
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2100 Session of
2001

INTRODUCED BY MAHER, McILHINNEY AND HABAY, OCTOBER 29, 2001

SENATOR THOMPSON, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, JUNE 26, 2002

AN ACT

1 Amending the act of June 21, 1957 (P.L.390, No.212), entitled
2 "An act requiring certain records of the Commonwealth and its
3 political subdivisions and of certain authorities and other
4 agencies performing essential governmental functions, to be
5 open for examination and inspection by citizens of the
6 Commonwealth of Pennsylvania; authorizing such citizens under
7 certain conditions to make extracts, copies, photographs or
8 photostats of such records; and providing for appeals to the
9 courts of common pleas," further providing for definitions,
10 for examination and inspection and for extracts, copies or
11 photostats; providing for denial of access to public records,
12 for redaction, for response to requests for access and for
13 final agency determinations; further providing for appeal
14 from denial of right; and providing for court costs and
15 attorney fees, for penalty and for immunity.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 ~~Section 1. Sections 1 and 2 of the act of June 21, 1957~~ <—
19 ~~(P.L.390, No.212), referred to as the Right to Know Law, are~~
20 ~~amended to read:~~

21 SECTION 1. SECTION 1 OF THE ACT OF JUNE 21, 1957 (P.L.390, <—
22 NO.212), REFERRED TO AS THE RIGHT-TO-KNOW LAW, AMENDED JUNE 17,

1 1971 (P.L.160, NO.9), IS AMENDED TO READ:

2 [Section 1. In this act the following terms shall have the
3 following meanings:]

4 Section 1. Definitions.

5 The following words and phrases when used in this act shall
6 have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 [(1)] "Agency." Any office, department, board or commission
9 of the executive branch of the Commonwealth, any political
10 subdivision of the Commonwealth, the Pennsylvania Turnpike
11 Commission, the State System of Higher Education or any State or
12 municipal authority or similar organization created by or
13 pursuant to a statute which declares in substance that such
14 organization performs or has for its purpose the performance of
15 an essential governmental function.

16 "Commonwealth agency." An agency which is a Commonwealth
17 agency as that term is defined under 62 Pa.C.S. § 103 (relating
18 to definitions).

19 "NON-COMMONWEALTH AGENCY." AN AGENCY WHICH IS NOT A
20 COMMONWEALTH AGENCY.

<—

21 [(2)] "Public [Record] record." Any account, voucher or
22 contract dealing with the receipt or disbursement of funds by an
23 agency or its acquisition, use or disposal of services or of
24 supplies, materials, equipment or other property and any minute,
25 order or decision by an agency fixing the personal or property
26 rights, privileges, immunities, duties or obligations of any
27 person or group of persons: Provided, That the term "public
28 records" shall not mean any report, communication or other
29 paper, the publication of which would disclose the institution,
30 progress or result of an investigation undertaken by an agency

1 in the performance of its official duties, except those reports
2 filed by agencies pertaining to safety and health in industrial
3 plants; it shall not include any record, document, material,
4 exhibit, pleading, report, memorandum or other paper, access to
5 or the publication of which is prohibited, restricted or
6 forbidden by statute law or order or decree of court, or which
7 would operate to the prejudice or impairment of a person's
8 reputation or personal security, or which would result in the
9 loss by the Commonwealth or any of its political subdivisions or
10 commissions or State or municipal authorities of Federal funds,
11 excepting therefrom however the record of any conviction for any
12 criminal act.

13 "Record." Any document maintained by an agency, in any form,
14 whether public or not.

15 "Requester." A person who is a resident of, ~~or does business~~ <—
16 in, the Commonwealth and requests a record pursuant to this act.

17 "Response." Access to a record or an agency's written notice
18 granting, denying or partially granting and partially denying
19 access to a record.

20 SECTION 2. SECTION 2 OF THE ACT IS AMENDED TO READ: <—

21 [Section 2. Every public record of an agency shall, at
22 reasonable times, be open for examination and inspection by any
23 citizen of the Commonwealth of Pennsylvania.]

