SENATE . . . . . No. 1037

By Ms. McGovern, a petition (accompanied by bill, Senate, No. 1037) of Francis X. Bellotti, Attorney General of the Commonwealth, and Patricia McGovern for legislation to amend the fair information practices act. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-three.

AN ACT TO AMEND THE FAIR INFORMATION PRACTICES ACT.

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 1 of Chapter 66A of the General Laws,
2 as most recently amended by St. 1977, c. 691, §§7 to 12, is
3 hereby amended by adding the following paragraph: —
4 "Routine use" means, with respect to the disclosure of
5 personal data, the use of such personal data for a purpose
6 which is compatible with the purpose for which it was col-
7 lected.

1 SECTION 2. Section 2 of Chapter 66A of the General Laws,
2 as most recently amended by St. 1977, c. 691, §§7 to 12 is
3 hereby amended by striking subclause (c) and inserting in
4 place thereof the following:
5 (c) not allow any other agency or individual not employed
6 by the holder to have access to personal data except pursuant
7 to a written request by or with the prior written consent of
8 the individual to whom the personal data pertains if the
9 data subject is entitled to access under clause (i), unless the
10 disclosure of the personal data would be (1) to those officers
11 and employees of the agency which maintains the personal
12 data, who have a need for the data in the performance of
13 their official duties; (2) a routine use as defined in subsec-
14 tion 1 of this chapter; (3) to any agency or instrumentality
15 of any governmental jurisdiction within or under the con-
16 trol of the Commonwealth or the United States for civil or
17 criminal law enforcement and in defending civil actions
18 brought by or on behalf of the data subject against the Com-

19 monwealth, its officers, employees or agencies; or (4) author-
20 ized by statute or regulations which are consistent with the
21 purposes of this chapter. Medical or psychiatric data which
22 is personal data may be made available to a physician treat-
23 ing a data subject upon the request of said physician, if a
24 medical or psychiatric emergency arises which precludes the
25 data subject's giving approval for the release of such data,
26 but the data subject shall be given notice of such access upon
27 termination of the emergency. A holder shall provide lists
28 of names and addresses of applicants for professional licenses
29 and lists of professional licensees to associations or educa-
30 tional organizations recognized by the appropriate profes-
31 sional licensing or examination board. A holder shall comply
32 with a data subject's request to disseminate his data to a
33 third person, if he is otherwise authorized by this chapter
34 to have access to his own personal data, if practicable and
35 upon payment, if necessary, of a reasonable fee.

1 SECTION 3. Section 2 of Chapter 66A of the General Laws,
2 as most recently amended by St. 1977, c. 691, §§7 to 12, is
3 hereby further amended by striking subclause (i) and insert-
4 ing in place thereof the following:
5 (i) inform in writing an individual, upon his request,
6 whether he is a data usbject, and if so, make such data fully
7 available to him or his authorized representative, upon his
8 request, in a form comprehensible to him, unless withholding
9 such personal data is authorized by this clause or any other
10 statute. A holder may withhold from a data subject: (I)
11 documents, information, and tangible things prepared in an-
12 ticipation of litigation or for trial, and facts known and
13 opinions held by experts acquired or developed in anticipa-
14 tion of litigation, where such documents, information, tan-
15 gible things, facts or opinions are not, or would not be dis-
16 coverable in anticipated or pending civil or criminal court
17 proceedings; or (II) information which is currently the sub-
18 ject of an investigation and the disclosure of which would
19 probably so prejudice the possibility of effective law enforce-
20 ment that such disclosure would not be in the public interest.
21 The foregoing sentence shall not be construed to derogate
22 from any rignt or power of access the data subject might

23 have under administrative or judicial discover procedures,
24 and said foregoing sentence shall not apply where it is shown
25 that court proceedings are initiated or anticipated primarily
26 to negate the personal data access rights provided in the first
27 sentence of this clause. In making any disclosure of informa-
28 tion to a data subject pursuant to this chapter, the holder
29 may remove personal identifiers relating to a third person
30 is an officer or employee of government acting as such and
31 the data subject is not an officer or employee of government.
32 No holder shall rely on any exemption contained in clause
33 twenyt-six of section seven of chapter four to withhold from
34 any data subject personal data otherwise accessible to him
35 under this chapter.