs of copying any records or informa-
39 tion gathered by the CATV operator and supplied to the sub-
40 scriber.

41 (e) Upon a subscriber's application for cable television service,
42 including, but not limited to, interactive service, a CATV operator
43 shall provide the applicant with a separate notice in an appropriate
44 form explaining the subscriber's right to privacy protection
45 afforded by this section.

46 (f) As used in this section: (1) "Individually identifiable infor-
47 mation" means any information identifying an individual or his or
48 her use of any service provided by a cable system other than the
49 fact that such individual is a cable television subscriber. (2) "Person"
50 includes an individual, business association, partner-
51 ship, corporation, limited liability company, or other legal entity,
52 and an individual acting or purporting to act for or on behalf of
53 any government, or subdivision thereof, whether federal, state, or
54 local. (3) "Interactive service" means any service offered by a
55 CATV operator involving the collection, reception, aggregation,
56 storage, or use of electronic information transmitted from a sub-
57 scriber to any other receiving point under the control of the CATV
58 operator, or vice versa.

59 (g) Nothing in this section shall be construed to limit the ability
60 of a CATV operator to market cable television or ancillary serv-
61 ices to its subscribers.

62 (h) Any person receiving subscriber information from a CATV
63 operator shall be subject to the provisions of this section.

64 (i) Any aggrieved person may commence a civil action for
65 damages for invasion of privacy against any CATV operator,
66 service provider, or person that leases a channel or channels on a
67 cable television system that violates the provisions of this section.

68 (j) Any person who violates the provisions of this section shall
69 be punished by a fine not exceeding two thousand five hundred
70 dollars \$2,500, or by imprisonment in a house of correction not
71 exceeding two and one half years, or by both such fine and
72 imprisonment.

73 (k) The penalties and remedies provided by subdivisions (i) and
74 (j) are cumulative, and shall not be construed as restricting any
75 penalty or remedy, provisional or otherwise, provided by law for
76 the benefit of any person, and no judgment under this section shall
77 preclude any person from obtaining additional relief based upon
78 the same facts.

79 (l) The provisions of this section are intended to set forth min-
80 imum state standards for protecting the privacy of subscribers to
81 cable television services and are not intended to preempt more
82 restrictive local standards.

1 SECTION.39. The General Laws are hereby amended by
2 inserting after chapter 167H the following new chapter:

3 **Chapter 167I.**
4 **Privacy Protections for Customer Information**
5 **of Financial Institutions**

6 Section 1. For purposes of this chapter, the following terms
7 shall have the following meanings:

8 "Bank", a state-chartered savings bank, co-operative bank or
9 trust company or any other association or corporation, as defined
10 by section 1 of chapter 167, that is subject to supervision and
11 examination by the Division.

12 “Credit union”, a credit union as defined by section 1 of
13 chapter 171, that is subject to supervision and examination by the
14 Division pursuant to section 2 of chapter 167.

15 “Customer”, with respect to a financial institution, any person
16 (or authorized representative of a person) to whom the financial
17 institution provides a product or service, including that of acting
18 as a fiduciary.

19 “Customer information of a financial institution”, any informa-
20 tion maintained by a financial institution which is derived from
21 the relationship between the financial institution and a customer
22 of the financial institution and is identified with the customer.

23 “Division”, the Division of Banks, including the Commissioner
24 of Banks.

25 “Document”, any information in any form.

26 “Federal bank”, a federal bank as defined by section 1 of
27 chapter 167.

28 “Financial institution”, any bank or credit union engaged in the
29 business of providing financial services to customers who main-
30 tain a credit, deposit, trust, or other financial account or relation-
31 ship with the institution, any loan or finance company under the
32 jurisdiction of the division of banks, any credit card issuer or
33 operator of a credit card system that issues credit cards in this
34 state, and any consumer reporting agency that compiles and main-
35 tains files on Massachusetts consumers. The Division of Banks
36 may prescribe regulations further defining the term financial insti-
37 tution for purposes of this chapter.