24 Section 2. Procedure for access to public records.

25 (a) General rule.--Unless otherwise provided by law, a
26 public record shall be accessible for inspection and ~~copying~~ <—
27 DUPLICATION by a requester in accordance with this act. A public <—
28 record shall be provided to a requester in the medium requested
29 if the public record exists in that medium; otherwise, it shall
30 be provided in the medium in which it exists. Public records

1 shall be available for access during the regular business hours
2 of an agency. NOTHING IN THIS ACT SHALL PROVIDE FOR ACCESS TO <—
3 THOSE RECORDS THAT ARE NOT PUBLIC RECORDS. A RECORD WHICH IS NOT <—
4 A PUBLIC RECORD.

5 (b) ~~Written requests~~ REQUESTS.--Agencies may fulfill ~~oral~~ <—
6 VERBAL requests for ACCESS TO records and anonymous requests for <—
7 ACCESS TO records. In the event that the requester wishes to <—
8 pursue the relief and remedies provided for in this act, the
9 requester must initiate such relief with a written request.

10 (c) ~~Other~~ WRITTEN requests.--A written request for access to <—
11 records may be submitted in person, by mail, by facsimile or, to
12 the extent provided by agency rules, any other electronic means.
13 A written request shall be addressed to the agency head or other
14 person designated in the rules established by the agency. A
15 written request should identify or describe the records sought
16 with sufficient specificity to enable the agency to ascertain
17 which records are being requested and shall include the name and
18 address to which the agency should address its response. A
19 written request need not include any explanation of the
20 requester's reason for requesting or intended use of the
21 records.

22 (d) Electronic access.--In addition to the requirements of
23 subsection (a), an agency may make its public records available
24 through any publicly accessible electronic means. IF ACCESS TO A <—
25 PUBLIC RECORD IS ROUTINELY AVAILABLE BY AN AGENCY ONLY BY
26 ELECTRONIC MEANS, THE AGENCY SHALL PROVIDE READY ACCESS TO <—
27 INSPECT A THE PUBLIC RECORD AT THE AGENCY OFFICE AN OFFICE OF <—
28 THE AGENCY.

29 (e) Creation of a public record.--When responding to a
30 request for access, an agency shall not be required to create a

1 public record which does not currently exist or to compile,
2 maintain, format or organize a public record in a manner in
3 which the agency does not currently compile, maintain, format or
4 organize the public record.

5 (f) Conversion of an electronic record to ~~written form~~ <—
6 PAPER.--Notwithstanding subsections (a) and (e), if IF a public <—
7 record is only maintained electronically OR IN OTHER NONPAPER <—
8 MEDIA, an agency shall, upon request, ~~make~~ DUPLICATE the public <—
9 record available on paper when responding to a request for <—
10 access in accordance with this act.

11 ~~(g) Retention of records. An agency shall retain public~~ <—
12 ~~records in accordance with the law.~~

13 (G) RETENTION OF RECORDS.--NOTHING IN THIS ACT IS INTENDED <—
14 TO MODIFY, RESCIND OR SUPERSEDE ANY RECORD RETENTION AND
15 DISPOSITION SCHEDULE ESTABLISHED PURSUANT TO LAW.

16 Section 2 3. Section 3 of the act is repealed. <—

17 Section 3 4. The act is amended by adding sections to read: <—

18 Section 3.1. Access to public records.

19 An agency may not deny a requester access to a public record
20 due to the intended use of the public record by the requester.

21 Section 3.2. Redaction.

22 If an agency determines that a public record contains
23 information which is subject to access as well as information
24 which is not subject to access, the agency's response shall
25 grant access to the information which is subject to access and
26 deny access to the information which is not subject to access.
27 If the information which is not subject to access is an integral
28 part of the public record and cannot be separated, the agency
29 shall redact from the public record the information which is not
30 subject to access and the response shall grant access to the

1 information which is subject to access. The agency may not deny
2 access to the public record if the information which is not
3 subject to access is able to be redacted. Information which an
4 agency redacts in accordance with this subsection shall be
5 deemed a denial under section 3.3.

6 Section 3.3. Commonwealth agency's response to written requests
7 for access.

8 (a) General rule.--Upon receipt of a written request for
9 access to a record, a Commonwealth agency shall make a good
10 faith effort to DETERMINE IF THE RECORD REQUESTED IS A PUBLIC <—
11 RECORD AND TO respond as promptly as possible under the
12 circumstances existing at the time of the request, but shall not
13 exceed ten business days from the date the written request is
14 received by the Commonwealth agency head or other person
15 designated in the rules established by the Commonwealth agency <—
16 for receiving such requests. If the Commonwealth agency fails to
17 send the response within ten business days of such receipt of <—
18 the written request for access, the written request for access
19 shall be deemed denied.

