

HOUSE BILL No. 4149

February 2, 2017, Introduced by Reps. Moss, Howell, Allor, Alexander, Kahle, Bellino, Griffin, Yaroch, VanderWall, Hoitenga, Hauck, Schor, Faris, Elder, Camilleri, Chatfield, Lucido, Lasinski, Banks, Hammoud, Yanez, Sabo, Greig, Green, Bizon, Marino, Brinks, Jones, Geiss, Barrett, Wittenberg, Liberati, Cox, Tedder, LaGrand, Byrd, Cochran, Zemke, Hertel, Chang, Rabhi, Singh, Howrylak, Hoadley, Hornberger, Glenn, Wentworth, Ellison, Sneller, Lower, Iden, Guerra, Sowerby, Miller, Sheppard, Theis, Gay-Dagnogo, Hughes, Inman, Rendon, Farrington, Greimel, Frederick and LaFave and referred to the Committee on Michigan Competitiveness.

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 part 1.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 1

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

5 (2) It is the public policy of this state that all persons,
6 except those persons incarcerated in state or local correctional
7 facilities, are entitled to full and complete information regarding
8 the affairs of government and the official acts of those who
9 represent them as public officials and public employees, consistent

1 with this act. The people shall be informed so that they may fully
2 participate in the democratic process.

3 Sec. 2. As used in this ~~act~~:**PART**:

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

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

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

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

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

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

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

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

27 (ii) ~~(iii)~~ A county, city, township, village, intercounty,

1 intercity, or regional governing body, council, school district,
 2 special district, or municipal corporation, or a board, department,
 3 commission, council, or agency thereof.

4 **(iii)** ~~(iv)~~ Any other body ~~which~~ **THAT** is created by state or
 5 local authority or ~~which~~ **THAT** is primarily funded by or through
 6 state or local authority, -

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

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

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

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

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

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

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

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

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

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

21 Enacting section 1. This amendatory act takes effect January
22 1, 2019.

23 Enacting section 2. This amendatory act does not take effect
24 unless Senate Bill No. _____ or House Bill No. 4150 (request no.
25 00089'17 *) of the 99th Legislature is enacted into law.