38 Section 2. (a) It shall be a violation of this chapter for any
39 person to obtain or attempt to obtain, or cause to be disclosed or
40 attempt to cause to be disclosed to any person, customer informa-
41 tion of a financial institution relating to another person (1) by
42 knowingly making a false, fictitious, or fraudulent statement or
43 representation to an officer, employee, or agent of a financial
44 institution with the intent to deceive the officer, employee, or
45 agent into relying on that statement or representation for purposes
46 of releasing the customer information; (2) by knowingly making a
47 false, fictitious, or fraudulent statement or representation to a cus-
48 tomer of a financial institution with the intent to deceive the cus-
49 tomer into relying on that statement or representation for purposes
50 of releasing the customer information or authorizing the release of
51 such information; or (3) by knowingly providing any document to

52 an officer, employee, or agent of a financial institution, knowing
53 that the document is forged, counterfeit, lost, or stolen, was fraud-
54 ulently obtained, or contains a false, fictitious, or fraudulent state-
55 ment or representation, if the document is provided with the intent
56 to deceive the officer, employee, or agent into relying on that doc-
57 ument for purposes of releasing the customer information.

58 (b) It shall be a violation of this chapter to ask a person to
59 obtain customer information of a financial institution, knowing or
60 consciously avoiding knowing that the person will obtain, or
61 attempt to obtain, the information from the institution in any
62 manner described in subsection (a).

63 (c) No provision of this section shall be construed so as to pre-
64 vent any action by a law enforcement agency, or any officer,
65 employee, or agent of such agency, to obtain customer informa-
66 tion of a financial institution in connection with the performance
67 of the official duties of the agency.

68 (d) No provision of this section shall be construed to prevent
69 any financial institution, or any officer, employee, or agent of a
70 financial institution, from obtaining customer information of such
71 financial institution in the course of (1) testing the security proce-
72 dures or systems of such institution for maintaining the confiden-
73 tiality of customer information; (2) investigating allegations of
74 misconduct or negligence on the part of any officer, employee, or
75 agent of the financial institution; or (3) recovering customer infor-
76 mation of the financial institution which was obtained or received
77 by another person in any manner described in subsection (a) or
78 (b).

79 (e) No provision of this section shall be construed to prevent
80 any person from obtaining customer information of a financial
81 institution that otherwise is available as a public record filed pur-
82 suant to the securities laws (as defined in section 3(a)(47) of the
83 Securities Exchange Act of 1934).

84 Section 3. (a) Except as provided in subsection (c), compliance
85 with this chapter shall be enforced by the Division of Banks.

86 (b) A violation of this chapter shall constitute a violation of
87 sections 2A through 2G of chapter 167.

88 (c) If the attorney general, or an official or agency designated
89 by the attorney general, has reason to believe that any person has
90 violated or is violating this chapter, the attorney general (1) may

91 bring an action to enjoin such violation in any other court of com-
92 petent jurisdiction; or (2) may bring an action on behalf of the res-
93 idents of the state to recover damages of not more than \$1,000 for
94 each violation.

95 Section 4. Any person, other than a financial institution, who
96 fails to comply with any provision of this chapter with respect to
97 any financial institution or any customer information of a finan-
98 cial institution, shall be liable to such financial institution or the
99 customer to whom such information relates in an amount equal to
100 the greater of (1) the amount of any actual damage sustained by
101 the financial institution or customer as a result of such failure; or
102 (2) any amount received by the person who failed to comply with
103 this title, including an amount equal to the value of any nonmone-
104 tary consideration, as a result of the action which constitutes such
105 failure. In the case of any successful action to enforce any liability
106 under paragraph (1) or (2), such person shall also be liable for the
107 costs of the action, together with reasonable attorneys' fees.

108 Section 5. (a) Whoever violates, or attempts to violate,
109 section 1 of this chapter shall be fined no more than \$10,000, or
110 imprisoned for not more than 5 years, or both for each such viola-
111 tion or attempted violation.

112 (b) Whoever violates, or attempts to violate section 1 of this
113 chapter while violating another state or federal law or as part of a
114 pattern of any illegal activity involving more than \$100,000 in a
115 12-month period shall be fined twice the amount provided in sub-
116 section (a).