20 (b) Exception.--Upon receipt of a written request for
21 access, if a Commonwealth agency determines that one of the
22 following applies:

23 (1) the request for access requires redaction of a
24 public record in accordance with section 3.2;

25 (2) the request for access requires the retrieval of a
26 public record stored in a remote location; <—

27 (3) a timely response to the request for access cannot
28 be accomplished due to bona fide and specified staffing
29 limitations;

30 (4) a legal review is necessary to determine whether the

~~public record is~~ RECORD IS A PUBLIC RECORD subject to access
under this act;

(5) ~~the requester has not complied with the Commonwealth
agency's policies regarding access to public records; or~~

(6) ~~the requester refuses to pay applicable fees
authorized by section 7 of this act,~~

~~the Commonwealth agency shall send written notice to the
requester within ten business days of the Commonwealth agency's
receipt of the request for access. The notice shall include a
statement notifying the requester that the request for access is
being reviewed, the reason for the review and a reasonable date
that a response is expected to be provided. If the date that a
response is expected to be provided is in excess of 30 days,
following the ten business days allowed for in subsection (a),
the request for access shall be deemed denied.~~

(c) ~~Denial.--If a Commonwealth agency's response is a denial
of a written request for access, whether in whole or in part, a
written response shall be issued and include:~~

~~(1) A description of the record requested.~~

~~(2) A determination that the record requested is not a
public record and the specific reasons for the agency's
determination that the record is not a public record,
including a citation of supporting legal authority.~~

(2) ~~THE SPECIFIC REASONS FOR THE DENIAL, INCLUDING A
CITATION OF SUPPORTING LEGAL AUTHORITY. IF THE DENIAL IS THE
RESULT OF A DETERMINATION THAT THE RECORD REQUESTED IS NOT A
PUBLIC RECORD, THE SPECIFIC REASONS FOR THE AGENCY'S
DETERMINATION THAT THE RECORD IS NOT A PUBLIC RECORD SHALL BE
INCLUDED.~~

(3) ~~The typed or printed name, title, business address,~~

1 business telephone number and signature of the public
2 official or public employee on whose authority the denial is
3 issued.

4 (4) Date of the response.

5 (5) The procedure to appeal the denial of access under
6 this act.

7 (d) Certified copies.--If a Commonwealth agency's response
8 grants a request for access, the Commonwealth agency shall, upon
9 request, provide the requester with a certified copy of a THE <—
10 public record if the requester pays the applicable fees pursuant
11 to section 7.

12 Section 3.4. Non-Commonwealth agency's response to written
13 requests for access.

14 (a) General rule.--Upon receipt of a written request for
15 access to a record, a non-Commonwealth agency shall make a good
16 faith effort to DETERMINE IF THE RECORD REQUESTED IS A PUBLIC <—
17 RECORD AND TO respond as promptly as possible under the
18 circumstances existing at the time of the request, but shall not
19 exceed five business days from the date the written request is
20 receive RECEIVED by the non-Commonwealth agency head or other <—
21 person designated in the rules established by the non-
22 Commonwealth agency for receiving such requests. If the non-
23 Commonwealth agency fails to send the response within five
24 business days of such receipt of the written request for access, <—
25 the written request for access shall be deemed denied.

26 (b) Exception.--Upon receipt of a written request for
27 access, if a non-Commonwealth agency determines that one of the
28 following applies:

29 (1) the request for access requires redaction of a
30 public record in accordance with section 3.2;

1 ~~including a citation of supporting legal authority.~~

2 (2) THE SPECIFIC REASONS FOR THE DENIAL, INCLUDING A <—
3 CITATION OF SUPPORTING LEGAL AUTHORITY. IF THE DENIAL IS THE
4 RESULT OF A DETERMINATION THAT THE RECORD REQUESTED IS NOT A
5 PUBLIC RECORD, THE SPECIFIC REASONS FOR THE AGENCY'S
6 DETERMINATION THAT THE RECORD IS NOT A PUBLIC RECORD SHALL BE
7 INCLUDED.

8 (3) The typed or printed name, title, business address,
9 business telephone number and signature of the public
10 official or public employee on whose authority the denial is
11 issued.

