

HOUSE BILL No. 6582

December 4, 2018, Introduced by Reps. Lilly and Faris and referred to the Committee on Elections and Ethics.

A bill to amend 1976 PA 442, entitled "Freedom of information act," by amending sections 3, 4, and 13 (MCL 15.233, 15.234, and 15.243), section 3 as amended by 1996 PA 553, section 4 as amended by 2014 PA 563, and section 13 as amended by 2018 PA 68.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) Except as expressly provided in section 13, upon
 2 providing a public body's FOIA coordinator with a written request
 3 that describes a public record sufficiently to enable the public
 4 body to find the public record, a person has a right to inspect,
 5 copy, or receive copies of the requested public record of the
 6 public body. **A REQUEST FROM A PERSON, OTHER THAN AN INDIVIDUAL WHO**
 7 **QUALIFIES AS INDIGENT UNDER SECTION 4(2)(A), MUST INCLUDE THE**
 8 **REQUESTING PERSON'S COMPLETE NAME, ADDRESS, AND CONTACT**

1 INFORMATION, AND, IF THE REQUEST IS MADE BY A PERSON OTHER THAN AN
2 INDIVIDUAL, THE COMPLETE NAME, ADDRESS, AND CONTACT INFORMATION OF
3 THE PERSON'S AGENT WHO IS AN INDIVIDUAL. AN ADDRESS MUST BE WRITTEN
4 IN COMPLIANCE WITH UNITED STATES POSTAL SERVICE ADDRESSING
5 STANDARDS. CONTACT INFORMATION MUST INCLUDE A VALID TELEPHONE
6 NUMBER OR ELECTRONIC MAIL ADDRESS, OR BOTH. A person has a right to
7 subscribe to future issuances of public records that are created,
8 issued, or disseminated on a regular basis. A subscription ~~shall be~~
9 **IS** valid for up to 6 months, at the request of the subscriber, and
10 ~~shall be~~ **IS** renewable. An employee of a public body who receives a
11 request for a public record shall promptly forward that request to
12 the freedom of information act coordinator.

13 (2) A freedom of information act coordinator shall keep a copy
14 of all written requests for public records on file for no less than
15 1 year.

16 (3) A public body shall furnish a requesting person a
17 reasonable opportunity for inspection and examination of its public
18 records, and shall furnish reasonable facilities for making
19 memoranda or abstracts from its public records during the usual
20 business hours. A public body may make reasonable rules necessary
21 to protect its public records and to prevent excessive and
22 unreasonable interference with the discharge of its functions. A
23 public body shall protect public records from loss, unauthorized
24 alteration, mutilation, or destruction.

25 (4) This act does not require a public body to make a
26 compilation, summary, or report of information, except as required
27 in section 11.

1 (5) This act does not require a public body to create a new
2 public record, except as required in section 11, and to the extent
3 required by this act for the furnishing of copies, or edited copies
4 pursuant to section 14(1), of an already existing public record.

5 (6) The custodian of a public record shall, upon written
6 request, furnish a requesting person a certified copy of a public
7 record.

8 Sec. 4. (1) A public body may charge a fee for a public record
9 search, for the necessary copying of a public record for
10 inspection, or for providing a copy of a public record if it has
11 established, makes publicly available, and follows procedures and
12 guidelines to implement this section as described in subsection
13 (4). Subject to subsections (2), (3), (4), (5), and (9), the fee
14 ~~shall~~**MUST** be limited to actual mailing costs, and to the actual
15 incremental cost of duplication or publication including labor, the
16 cost of search, examination, review, and the deletion and
17 separation of exempt from nonexempt information as provided in
18 section 14. Except as otherwise provided in this act, if the public
19 body estimates or charges a fee in accordance with this act, the
20 total fee ~~shall~~**MUST** not exceed the sum of the following
21 components:

22 (a) That portion of labor costs directly associated with the
23 necessary searching for, locating, and examining of public records
24 in conjunction with receiving and fulfilling a granted written
25 request. The public body shall not charge more than the hourly wage
26 of its lowest-paid employee capable of searching for, locating, and
27 examining the public records in the particular instance regardless

1 of whether that person is available or who actually performs the
2 labor. Labor costs under this subdivision shall be estimated and
3 charged in increments of 15 minutes or more, with all partial time
4 increments rounded down.