1 SECTION 40. Subsection (b) of section 37E of chapter 266 of
2 the General Laws, as inserted by chapter 367 of the acts of 1998,
3 is hereby amended by inserting after the words "shall be pun-
4 ished" the following words:— by imprisonment in the state prison
5 for not more than five years, or shall be punished.

1 SECTION 41. Subsection (c) of said section 37E, as so
2 inserted, is hereby amended by inserting after the words "shall be
3 punished" the following words:— by imprisonment in the state
4 prison for not more than five years, or shall be punished.

1 SECTION 42. Said chapter 266 is hereby amended by inserting
2 after section 60A, as appearing in the 1996 Official Edition, the
3 following new section:—

4 Section 60B. (a) For the purposes of this section, the following
5 terms shall have the following meanings:

6 “Cellular tracking device or method”, any use of cellular
7 telecommunications equipment to locate the geographic location
8 of an individual or of an item of cellular equipment used by an
9 individual, including, but not limited to, methods or devices to
10 determine location by triangulation.

11 “Electronic tracking device or method”, any use of electronic
12 equipment to locate the geographic location of an individual or a
13 vehicle driven by an individual, including but not limited to,
14 ground positioning systems, automatic vehicle locating systems,
15 and satellite based systems.

16 “Employee”, any person who performs services for an
17 employer in exchange for financial remuneration, including part
18 time, leased or former employees.

19 “Employer”, any person, partnership, corporation, or other
20 organization engaged in commerce, or any other person or organi-
21 zation which obtains the services of individuals in exchange for
22 financial remuneration.

23 (b) No person shall surreptitiously track or determine an indi-
24 vidual’s physical location or the physical location of a vehicle
25 driven by an individual through the use of an electronic tracking
26 device or method or cellular tracking device or method without
27 the prior consent of the individual. Any person who violates the
28 provisions of this section shall be punished by a fine not
29 exceeding \$5,000 or up to one year in a house of correction, or
30 both. The provisions of this section shall not apply to: the federal
31 and state government or any of the state’s political subdivisions;
32 an employer who has reasonable grounds to believe that
33 employees are engaged in conduct which violates the legal rights
34 of the employer or the employer’s employees and involves signifi-
35 cant harm to that party, and that such monitoring will produce evi-
36 dence of this misconduct; a member of the immediate family of
37 the individual who has specific knowledge of an immediate threat
38 to the well being of the individual; and any person who must be
39 monitored for physical or mental health reasons as defined in reg-
40 ulations promulgated by the department of public health, the

41 department of mental health, and the department of mental retar-
42 dation.

1 SECTION 43. Paragraph 1 of part B of section 99 of
2 chapter 272 of the General Laws, as so appearing, is hereby
3 amended by inserting in line 30 after the word "cable," the
4 following words:— cellular radio telephones, cordless phones,
5 paging systems, personal communications services,.

1 SECTION 44. Said paragraph 1 of said part B of said
2 section 99, as so appearing, is hereby further amended by
3 inserting in line 31 after the word "reception" the following
4 words:— and shall also include radiation emanations.

1 SECTION 45. Said part B of said section 99, as amended by
2 section 7 of chapter 163 of the acts of 1998, is hereby further
3 amended by inserting after paragraph 18 the following new para-
4 graphs:

5 19. The term "radiation emanations" means any electric or elec-
6 tromagnetic radiation emanations from electronic equipment,
7 including but not limited to conducted and radiated emanations
8 from sources including but not limited to computer terminals, tele-
9 visions, television monitors, video display units, digital equip-
10 ment, cables, ground loops, printed circuit boards, internal wires,
11 power lines to power coupling, cable lines to cable coupling,
12 switching transistors, and high-power amplifiers.

13 20. The term "cellular radio telephone" means a wireless tele-
14 phone authorized by the Federal Communications Commission to
15 operate in the frequency bandwidth reserved for cellular radio
16 telephones.

17 21. The term "cordless telephone" means a two-way, low power
18 communication system consisting of two parts, a base unit which
19 connects to the public switched telephone network and a handset
20 or remote unit, that are connected by a radio link and authorized
21 by the Federal Communications Commission to operate in the fre-
22 quency bandwidths reserved for cordless telephones.