12 (4) Date of the response.

13 (5) The procedure to appeal the denial of access under
14 this act.

15 (d) Certified copies.--If a non-Commonwealth agency's
16 response grants a request for access, the non-Commonwealth
17 agency shall, upon request, provide the requester with a
18 certified copy of a THE public record if the requester pays the <—
19 applicable fees pursuant to section 7.

20 Section 3.5. Final agency determination.

21 (a) Filing of exceptions.--If a written request for access
22 is denied or deemed denied, the requester may file exceptions
23 with the head of the agency denying the request for access
24 within 15 business days of the mailing date of the agency's
25 response. The exception RESPONSE OR WITHIN 15 DAYS OF A DEEMED <—
26 DENIAL. THE EXCEPTIONS shall state grounds upon which the
27 requester asserts that the record is a public record and shall
28 address any grounds stated by the agency for delaying or denying
29 the request.

30 (b) Determination.--The UNLESS THE REQUESTER AGREES <—

1 OTHERWISE, THE agency head or his designee shall make a final
2 determination regarding the exceptions within 30 days of the
3 mailing date of the exceptions. Prior to issuing the final
4 determination regarding the exceptions, the agency head or his
5 designee may conduct a hearing. The determination shall be the
6 final order of the agency. If the agency head or his designee
7 determines that the agency correctly denied the request for
8 access, the agency head or his designee shall provide a written
9 explanation to the requester of the reason for the denial.

10 Section 4 5. Section 4 of the act is amended to read: <—

11 [Section 4. Any citizen of the Commonwealth of Pennsylvania
12 denied any right granted to him by section 2 or section 3 of
13 this act, may appeal from such denial. If such court determines
14 that such denial was not for just and proper cause under the
15 terms of this act, it may enter such order for disclosure as it
16 may deem proper.]

17 Section 4. Judicial appeal.

18 (a) Commonwealth agency.--Within 30 days of the mailing date
19 of a final determination of a Commonwealth agency affirming the
20 denial of access, a requester may file a petition for review or
21 other document as might be required by rule of court with the
22 Commonwealth Court.

23 (b) Other agency.--Within 30 days of a denial by an agency <—
24 other than a Commonwealth A NON-COMMONWEALTH agency under <—
25 section 3.4(c) or of the mailing date of a final determination
26 of any such A NON-COMMONWEALTH agency affirming the denial of <—
27 access, a requester may file a petition for review or other
28 document as might be required by rule of court with the court of
29 common pleas for the county where the NON-COMMONWEALTH agency's <—
30 office or facility is located or bring an action in the local

1 magisterial district. A requester is entitled to a reasoned
2 decision containing findings of fact and conclusions of law
3 based upon the evidence as a whole which clearly and concisely
4 states and explains the rationale for the decisions so that all
5 can determine why and how a particular result was reached.

6 (C) NOTICE.--THE AN AGENCY SHALL BE SERVED NOTICE OF ACTIONS <—
7 COMMENCED IN ACCORDANCE WITH SUBSECTION (A) OR (B) AND SHALL
8 HAVE 15 DAYS TO RESPOND AN OPPORTUNITY TO RESPOND IN ACCORDANCE <—
9 WITH APPLICABLE COURT RULES.

10 (e) (D) Record on appeal.--The record before a court shall <—
11 consist of the request; the agency's response; the requester's
12 exceptions, if applicable; the hearing transcript, if any; and
13 the agency's final determination, if applicable.

14 Section 5 6. The act is amended by adding sections to read: <—
15 Section 4.1. Court costs and attorney fees.

16 (a) Reversal of agency determination.--If a court reverses
17 an agency's final determination, the court may award reasonable
18 attorney fees and costs of litigation, or an appropriate portion
19 thereof, to a requester if the court finds either of the
20 following:

21 (1) the agency willfully or with wanton disregard
22 deprived the requester of access to ~~public records~~ A PUBLIC <—
23 RECORD subject to access under the provisions of this act; or

24 (2) the exemptions, exclusions or defenses asserted by
25 the agency in its final determination were not based on a
26 reasonable interpretation of law.