5 (b) That portion of labor costs, including necessary review,
6 if any, directly associated with the separating and deleting of
7 exempt information from nonexempt information as provided in
8 section 14. For services performed by an employee of the public
9 body, the public body shall not charge more than the hourly wage of
10 its lowest-paid employee capable of separating and deleting exempt
11 information from nonexempt information in the particular instance
12 as provided in section 14, regardless of whether that person is
13 available or who actually performs the labor. If a public body does
14 not employ a person capable of separating and deleting exempt
15 information from nonexempt information in the particular instance
16 as provided in section 14 as determined by the public body's FOIA
17 coordinator on a case-by-case basis, it may treat necessary
18 contracted labor costs used for the separating and deleting of
19 exempt information from nonexempt information in the same manner as
20 employee labor costs when calculating charges under this
21 subdivision if it clearly notes the name of the contracted person
22 or firm on the detailed itemization described under subsection (4).
23 Total labor costs calculated under this subdivision for contracted
24 labor costs ~~shall~~**MUST** not exceed an amount equal to 6 times the
25 state minimum hourly wage rate determined under section 4 of the
26 ~~workforce opportunity wage act, 2014 PA 138, MCL 408.411 to~~
27 ~~408.424.~~**IMPROVED WORKFORCE OPPORTUNITY WAGE ACT, 2018 PA 337, MCL**

1 **408.934.** Labor costs under this subdivision shall be estimated and
2 charged in increments of 15 minutes or more, with all partial time
3 increments rounded down. A public body shall not charge for labor
4 directly associated with redaction under section 14 if it knows or
5 has reason to know that it previously redacted the public record in
6 question and the redacted version is still in the public body's
7 possession.

8 (c) For public records provided to the requestor on nonpaper
9 physical media, the actual and most reasonably economical cost of
10 the computer discs, computer tapes, or other digital or similar
11 media. The requestor may stipulate that the public records be
12 provided on nonpaper physical media, electronically mailed, or
13 otherwise electronically provided to him or her in lieu of paper
14 copies. This subdivision does not apply if a public body lacks the
15 technological capability necessary to provide records on the
16 particular nonpaper physical media stipulated in the particular
17 instance.

18 (d) For paper copies of public records provided to the
19 requestor, the actual total incremental cost of necessary
20 duplication or publication, not including labor. The cost of paper
21 copies shall be calculated as a total cost per sheet of paper and
22 shall be itemized and noted in a manner that expresses both the
23 cost per sheet and the number of sheets provided. The fee ~~shall~~
24 **MUST** not exceed 10 cents per sheet of paper for copies of public
25 records made on 8-1/2- by 11-inch paper or 8-1/2- by 14-inch paper.
26 A public body shall utilize the most economical means available for
27 making copies of public records, including using double-sided

1 printing, if cost saving and available.

2 (e) The cost of labor directly associated with duplication or
3 publication, including making paper copies, making digital copies,
4 or transferring digital public records to be given to the requestor
5 on nonpaper physical media or through the internet or other
6 electronic means as stipulated by the requestor. The public body
7 shall not charge more than the hourly wage of its lowest-paid
8 employee capable of necessary duplication or publication in the
9 particular instance, regardless of whether that person is available
10 or who actually performs the labor. Labor costs under this
11 subdivision may be estimated and charged in time increments of the
12 public body's choosing; however, all partial time increments shall
13 be rounded down.

14 (f) The actual cost of mailing, if any, for sending the public
15 records in a reasonably economical and justifiable manner. The
16 public body shall not charge more for expedited shipping or
17 insurance unless specifically stipulated by the requestor, but may
18 otherwise charge for the least expensive form of postal delivery
19 confirmation when mailing public records.

20 (2) When calculating labor costs under subsection (1) (a), (b),
21 or (e), fee components shall be itemized in a manner that expresses
22 both the hourly wage and the number of hours charged. The public
23 body may also add up to 50% to the applicable labor charge amount
24 to cover or partially cover the cost of fringe benefits if it
25 clearly notes the percentage multiplier used to account for
26 benefits in the detailed itemization described in subsection (4).
27 Subject to the 50% limitation, the public body shall not charge

1 more than the actual cost of fringe benefits, and overtime wages
2 shall not be used in calculating the cost of fringe benefits.
3 Overtime wages shall not be included in the calculation of labor
4 costs unless overtime is specifically stipulated by the requestor
5 and clearly noted on the detailed itemization described in
6 subsection (4). A search for a public record may be conducted or
7 copies of public records may be furnished without charge or at a
8 reduced charge if the public body determines that a waiver or
9 reduction of the fee is in the public interest because searching
10 for or furnishing copies of the public record can be considered as
11 primarily benefiting the general public. A public record search
12 shall be made and a copy of a public record shall be furnished
13 without charge for the first \$20.00 of the fee for each request by
14 either of the following:

15 (a) An individual who is entitled to information under this
16 act and who submits an affidavit stating that the individual is
17 indigent and receiving specific public assistance or, if not
18 receiving public assistance, stating facts showing inability to pay
19 the cost because of indigency. If the requestor is eligible for a
20 requested discount, the public body shall fully note the discount
21 on the detailed itemization described under subsection (4). If a
22 requestor is ineligible for the discount, the public body shall
23 inform the requestor specifically of the reason for ineligibility
24 in the public body's written response. An individual is ineligible
25 for this fee reduction if any of the following apply:

26 (i) The individual has previously received discounted copies
27 of public records under this subsection from the same public body

1 twice during that calendar year.