23 22. The term "paging system" means a one-way, radio mobile
24 service where a user carries a small, lightweight miniature radio
25 receiver capable of responding to coded signals.

26 23. The term "personal communications services (PCS)" means
27 radio communications that encompass mobile and ancillary fixed
28 communication that provide services to individuals and businesses
29 and can be integrated with a variety of competing networks.

1 SECTION 46. Chapter 272 of the General Laws is hereby
2 amended by inserting after section 99A, as appearing in the 1996
3 Official Edition, the following new section:—

4 Section 99B. (a) Whoever uses any system which examines or
5 records in any manner voice prints or other voice stress patterns of
6 another person to determine the truth or falsity of statements made
7 by such other person without his or her express written consent
8 given in advance of the examination or recordation, shall be pun-
9 ished by a fine of not more than \$1,000.

10 (b) This section shall not apply to any federal, state, or local
11 law enforcement officer acting within the scope of his or her offi-
12 cial duties.

13 (c) Any person who has been injured by a violator of this
14 section may bring a civil action against the violator for his actual
15 damages or \$1,000, whichever is greater.

1 SECTION 47. There is hereby established a special commis-
2 sion to consist of nine members, for the purpose of conducting an
3 investigation and making a recommendation on the feasibility,
4 ramifications, benefits, and disadvantages of creating a property
5 interest in personal information.

6 Said investigation shall include, but not be limited to, an
7 appraisal of assigning property interest to personal information as
8 a method to discourage the unauthorized dissemination and com-
9 mercial use of personal information; implications for personal
10 property interests when personal information is altered or trans-
11 formed by another entity; the implications to property rights when
12 permission is given, expressly or implicitly, to a company or orga-
13 nization to use a person's personal information; and the implica-
14 tions of initial permission, express or implied, on personal privacy
15 interests for subsequent transactions.

16 Said special commission shall consist of one member appointed
17 by the chief justice of the supreme judicial court, one member
18 appointed by the speaker of the house of representatives, one

19 member appointed by the president of the senate, and six members
20 appointed by the governor, including a representative from the
21 office of consumer affairs and business regulation, a representa-
22 tive from a Massachusetts academic institution with demonstrated
23 scholarship in personal privacy, a representative of the marketing
24 industry, a representative from a consumer advocacy or privacy
25 rights organization, a representative of the financial services
26 industry, and an at-large representative.

27 The commission shall consider whether changes are desirable
28 in the present laws, regulations, and practices governing property
29 rights in order to better protect the personal information of
30 Massachusetts residents.

31 The commission shall work in close collaboration with appro-
32 priate state agencies and authorities, and may request cooperation
33 and reasonable assistance from said offices and all other offices
34 and agencies of the commonwealth within the executive, legisla-
35 tive, and judicial branches. Said offices and agencies shall furnish
36 the commission with any relevant information in their possession
37 that is requested by the commission.

38 The commission may conduct hearings, perform research, com-
39 pile, and publish reports. The commission shall establish rules of
40 procedure governing the conduct of its hearings which shall be
41 made available in printed form. All hearings of the commission
42 shall be public.

43 The commission shall file its final report and its recommenda-
44 tions, if any, together with any drafts of legislation necessary to
45 carry its recommendations into effect, by filing same with the
46 governor and with the clerks of the house of representatives and
47 the senate not later than the first Wednesday in November of the
48 year 2000. All appointments required under the provisions of this
49 section shall be made not later than 30 days after the effective date
50 of the act.

1 SECTION 48. If any provision or clause of this act or applica-
2 tion thereof to any person or circumstances is held invalid, such
3 invalidity shall not affect other provisions or applications of the
4 act which can be given effect without the invalid provision or
5 application, and to this end the provisions of this act are declared
6 to be severable.

1 SECTION 49. All rules and regulations required by this act
2 shall be made effective no later than 90 days after the effective
3 date of this act.

1 SECTION 50. Section 47 of this act shall take effect upon pas-
2 sage. The remaining provisions of this act shall take effect one
3 year from the date of its enactment.

