

# HOUSE BILL No. 5475

March 16, 2016, Introduced by Reps. Sheppard, McBroom, Moss, Chatfield, Kivela, Webber, Runestad, Plawecki, Dianda, Lane, Hoadley, Pagan, Rutledge, Irwin, Chang, Barrett, Somerville, LaVoy, Howrylak, Darany, Brinks, Hughes, Bizon, Glenn, Cox, Lyons, Sarah Roberts, Hovey-Wright, Wittenberg, Townsend, Price, 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 sections 59c and 59d.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 59C. (1) THIS PART SHALL NOT BE CONSTRUED TO LIMIT,  
2        MODIFY, WAIVE, OR OTHERWISE AFFECT THE PRIVILEGES AND IMMUNITIES  
3        GUARANTEED UNDER SECTION 11 OF ARTICLE IV OF THE STATE CONSTITUTION  
4        OF 1963.

5        (2) THIS PART DOES NOT CREATE OR IMPLY A PRIVATE CAUSE OF  
6        ACTION FOR A VIOLATION OF THIS PART.

7        SEC. 59D. (1) A PUBLIC BODY MAY EXEMPT FROM DISCLOSURE AS A  
8        PUBLIC RECORD UNDER THIS PART ANY OF THE FOLLOWING:

9        (A) RECORDS OR INFORMATION OF A PERSONAL NATURE IF PUBLIC  
10       DISCLOSURE OF THE INFORMATION WOULD CONSTITUTE A CLEARLY

1 UNWARRANTED INVASION OF AN INDIVIDUAL'S PRIVACY. THAT INFORMATION  
2 INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

3 (i) AN INDIVIDUAL'S SOCIAL SECURITY NUMBER, FINANCIAL  
4 INSTITUTION RECORD, ELECTRONIC FUND NUMBER, DEFERRED COMPENSATION,  
5 SAVINGS BONDS, W-2 AND W-4 FORMS, AND ANY COURT-ENFORCED JUDGMENTS.

6 (ii) AN EMPLOYEE'S HEALTH CARE BENEFIT SELECTION.

7 (iii) UNEMPLOYMENT COMPENSATION AND WORKER'S DISABILITY  
8 COMPENSATION RECORDS.

9 (iv) INTERNET-USE RECORDS.

10 (B) MEDICAL, COUNSELING, OR PSYCHOLOGICAL FACTS OR EVALUATIONS  
11 CONCERNING AN INDIVIDUAL IF THE INDIVIDUAL'S IDENTITY WOULD BE  
12 REVEALED BY A DISCLOSURE OF THOSE FACTS OR EVALUATION, INCLUDING  
13 PROTECTED HEALTH INFORMATION, AS DEFINED IN 45 CFR 160.103.

14 (C) COMMUNICATIONS, INCLUDING ANY RELATED RECORDS OR  
15 INFORMATION, BETWEEN A LEGISLATOR OR A LEGISLATOR'S OFFICE AND A  
16 CONSTITUENT OF THAT LEGISLATOR OTHER THAN A PERSON REQUIRED TO BE  
17 REGISTERED AS A LOBBYIST UNDER 1978 PA 472, MCL 4.411 TO 4.431.

18 (D) COMMUNICATIONS AND NOTES WITHIN A PUBLIC BODY OR BETWEEN  
19 PUBLIC BODIES OF AN ADVISORY NATURE TO THE EXTENT THAT THEY COVER  
20 OTHER THAN PURELY FACTUAL MATERIALS AND ARE PRELIMINARY TO A FINAL  
21 DETERMINATION OF POLICY OR ACTION.

22 (E) RECORDS OR INFORMATION PERTAINING TO AN ONGOING INTERNAL  
23 OR LEGISLATIVE INVESTIGATION.

24 (F) TRADE SECRETS OR COMMERCIAL OR FINANCIAL RECORDS OR  
25 INFORMATION VOLUNTARILY PROVIDED IN CONFIDENCE FOR USE IN  
26 DEVELOPING GOVERNMENTAL POLICY.

27 (G) RECORDS OR INFORMATION SUBJECT TO THE ATTORNEY-CLIENT

1 PRIVILEGE OR ANY OTHER PRIVILEGE RECOGNIZED BY THE CONSTITUTION,  
2 STATUTE, COURT RULE, OR RULES ADOPTED BY A HOUSE OF THE  
3 LEGISLATURE.

