2013

1	S.148
2	Introduced by Committee on Judiciary
3	Date:
4	Subject: Public records; criminal investigation records; exemption from
5	disclosure
6	Statement of purpose of bill as introduced: This bill proposes, for purposes of
7	determining when records dealing with the detection and investigation of crime
8	are exempt from disclosure under the Vermont Public Records Act, to adopt a
9	standard nearly identical to the federal Freedom of Information Act standard.
10 11	An act relating to criminal investigation records and the Vermont Public Records Act
12	It is hereby enacted by the General Assembly of the State of Vermont:
13	Sec. 1. 1 V.S.A. § 317 is amended to read:
14	§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND
15	DOCUMENTS
16	* * *
17	(c) The following public records are exempt from public inspection and
18	copying:
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1	(5)(A) records dealing with the detection and investigation of crime,
2	including those maintained on any individual or compiled in the course of a
3	criminal or disciplinary investigation by any police or professional licensing
4	agency; but only to the extent that the production of such records:
5	(i) could reasonably be expected to interfere with enforcement
6	proceedings;
7	(ii) would deprive a person of a right to a fair trial or an impartial
8	adjudication;
9	(iii) could reasonably be expected to constitute an unwarranted
10	invasion of personal privacy;
11	(iv) could reasonably be expected to disclose the identity of a
12	confidential source, including a state, local, or foreign agency or authority or
13	any private institution which furnished information on a confidential basis,
14	and, in the case of a record or information compiled by criminal law
15	enforcement authority in the course of a criminal investigation or by an agency
16	conducting a lawful national security intelligence investigation, information
17	furnished by a confidential source;

(v) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecution if such disclosure could reasonably be expected to risk circumvention of the law;

1	(vi) could reasonably be expected to endanger the life or physical
2	safety of any individual;
3	(vii) would reveal the name of a person who is not the subject of
4	an investigation; or
5	(viii) would reveal information that would facilitate the
6	commission of a crime;
7	(B) provided, however, that Notwithstanding subdivision (A) of this
8	subdivision (5), records relating to management and direction of a law
9	enforcement agency; records reflecting the initial arrest of a person, including
10	any ticket, citation, or complaint issued for a traffic violation, as that term is
11	defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall
12	be public;
13	(C) It is the intent of the General Assembly that in construing
14	subdivision (A) of this subdivision (5), the courts of this State will be guided
15	by the construction of similar terms contained in 5 U.S.C. § 552(b)(7)
16	(Freedom of Information Act) by the courts of the United States;
17	* * *
18	Sec. 2. EFFECTIVE DATE
19	This act shall take effect on passage.