27 (b) Sanctions for frivolous requests or appeals.--If a court
28 affirms an agency's final determination, the court may award
29 reasonable attorney fees and costs of litigation, or an
30 appropriate portion thereof, to the agency if the court finds

1 that the legal challenge to the agency's final determination was
2 frivolous.

3 (C) OTHER SANCTIONS.--NOTHING IN THIS ACT SHALL PROHIBIT A <—
4 COURT FROM IMPOSING PENALTIES AND COSTS IN ACCORDANCE WITH
5 APPLICABLE RULES OF COURT.

6 Section 5. Penalties.

7 (a) Summary offense.--An agency, ~~public official or public~~ <—
8 ~~employee~~ OR PUBLIC OFFICIAL who violates this act with the <—
9 intent and purpose of violating this act commits a summary
10 offense SUBJECT TO PROSECUTION BY THE ATTORNEY GENERAL OR THE <—
11 APPROPRIATE DISTRICT ATTORNEY and shall, upon conviction, be
12 sentenced to pay a fine of not more than ~~\$100~~ \$300 plus costs of <—
13 prosecution.

14 (b) Civil penalty.--An agency, ~~public official or public~~ <—
15 ~~employee~~ OR PUBLIC OFFICIAL who does not promptly comply with a <—
16 court order under this act is subject to a civil penalty of not
17 more than ~~\$100~~ \$300 per day until the public records are <—
18 provided.

19 Section 6. Immunity.

20 (a) General rule.--Except as provided in sections 4.1 and 5,
21 AND OTHER STATUTES GOVERNING THE RELEASE OF RECORDS, no agency, <—
22 public official or public employee shall be liable for civil or
23 criminal damages or penalties resulting from compliance or
24 failure to comply with this act.

25 (b) Schedules.--No agency, public official or public
26 employee shall be liable for civil or criminal damages or
27 penalties under this act for complying with any written public
28 record retention and disposition schedule.

29 Section 7. Fee limitations.

30 (a) Postage.--Fees for postage may not exceed the actual

1 cost of mailing.

2 ~~(b) Photocopying. Fees for photocopying must be reasonable~~ <—
3 ~~and based on prevailing fees for comparable photocopying~~
4 ~~services provided by local business entities.~~

5 ~~(c) Limitations. No other fees may be imposed unless the~~
6 ~~agency necessarily incurs costs for complying with the request,~~
7 ~~and such fees must be reasonable.~~

8 (B) DUPLICATION.--FEES FOR DUPLICATION BY PHOTOCOPYING, <—
9 PRINTING FROM ELECTRONIC MEDIA OR MICROFILM, COPYING ONTO
10 ELECTRONIC MEDIA, TRANSMISSION BY FACSIMILE OR OTHER ELECTRONIC
11 MEANS AND OTHER MEANS OF DUPLICATION MUST BE REASONABLE AND
12 BASED ON PREVAILING FEES FOR COMPARABLE DUPLICATION SERVICES
13 PROVIDED BY LOCAL BUSINESS ENTITIES.

14 (C) CERTIFICATION.--AN AGENCY MAY IMPOSE REASONABLE FEES FOR
15 OFFICIAL CERTIFICATION OF COPIES IF THE CERTIFICATION IS AT THE
16 BEHEST OF THE REQUESTER AND FOR THE PURPOSE OF LEGALLY VERIFYING
17 THE PUBLIC RECORD. <—

18 (D) CONVERSION TO PAPER.--IF A PUBLIC RECORD IS ONLY
19 MAINTAINED ELECTRONICALLY OR IN OTHER NONPAPER MEDIA,
20 DUPLICATION FEES SHALL BE LIMITED TO THE LESSER OF THE FEE FOR
21 DUPLICATION ON PAPER OR THE FEE FOR DUPLICATION IN THE NATIVE
22 MEDIA AS PROVIDED BY SUBSECTION (B) UNLESS THE REQUESTER <—
23 SPECIFICALLY REQUESTS FOR THE PUBLIC RECORD TO BE DUPLICATED IN
24 THE MORE EXPENSIVE MEDIUM.