4 (H) RECORDS OR INFORMATION RELATING TO A CIVIL ACTION IN WHICH  
5 THE PUBLIC BODY IS A PARTY UNTIL SUCH LITIGATION OR CLAIM HAS BEEN  
6 FINALLY ADJUDICATED OR OTHERWISE SETTLED.

7 (I) RECORDS OR INFORMATION SPECIFICALLY DESCRIBED AND EXEMPTED  
8 FROM DISCLOSURE BY STATUTE.

9 (J) A PUBLIC RECORD OR INFORMATION DESCRIBED IN THIS SECTION,  
10 THAT IS FURNISHED BY THE PUBLIC BODY ORIGINALLY COMPILING,  
11 PREPARING, OR RECEIVING THE RECORD OR INFORMATION TO A PUBLIC  
12 OFFICER OR PUBLIC BODY IN CONNECTION WITH THE PERFORMANCE OF THE  
13 DUTIES OF THAT PUBLIC OFFICER OR PUBLIC BODY, IF THE CONSIDERATIONS  
14 ORIGINALLY GIVING RISE TO THE EXEMPT NATURE OF THE PUBLIC RECORD  
15 REMAIN APPLICABLE.

16 (K) RECORDS OF THE OFFICE OF SERGEANT AT ARMS.

17 (L) RECORDS OF A PUBLIC BODY'S SECURITY MEASURES, INCLUDING  
18 SECURITY PLANS, CAPABILITIES, PROCEDURES, MEASURES, PASSWORDS,  
19 PASSES, KEYS, AND CODES AND COMBINATIONS.

20 (M) A BID OR PROPOSAL BY A PERSON TO ENTER INTO A CONTRACT OR  
21 AGREEMENT, UNTIL THE TIME FOR THE PUBLIC OPENING OF BIDS OR  
22 PROPOSALS, OR IF A PUBLIC OPENING IS NOT TO BE CONDUCTED, UNTIL THE  
23 DEADLINE FOR SUBMISSION OF BIDS OR PROPOSALS HAS EXPIRED.

24 (N) RECORDS THAT WOULD DO ANY OF THE FOLLOWING IF DISCLOSED:

25 (i) INTERFERE WITH LAW ENFORCEMENT PROCEEDINGS.

26 (ii) DEPRIVE A PERSON OF THE RIGHT TO A FAIR TRIAL OR  
27 IMPARTIAL ADMINISTRATIVE ADJUDICATION.

1           (iii) DISCLOSE THE IDENTITY OF A CONFIDENTIAL SOURCE OR  
2 INFORMATION FURNISHED BY A CONFIDENTIAL SOURCE IN THE COURSE OF A  
3 LEGISLATIVE INVESTIGATION.

4           (iv) ENDANGER THE LIFE OR PHYSICAL SAFETY OF ANY INDIVIDUAL.

5           (v) PREJUDICE A PUBLIC BODY'S ABILITY TO MAINTAIN THE SECURITY  
6 OR INTEGRITY OF ITS PROPERTIES OR INFORMATION TECHNOLOGY SYSTEMS.

7           (o) RECORDS CREATED, PREPARED, OWNED, USED, IN THE POSSESSION  
8 OF, OR RETAINED BY A PUBLIC BODY PRIOR TO JANUARY 1, 2017.

9           (p) RECORDS OF THE OFFICE OF THE AUDITOR GENERAL.

10          (q) RECORDS IN THE SOLE CUSTODY OF, OR EXCLUSIVELY MAINTAINED  
11 BY, THE MAJORITY AND MINORITY CAUCUSES OF EACH HOUSE OF THE  
12 LEGISLATURE.

13          (2) THIS PART DOES NOT AUTHORIZE THE WITHHOLDING OF ANY SALARY  
14 RECORD OF AN EMPLOYEE OR OFFICIAL OF A PUBLIC BODY.

15          (3) THIS PART DOES NOT AUTHORIZE THE WITHHOLDING OF A RECORD  
16 OTHERWISE REQUIRED BY LAW TO BE MADE AVAILABLE TO THE PUBLIC.

17          Enacting section 1. This amendatory act takes effect January  
18 1, 2017.

19          Enacting section 2. This amendatory act does not take effect  
20 unless Senate Bill No.\_\_\_\_ or House Bill No. 5469 (request no.  
21 05429'16) of the 98th Legislature is enacted into law.