

HOUSE BILL No. 5469

March 16, 2016, Introduced by Reps. McBroom, Moss, Chatfield, Kivela, Webber, Runestad, Plawecki, Dianda, Lane, Hoadley, Pagan, Rutledge, Irwin, Chang, Barrett, Somerville, LaVoy, Howrylak, Darany, Brinks, Hughes, LaGrand, Bizon, Glenn, Greimel, Lyons, Sarah Roberts, Hovey-Wright, Cox, Wittenberg, 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,"
(MCL 15.231 to 15.246) by adding part 2.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 2

SEC. 51. (1) THIS PART SHALL BE KNOWN AND MAY BE CITED AS THE
"LEGISLATIVE OPEN RECORDS 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
REPRESENT THEM AS PUBLIC OFFICIALS AND PUBLIC EMPLOYEES, CONSISTENT
WITH THIS PART. THE PEOPLE SHALL BE INFORMED SO THAT THEY MAY FULLY
PARTICIPATE IN THE DEMOCRATIC PROCESS.

SEC. 52. AS USED IN THIS PART:

1 (A) "COUNCIL ADMINISTRATOR" MEANS THE ADMINISTRATOR OF THE
2 LEGISLATIVE COUNCIL APPOINTED UNDER SECTION 104A OF THE LEGISLATIVE
3 COUNCIL ACT, 1986 PA 268, MCL 4.1104A.

4 (B) "LORA" MEANS THE LEGISLATIVE OPEN RECORDS ACT.

5 (C) "LORA COORDINATOR" MEANS EITHER OF THE FOLLOWING:

6 (i) AN INDIVIDUAL WHO IS A PUBLIC BODY.

7 (ii) AN INDIVIDUAL DESIGNATED BY A PUBLIC BODY TO ACCEPT AND
8 PROCESS REQUESTS FOR PUBLIC RECORDS UNDER THIS PART.

9 (D) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, LIMITED
10 LIABILITY COMPANY, PARTNERSHIP, FIRM, ORGANIZATION, ASSOCIATION,
11 GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY. PERSON DOES NOT INCLUDE
12 AN INDIVIDUAL SERVING A SENTENCE OF IMPRISONMENT IN A STATE OR
13 COUNTY CORRECTIONAL FACILITY IN THIS STATE OR ANY OTHER STATE OR IN
14 A FEDERAL CORRECTIONAL FACILITY.

15 (E) "PUBLIC BODY" MEANS A STATE OFFICER, LEGISLATOR, EMPLOYEE,
16 AGENCY, DEPARTMENT, DIVISION, BUREAU, BOARD, COMMISSION, COMMITTEE,
17 COUNCIL, AUTHORITY, OR OTHER BODY IN THE LEGISLATIVE BRANCH OF THE
18 STATE GOVERNMENT.

19 (F) "PUBLIC RECORD" MEANS A WRITING PREPARED, OWNED, USED, IN
20 THE POSSESSION OF, OR RETAINED BY A PUBLIC BODY IN THE PERFORMANCE
21 OF AN OFFICIAL FUNCTION THAT HAS BEEN IN THE POSSESSION OF THE
22 PUBLIC BODY FOR 15 DAYS OR MORE. PUBLIC RECORD DOES NOT INCLUDE
23 COMPUTER SOFTWARE. THIS PART SEPARATES PUBLIC RECORDS INTO THE
24 FOLLOWING 2 CLASSES:

25 (i) THOSE THAT ARE EXEMPT FROM DISCLOSURE UNDER SECTION 59D.

26 (ii) THOSE THAT ARE NOT EXEMPT FROM DISCLOSURE UNDER SECTION
27 59D AND ARE SUBJECT TO DISCLOSURE UNDER THIS PART.

1 (G) "SESSION DAY" MEANS A DAY IN WHICH EITHER THE HOUSE OF
2 REPRESENTATIVES OR THE SENATE CONVENES IN SESSION AND A QUORUM OF
3 THE BODY IS RECORDED.

4 (H) "SOFTWARE" MEANS A SET OF STATEMENTS OR INSTRUCTIONS THAT,
5 WHEN INCORPORATED IN A MACHINE-USABLE MEDIUM, IS CAPABLE OF CAUSING
6 A MACHINE OR DEVICE HAVING INFORMATION-PROCESSING CAPABILITIES TO
7 INDICATE, PERFORM, OR ACHIEVE A PARTICULAR FUNCTION, TASK, OR
8 RESULT. SOFTWARE DOES NOT INCLUDE COMPUTER-STORED INFORMATION OR
9 DATA OR A FIELD NAME IF DISCLOSURE OF THAT FIELD NAME WOULD NOT
10 VIOLATE A SOFTWARE LICENSE.

11 (I) "UNUSUAL CIRCUMSTANCES" MEANS ANY 1 OR A COMBINATION OF
12 THE FOLLOWING, BUT ONLY TO THE EXTENT NECESSARY FOR THE PROPER
13 PROCESSING OF A REQUEST:

14 (i) THE NEED TO SEARCH FOR, COLLECT, OR APPROPRIATELY EXAMINE
15 OR REVIEW A VOLUMINOUS AMOUNT OF SEPARATE AND DISTINCT PUBLIC
16 RECORDS PURSUANT TO A SINGLE REQUEST.

17 (ii) THE NEED TO COLLECT THE REQUESTED PUBLIC RECORDS FROM
18 NUMEROUS OFFICES, FACILITIES, OR OTHER ESTABLISHMENTS.