25 (E) ENHANCED ELECTRONIC ACCESS.--IF AN AGENCY OFFERS
26 ENHANCED ELECTRONIC ACCESS TO PUBLIC RECORDS IN ADDITION TO
27 MAKING SUCH THE PUBLIC RECORDS ACCESSIBLE FOR INSPECTION AND <—
28 DUPLICATION BY A REQUESTER AS REQUIRED BY THIS ACT, THE AGENCY
29 MAY ESTABLISH USER FEES SPECIFICALLY FOR THE PROVISION OF SUCH <—
30 THE ENHANCED ELECTRONIC ACCESS, BUT ONLY TO THE EXTENT THAT SUCH <—

1 THE ENHANCED ELECTRONIC ACCESS IS IN ADDITION TO MAKING SUCH THE <—
2 PUBLIC RECORDS ACCESSIBLE FOR INSPECTION AND DUPLICATION BY A
3 REQUESTER AS REQUIRED BY THIS ACT. THE USER FEES FOR ENHANCED
4 ELECTRONIC ACCESS MAY BE A FLAT RATE, A SUBSCRIPTION FEE FOR A
5 PERIOD OF TIME, A PER-TRANSACTION FEE, A FEE BASED ON THE
6 CUMULATIVE TIME OF SYSTEM ACCESS OR ANY OTHER REASONABLE METHOD
7 AND ANY COMBINATION THEREOF. THE USER FEES FOR ENHANCED
8 ELECTRONIC ACCESS MUST BE REASONABLE AND MAY NOT BE ESTABLISHED
9 WITH THE INTENT OR EFFECT OF EXCLUDING PERSONS FROM ACCESS TO
10 PUBLIC RECORDS OR DUPLICATES THEREOF OR OF CREATING PROFIT FOR
11 THE AGENCY.

12 (F) WAIVER OF FEES.--AN AGENCY MAY WAIVE THE FEES FOR
13 DUPLICATION OF A PUBLIC RECORD, INCLUDING, BUT NOT LIMITED TO,
14 WHEN:

15 (1) THE REQUESTER DUPLICATES THE PUBLIC RECORD; OR
16 (2) THE AGENCY DEEMS IT IS IN THE PUBLIC INTEREST TO DO
17 SO.

18 (G) LIMITATIONS.--EXCEPT AS OTHERWISE PROVIDED BY STATUTE,
19 NO OTHER FEES MAY BE IMPOSED UNLESS THE AGENCY NECESSARILY
20 INCURS COSTS FOR COMPLYING WITH THE REQUEST, AND SUCH FEES MUST
21 BE REASONABLE. NO FEE MAY BE IMPOSED FOR AN AGENCY'S REVIEW OF A
22 RECORD TO DETERMINE WHETHER THE RECORD IS A PUBLIC RECORD
23 SUBJECT TO ACCESS IN ACCORDANCE WITH THIS ACT. <—

24 ~~(d)~~ (H) Prepayment.--Prior to granting a request for access <—
25 in accordance with this act, an agency may require a requester
26 to prepay an estimate of the fees authorized under this section
27 if the fees required to fulfill the request are expected to
28 exceed \$100.

29 Section 8. Implementation.

30 (a) Requirement.--An agency shall establish written policies

1 and may promulgate regulations necessary to implement this act.

2 (b) Content.--The written policies shall include the name of
3 the office to which requests for access shall be addressed and a
4 list of applicable fees.

5 (c) Prohibition.--A policy or regulation may not include any
6 of the following:

7 (1) A limitation on the number of public records which
8 may be requested or made available under section 2 FOR <—
9 INSPECTION OR DUPLICATION.

10 (2) A requirement to disclose the purpose or motive for <—
11 the request for access. IN REQUESTING ACCESS TO RECORDS WHICH <—
12 ARE PUBLIC RECORDS.

13 (d) Access POSTING.--The policies shall be conspicuously <—
14 posted at the agency and may be made available by electronic
15 means.

16 Section 9. Practice and procedure.

17 The provisions of 2 Pa.C.S. (relating to administrative law
18 and procedure) shall not apply to this act.

19 Section 6 7. If an agency receives a request for a public <—
20 record that is subject to a confidentiality agreement executed
21 before the effective date of this act, the law in effect at the
22 time the agreement was executed, including judicial
23 interpretation of the law, shall govern ~~WHETHER THE RECORD IS A~~ <—
24 ~~PUBLIC RECORD AND~~ access to the RECORD, EVEN IF THE RECORD IS A <—
25 public record unless all parties to the confidentiality
26 agreement agree in writing to be governed by this act.

27 Section 7 8. This act shall take effect in 180 days. <—