

# Legislative Analysis



## FOIA & LAW ENFORCEMENT RECORDS MANAGEMENT SYSTEMS

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**Senate Bill 712 as reported from committee w/o amendment**

**Sponsor: Sen. Jim Stamas**

**House Committee: Oversight**

**Senate Committee: Judiciary**

**Complete to 3-5-18**

*(Enacted as Public Act 105 of 2018)*

### SUMMARY:

Senate Bill 712 would amend the Freedom of Information Act (FOIA) to clarify that a public body that maintains a law enforcement records management system is not the holder of records stored on behalf of another public body (e.g., a police department) that is a subscriber to that system.

The Freedom of Information Act provides for dissemination of public records, with some exceptions, upon request to the FOIA coordinator of the pertinent public body.

Senate Bill 712 would add a provision relating to requests for information received by a public body that maintains a law enforcement records management system. Under the bill, ***law enforcement records management system*** would mean a data storage system that may be used voluntarily by subscribers, including any subscribing public bodies, to share information and facilitate intergovernmental collaboration in the provision of law enforcement services.

The bill would clarify that, notwithstanding any other provision of FOIA, the public body that maintains such a records management system, and that stores public records for another public body that subscribes to the system, is storing those records on behalf of the subscribing public body and for purposes of FOIA is not in possession of, retaining, or the custodian of those public records.

If the public body that maintains such a system receives a written request for a public record that it has stored on behalf of a subscribing public body, the body maintaining the management system must give written notice to the person requesting the information, within 10 business days of receipt of the request, identifying the subscribing public body and stating that the request should be submitted to that entity.

### BACKGROUND INFORMATION AND BRIEF DISCUSSION:

Generally speaking, a ***law enforcement records management system*** is a web-based sharing tool used by law enforcement and jail/lockup facilities. Besides sharing certain information related to criminal cases and interfacing with certain national law enforcement databases, a records management system can provide features for evidence and property management, equipment inventory, and fleet management, among other things. Currently,

the Department of State Police (MSP) operates the Statewide Records Management System (SRMS) to which law enforcement agencies around the state can subscribe.

Though the MSP currently houses records in electronic form in the SRMS for subscribing law enforcement agencies, the department feels that it should not be responsible for determining whether a requested document is eligible for public disclosure. For instance, the MSP would not know if a document contained the name of a confidential informant or contained other information required by law to be redacted before being released, or if the requested document was exempted from disclosure under FOIA because the investigation was still open. Senate Bill 712 would simply clarify to readers of the Act that requests for information should be sent directly to the appropriate law enforcement agency and therefore would allow the MSP to forward any requests to that agency.

### **FISCAL IMPACT:**

The bill would have no fiscal impact on the Department of State Police or local law enforcement agencies. Any minor personnel-related costs incurred, resulting from the requirement to contact individuals and entities that have erroneously filed a FOIA request with the incorrect agency and direct them to the correct agency, would likely be covered within an agency's existing budget.

### **POSITIONS:**

A representative of the Department of State Police testified in support of the bill.  
(2-15-18)

The following entities indicated support for the bill (2-15-18):

Michigan Municipal League  
Michigan Association of Chiefs of Police  
Oakland County Sheriff's Office

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Kent Dell

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