19 (J) "WRITING" MEANS HANDWRITING, TYPEWRITING, PRINTING,
20 PHOTOSTATING, PHOTOGRAPHING, PHOTOCOPYING, AND EVERY OTHER MEANS OF
21 RECORDING, AND INCLUDES LETTERS, WORDS, PICTURES, SOUNDS, OR
22 SYMBOLS, OR COMBINATIONS THEREOF, AND PAPERS, MAPS, MAGNETIC OR
23 PAPER TAPES, PHOTOGRAPHIC FILMS OR PRINTS, MICROFILM, MICROFICHE,
24 MAGNETIC OR PUNCHED CARDS, DISCS, DRUMS, OR OTHER MEANS OF
25 RECORDING OR RETAINING MEANINGFUL CONTENT.

26 (K) "WRITTEN REQUEST" MEANS A WRITING THAT ASKS FOR
27 INFORMATION AND INCLUDES A WRITING TRANSMITTED BY FACSIMILE,

1 ELECTRONIC MAIL, OR OTHER ELECTRONIC MEANS.

2 SEC. 53. (1) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 59D, UPON
3 PROVIDING A PUBLIC BODY'S LORA COORDINATOR WITH A WRITTEN REQUEST
4 THAT DESCRIBES A PUBLIC RECORD SUFFICIENTLY TO ENABLE THE PUBLIC
5 BODY TO FIND THE PUBLIC RECORD, A PERSON HAS A RIGHT TO INSPECT,
6 COPY, OR RECEIVE COPIES OF THE REQUESTED PUBLIC RECORD OF THE
7 PUBLIC BODY. A PERSON HAS A RIGHT TO SUBSCRIBE TO FUTURE ISSUANCES
8 OF PUBLIC RECORDS THAT ARE CREATED, ISSUED, OR DISSEMINATED ON A
9 REGULAR BASIS. A SUBSCRIPTION SHALL BE VALID FOR UP TO 6 MONTHS, AT
10 THE REQUEST OF THE SUBSCRIBER, AND IS RENEWABLE. AN EMPLOYEE OF A
11 PUBLIC BODY WHO RECEIVES A REQUEST FOR A PUBLIC RECORD SHALL
12 FORWARD THAT REQUEST TO THE LORA COORDINATOR WITHIN 3 BUSINESS
13 DAYS.

14 (2) A LORA COORDINATOR SHALL KEEP A COPY OF ALL WRITTEN
15 REQUESTS FOR PUBLIC RECORDS ON FILE FOR NOT LESS THAN 1 YEAR.

16 (3) A PUBLIC BODY SHALL FURNISH A REQUESTING PERSON A
17 REASONABLE OPPORTUNITY FOR INSPECTION AND EXAMINATION OF ITS PUBLIC
18 RECORDS AND SHALL FURNISH REASONABLE FACILITIES FOR MAKING
19 MEMORANDA OR ABSTRACTS FROM ITS PUBLIC RECORDS DURING THE USUAL
20 BUSINESS HOURS. A PUBLIC BODY MAY MAKE REASONABLE RULES NECESSARY
21 TO PROTECT ITS PUBLIC RECORDS AND TO PREVENT EXCESSIVE AND
22 UNREASONABLE INTERFERENCE WITH THE DISCHARGE OF ITS FUNCTIONS. A
23 PUBLIC BODY SHALL PROTECT PUBLIC RECORDS FROM LOSS, UNAUTHORIZED
24 ALTERATION, MUTILATION, OR DESTRUCTION.

25 (4) THIS PART DOES NOT REQUIRE A PUBLIC BODY TO MAKE A
26 COMPILATION, SUMMARY, OR REPORT OF INFORMATION.

27 (5) THIS PART DOES NOT REQUIRE A PUBLIC BODY TO CREATE A NEW

1 PUBLIC RECORD, EXCEPT TO THE EXTENT REQUIRED BY THIS PART FOR THE
2 FURNISHING OF COPIES, OR EDITED COPIES OF AN EXISTING PUBLIC RECORD
3 UNDER THIS PART.

4 (6) THE CUSTODIAN OF A PUBLIC RECORD SHALL, UPON WRITTEN
5 REQUEST, FURNISH A REQUESTING PERSON A CERTIFIED COPY OF A PUBLIC
6 RECORD.

7 Enacting section 1. This amendatory act takes effect January
8 1, 2017.

9 Enacting section 2. This amendatory act does not take effect
10 unless all of the following bills of the 98th Legislature are
11 enacted into law:

12 (a) Senate Bill No. ____ or House Bill No. 5470 (request no.
13 05430'16).

14 (b) Senate Bill No. ____ or House Bill No. 5471 (request no.
15 05431'16).

16 (c) Senate Bill No. ____ or House Bill No. 5472 (request no.
17 05432'16).

18 (d) Senate Bill No. ____ or House Bill No. 5473 (request no.
19 05433'16).

20 (e) Senate Bill No. ____ or House Bill No. 5475 (request no.
21 05434'16).

22 (f) Senate Bill No. ____ or House Bill No. 5474 (request no.
23 05435'16).

24 (g) Senate Bill No. ____ or House Bill No. 5476 (request no.
25 05436'16).

26 (h) Senate Bill No. ____ or House Bill No. 5478 (request no.
27 05437'16).

1 (i) Senate Bill No. ____ or House Bill No. 5477 (request no.
2 05438'16).