

# SENATE BILL No. 458

May 4, 2005, Introduced by Senators BASHAM, JACOBS, PRUSI, SCOTT and SCHAUER and referred to the Committee on Appropriations.

A bill to amend 1976 PA 442, entitled "Freedom of information act," by amending section 2 (MCL 15.232), as amended by 1996 PA 553; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2. (1) As used in this act:

2       (a) "Field name" means the label or identification of an  
3 element of a computer data base that contains a specific item of  
4 information, and includes but is not limited to a subject heading  
5 such as a column header, data dictionary, or record layout.

6       (b) "FOIA coordinator" means either of the following:

7       (i) An individual who is a public body.

8       (ii) An individual designated by a public body in accordance

1 with section 6 to accept and process requests for public records  
2 under this act.

3 (c) "Person" means an individual, corporation, limited  
4 liability company, partnership, firm, organization, association,  
5 governmental entity, or other legal entity. Person does not include  
6 an individual serving a sentence of imprisonment in a state or  
7 county correctional facility in this state or any other state ~~—~~  
8 or in a federal correctional facility.

9 (d) ~~"Public"~~ **SUBJECT TO SUBSECTION (2), "PUBLIC** body" means  
10 any of the following:

11 (i) A state officer, employee, agency, department, division,  
12 bureau, board, commission, council, authority, or other body in the  
13 executive branch of the state government, but does not include the  
14 governor, ~~or~~ lieutenant governor, **THEIR EMPLOYEES, OR** the  
15 executive office of the governor or lieutenant governor ~~—~~ or  
16 employees ~~thereof~~ **OF THOSE OFFICES.**

17 (ii) An agency, board, commission, or council in the  
18 legislative branch of the state government.

19 (iii) A county, city, township, village, intercounty, intercity,  
20 or regional governing body, council, school district, special  
21 district, or municipal corporation, or a board, department,  
22 commission, council, or agency ~~thereof~~ **OF ANY OF THOSE ENTITIES.**

23 (iv) Any other body ~~which~~ **THAT** is created by state or local  
24 authority or ~~which~~ **THAT** is primarily funded by or through state  
25 or local authority.

26 ~~— (v) The judiciary, including the office of the county clerk~~  
27 ~~and employees thereof when acting in the capacity of clerk to the~~

1 ~~circuit court, is not included in the definition of public body.~~

2 (v) **THE GOVERNING BOARD, OR OTHER DECISION-MAKING BODY**  
3 **RESPONSIBLE FOR IMPLEMENTATION AND SUPERVISION, OF A PUBLIC**  
4 **EMPLOYEE RETIREMENT SYSTEM CREATED OR ESTABLISHED BY THIS STATE OR**  
5 **ANY POLITICAL SUBDIVISION OF THIS STATE.**

6 (e) "Public record" means a writing prepared, owned, used, in  
7 the possession of, or retained by a public body in the performance  
8 of an official function, from the time it is created. Public record  
9 does not include computer software. This act separates public  
10 records into the following 2 classes:

11 (i) ~~These~~ **PUBLIC RECORDS** that are exempt from disclosure  
12 under section 13.

13 (ii) ~~All public~~ **PUBLIC** records that are not exempt from  
14 disclosure under section 13 and ~~which~~ are subject to disclosure  
15 under this act.

16 (f) "Software" means a set of statements or instructions that  
17 when incorporated in a machine usable medium is capable of causing  
18 a machine or device having information processing capabilities to  
19 indicate, perform, or achieve a particular function, task, or  
20 result. Software does not include computer-stored information or  
21 data, or a field name if disclosure of that field name does not  
22 violate a software license.

23 (g) "Unusual circumstances" means any 1 or ~~a combination~~  
24 **MORE** of the following, but only to the extent necessary for the  
25 proper processing of a request:

26 (i) The need to search for, collect, or appropriately examine  
27 or review a voluminous amount of separate and distinct public

1 records pursuant to a single request.

2 (ii) The need to collect the requested public records from  
3 numerous field offices, facilities, or other establishments ~~which~~  
4 **THAT** are located apart from the particular office receiving or  
5 processing the request.

6 (h) "Writing" means handwriting, typewriting, printing,  
7 photostating, photographing, photocopying, and every other means of  
8 recording. ~~—and—~~ **THE TERM** includes letters, words, pictures,  
9 sounds, or symbols, or combinations ~~thereof,—and—~~ **OF THEM. THE**  
10 **TERM INCLUDES** papers, maps, magnetic or paper tapes, photographic  
11 films or prints, microfilm, microfiche, magnetic or punched cards,  
12 discs, drums, or other means of recording or retaining meaningful  
13 content.

14 (i) "Written request" means a writing that asks for  
15 information, and includes a writing transmitted by facsimile,  
16 electronic mail, or other electronic means.

17 **(2) THE JUDICIARY, INCLUDING THE OFFICE AND EMPLOYEES OF THE**  
18 **COUNTY CLERK WHEN ACTING IN THE CAPACITY OF CLERK TO THE CIRCUIT**  
19 **COURT, IS NOT A PUBLIC BODY.**

20 Enacting section 1. Section 201 of the public employee  
21 retirement system investment act, 1965 PA 314, MCL 38.11401, is  
22 repealed.