

SENATE BILL NO. 819

January 18, 2022, Introduced by Senators JOHNSON, RUNESTAD, WOZNIAK, THEIS, DALEY, BARRETT, VICTORY, BUMSTEAD, ZORN, HUIZENGA and VANDERWALL and referred to the Committee on Oversight.

A bill to amend 1976 PA 442, entitled
"Freedom of information act,"
by amending section 2 (MCL 15.232), as amended by 2018 PA 68.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Cybersecurity assessment" means an investigation
- 3 undertaken by a person, governmental body, or other entity to
- 4 identify vulnerabilities in cybersecurity plans.
- 5 (b) "Cybersecurity incident" includes, but is not limited to,

1 a computer network intrusion or attempted intrusion; a breach of
2 primary computer network controls; unauthorized access to programs,
3 data, or information contained in a computer system; or actions by
4 a third party that materially affect component performance or,
5 because of impact to component systems, prevent normal computer
6 system activities.

7 (c) "Cybersecurity plan" includes, but is not limited to,
8 information about a person's information systems, network security,
9 encryption, network mapping, access control, passwords,
10 authentication practices, computer hardware or software, or
11 response to cybersecurity incidents.

12 (d) "Cybersecurity vulnerability" means a deficiency within
13 computer hardware or software, or within a computer network or
14 information system, that could be exploited by unauthorized parties
15 for use against an individual computer user or a computer network
16 or information system.

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

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

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

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

26 (g) "Person" means an individual, corporation, limited
27 liability company, partnership, firm, organization, association,
28 governmental entity, or other legal entity. Person does not include
29 an individual serving a sentence of imprisonment in a state or

1 county correctional facility in this state or any other state, or
2 in a federal correctional facility.

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

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

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

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

15 (iv) Any other body that is created by state or local authority
16 or is primarily funded by or through state or local authority,
17 except that **it does not include** the judiciary ~~, including or~~ the
18 office of the county clerk and its employees when acting in the
19 capacity of clerk to the circuit court. ~~, is not included in the~~
20 ~~definition of public body.~~

21 (v) **An art institute services provider that receives proceeds**
22 **of a tax levied under the art institute authorities act, 2010 PA**
23 **296, MCL 123.1201 to 123.1229, or its board or other governing**
24 **body.**

25 (vi) **An accredited zoological institution that receives**
26 **proceeds of a tax levied under the zoological authorities act, 2008**
27 **PA 49, MCL 123.1161 to 123.1183, or its board or other governing**
28 **body.**

29 (i) "Public record" means a writing prepared, owned, used, in

1 the possession of, or retained by a public body in the performance
2 of an official function, from the time it is created. Public record
3 does not include computer software. This act separates public
4 records into the following 2 classes:

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

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

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

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

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

21 (ii) The need to collect the requested public records from
22 numerous field offices, facilities, or other establishments ~~which~~
23 **that** are located apart from the particular office receiving or
24 processing the request.

25 (l) "Writing" means handwriting, typewriting, printing,
26 photostating, photographing, photocopying, and every other means of
27 recording, and includes letters, words, pictures, sounds, or
28 symbols, or combinations thereof, and papers, maps, magnetic or
29 paper tapes, photographic films or prints, microfilm, microfiche,

1 magnetic or punched cards, discs, drums, hard drives, solid state
2 storage components, or other means of recording or retaining
3 meaningful content.

4 (m) "Written request" means a writing that asks for
5 information, and includes a writing transmitted by facsimile,
6 ~~electronic mail, email~~, or other electronic means.