

# HOUSE BILL NO. 4008

January 09, 2019, Introduced by Reps. Guerra, Hauck, Lasinski, Glenn, Schroeder, Berman, Allor and Filler and referred to the Committee on Government Operations.

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 2018 PA 68, and by  
designating part 1.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### PART 1

Sec. 1. (1) This act may be cited as the "freedom of  
information and legislative open records act", and this part shall



1 be known and may be cited as the "freedom of information act".

2 (2) It is the public policy of this state that all persons,  
3 except those persons incarcerated in state or local correctional  
4 facilities, are entitled to full and complete information regarding  
5 the affairs of government and the official acts of those who  
6 represent them as public officials and public employees, consistent  
7 with this act. The people shall be informed so that they may fully  
8 participate in the democratic process.

9 Sec. 2. As used in this ~~act~~**part**:

10 (a) "Cybersecurity assessment" means an investigation  
11 undertaken by a person, governmental body, or other entity to  
12 identify vulnerabilities in cybersecurity plans.

13 (b) "Cybersecurity incident" includes, but is not limited to,  
14 a computer network intrusion or attempted intrusion; a breach of  
15 primary computer network controls; unauthorized access to programs,  
16 data, or information contained in a computer system; or actions by  
17 a third party that materially affect component performance or,  
18 because of impact to component systems, prevent normal computer  
19 system activities.

20 (c) "Cybersecurity plan" includes, but is not limited to,  
21 information about a person's information systems, network security,  
22 encryption, network mapping, access control, passwords,  
23 authentication practices, computer hardware or software, or  
24 response to cybersecurity incidents.

25 (d) "Cybersecurity vulnerability" means a deficiency within  
26 computer hardware or software, or within a computer network or  
27 information system, that could be exploited by unauthorized parties  
28 for use against an individual computer user or a computer network  
29 or information system.



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

(f) "FOIA coordinator" means either of the following:

(i) An individual who is a public body.

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

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

(h) "Public body" means any of the following:

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

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

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

(iii) ~~(iv)~~ Any other body that is created by state or local authority or is primarily funded by or through state or local



1 authority, except that **it does not include** the judiciary, including  
 2 the office of the county clerk and its employees when acting in the  
 3 capacity of clerk to the circuit court, ~~is not included in the~~  
 4 ~~definition of public body.~~**or an entity in the legislative branch of**  
 5 **state government.**

6 (i) "Public record" means a writing prepared, owned, used, in  
 7 the possession of, or retained by a public body in the performance  
 8 of an official function, from the time it is created. Public record  
 9 does not include computer software. This act separates public  
 10 records into the following 2 classes:

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

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

14 (j) "Software" means a set of statements or instructions that  
 15 when incorporated in a machine usable medium is capable of causing  
 16 a machine or device having information processing capabilities to  
 17 indicate, perform, or achieve a particular function, task, or  
 18 result. Software does not include computer-stored information or  
 19 data, or a field name if disclosure of that field name does not  
 20 violate a software license.

21 (k) "Unusual circumstances" means any 1 or a combination of  
 22 the following, but only to the extent necessary for the proper  
 23 processing of a request:

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

27 (ii) The need to collect the requested public records from  
 28 numerous field offices, facilities, or other establishments ~~which~~  
 29 **that** are located apart from the particular office receiving or



1 processing the request.

2 (l) "Writing" means handwriting, typewriting, printing,  
3 photostating, photographing, photocopying, and every other means of  
4 recording, and includes letters, words, pictures, sounds, or  
5 symbols, or combinations thereof, and papers, maps, magnetic or  
6 paper tapes, photographic films or prints, microfilm, microfiche,  
7 magnetic or punched cards, discs, drums, hard drives, solid state  
8 storage components, or other means of recording or retaining  
9 meaningful content.

10 (m) "Written request" means a writing that asks for  
11 information, and includes a writing transmitted by facsimile,  
12 electronic mail, or other electronic means.

13 Enacting section 1. This amendatory act takes effect January  
14 1, 2020.

15 Enacting section 2. This amendatory act does not take effect  
16 unless Senate Bill No. \_\_\_\_ or House Bill No. 4011 (request no.  
17 00015'19 \*) of the 100th Legislature is enacted into law.

