

HOUSE BILL No. 5478

March 16, 2016, Introduced by Reps. Moss, McBroom, Chatfield, Kivela, Webber, Runestad, Plawecki, Dianda, Lane, Hoadley, Pagan, Irwin, Chang, Somerville, Barrett, LaVoy, Guerra, Darany, Hughes, Brinks, Howrylak, LaGrand, Glenn, Cox, Lyons, Sarah Roberts, Hovey-Wright, Wittenberg, Driskell, Greimel, Price, Townsend, Tedder, Hooker, Howell, Phelps and Lucido and referred to the Committee on Oversight and Ethics.

A bill to amend 1976 PA 442, entitled "Freedom of information act," by amending sections 1 and 2 (MCL 15.231 and 15.232), section 1 as amended by 1997 PA 6 and section 2 as amended by 1996 PA 553, and by designating sections 1 to 16 as part 1.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1
2
3
4
5
6
7
8

PART 1

Sec. 1. (1) This act **MAY BE CITED AS THE "FREEDOM OF INFORMATION AND LEGISLATIVE OPEN RECORDS ACT", AND THIS PART** shall be known and may be cited as the "freedom of information act".

(2) It is the public policy of this state that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who

1 represent them as public officials and public employees, consistent
2 with this act. The people shall be informed so that they may fully
3 participate in the democratic process.

4 Sec. 2. As used in this act: **PART:**

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

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

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

11 (ii) An individual designated by a public body in accordance
12 with section 6 to accept and process requests for public records
13 under this act.

14 (c) "Person" means an individual, corporation, limited
15 liability company, partnership, firm, organization, association,
16 governmental entity, or other legal entity. Person does not include
17 an individual serving a sentence of imprisonment in a state or
18 county correctional facility in this state or any other state, or
19 in a federal correctional facility.

20 (d) "Public body" means any of the following:

21 (i) A state officer, employee, agency, department, division,
22 bureau, board, commission, council, authority, or other body in the
23 executive branch of the state government. ~~but does not include~~
24 ~~the governor or lieutenant governor, the executive office of the~~
25 ~~governor or lieutenant governor, or employees thereof.~~

26 ~~— (ii) An agency, board, commission, or council in the~~
27 ~~legislative branch of the state government.~~

1 (ii) ~~(iii)~~—A county, city, township, village, intercounty,
2 intercity, or regional governing body, council, school district,
3 special district, or municipal corporation, or a board, department,
4 commission, council, or agency thereof.

5 (iii) ~~(iv)~~—Any other body which is created by state or local
6 authority or which is primarily funded by or through state or local
7 authority, —

8 ~~(v) The~~ **EXCEPT THAT IT DOES NOT INCLUDE THE** judiciary,
9 including the office of the county clerk and employees thereof when
10 acting in the capacity of clerk to the circuit court, ~~is not~~
11 ~~included in the definition of public body.~~ **OR AN ENTITY IN THE**
12 **LEGISLATIVE BRANCH OF STATE GOVERNMENT.**

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

18 (i) Those that are exempt from disclosure under section 13.

19 (ii) All public records that are not exempt from disclosure
20 under section 13 and which are subject to disclosure under this
21 act.

22 (f) "Software" means a set of statements or instructions that
23 when incorporated in a machine usable medium is capable of causing
24 a machine or device having information processing capabilities to
25 indicate, perform, or achieve a particular function, task, or
26 result. Software does not include computer-stored information or
27 data, or a field name if disclosure of that field name does not

1 violate a software license.

2 (g) "Unusual circumstances" means any 1 or a combination of
3 the following, but only to the extent necessary for the proper
4 processing of a request:

5 (i) The need to search for, collect, or appropriately examine
6 or review a voluminous amount of separate and distinct public
7 records pursuant to a single request.

8 (ii) The need to collect the requested public records from
9 numerous field offices, facilities, or other establishments which
10 are located apart from the particular office receiving or
11 processing the request.

12 (h) "Writing" means handwriting, typewriting, printing,
13 photostating, photographing, photocopying, and every other means of
14 recording, and includes letters, words, pictures, sounds, or
15 symbols, or combinations thereof, and papers, maps, magnetic or
16 paper tapes, photographic films or prints, microfilm, microfiche,
17 magnetic or punched cards, discs, drums, or other means of
18 recording or retaining meaningful content.

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

22 Enacting section 1. This amendatory act takes effect January
23 1, 2017.

24 Enacting section 2. This amendatory act does not take effect
25 unless Senate Bill No. ____ or House Bill No. 5469 (request no.
26 05429'16) of the 98th Legislature is enacted into law.