2 (ii) The individual requests the information in conjunction
3 with outside parties who are offering or providing payment or other
4 remuneration to the individual to make the request. A public body
5 may require a statement by the requestor in the affidavit that the
6 request is not being made in conjunction with outside parties in
7 exchange for payment or other remuneration.

8 (b) A nonprofit organization formally designated by the state
9 to carry out activities under subtitle C of the developmental
10 disabilities assistance and bill of rights act of 2000, Public Law
11 106-402, and the protection and advocacy for individuals with
12 mental illness act, Public Law 99-319, or their successors, if the
13 request meets all of the following requirements:

14 (i) Is made directly on behalf of the organization or its
15 clients.

16 (ii) Is made for a reason wholly consistent with the mission
17 and provisions of those laws under section 931 of the mental health
18 code, 1974 PA 258, MCL 330.1931.

19 (iii) Is accompanied by documentation of its designation by
20 the state, if requested by the public body.

21 (3) A fee as described in subsection (1) shall not be charged
22 for the cost of search, examination, review, and the deletion and
23 separation of exempt from nonexempt information as provided in
24 section 14 unless failure to charge a fee would result in
25 unreasonably high costs to the public body because of the nature of
26 the request in the particular instance, and the public body
27 specifically identifies the nature of these unreasonably high

1 costs.

2 (4) A public body shall establish procedures and guidelines to
3 implement this act and shall create a written public summary of the
4 specific procedures and guidelines relevant to the general public
5 regarding how to submit written requests to the public body and
6 explaining how to understand a public body's written responses,
7 deposit requirements, fee calculations, and avenues for challenge
8 and appeal. The written public summary shall be written in a manner
9 so as to be easily understood by the general public. If the public
10 body directly or indirectly administers or maintains an official
11 internet presence, it shall post and maintain the procedures and
12 guidelines and its written public summary on its website. A public
13 body shall make the procedures and guidelines publicly available by
14 providing free copies of the procedures and guidelines and its
15 written public summary both in the public body's response to a
16 written request and upon request by visitors at the public body's
17 office. A public body that posts and maintains procedures and
18 guidelines and its written public summary on its website may
19 include the website link to the documents in lieu of providing
20 paper copies in its response to a written request. A public body's
21 procedures and guidelines ~~shall~~**MUST** include the use of a standard
22 form for detailed itemization of any fee amount in its responses to
23 written requests under this act. The detailed itemization ~~shall~~
24 **MUST** clearly list and explain the allowable charges for each of the
25 6 fee components listed under subsection (1) that compose the total
26 fee used for estimating or charging purposes. Other public bodies
27 may use a form created by the department of technology, management,

1 and budget or create a form of their own that complies with this
2 subsection. A public body that has not established procedures and
3 guidelines, has not created a written public summary, or has not
4 made those items publicly available without charge as required in
5 this subsection is not relieved of its duty to comply with any
6 requirement of this act and shall not require deposits or charge
7 fees otherwise permitted under this act until it is in compliance
8 with this subsection. Notwithstanding this subsection and despite
9 any law to the contrary, a public body's procedures and guidelines
10 under this act are not exempt public records under section 13.

11 (5) If the public body directly or indirectly administers or
12 maintains an official internet presence, any public records
13 available to the general public on that internet site at the time
14 the request is made are exempt from any charges under subsection
15 (1) (b). If the FOIA coordinator knows or has reason to know that
16 all or a portion of the requested information is available on its
17 website, the public body shall notify the requestor in its written
18 response that all or a portion of the requested information is
19 available on its website. The written response, to the degree
20 practicable in the specific instance, ~~shall~~ **MUST** include a specific
21 webpage address where the requested information is available. On
22 the detailed itemization described in subsection (4), the public
23 body shall separate the requested public records that are available
24 on its website from those that are not available on the website and
25 shall inform the requestor of the additional charge to receive
26 copies of the public records that are available on its website. If
27 the public body has included the website address for a record in

1 its written response to the requestor and the requestor thereafter
2 stipulates that the public record be provided to him or her in a
3 paper format or other form as described under subsection (1)(c),
4 the public body shall provide the public records in the specified
5 format but may use a fringe benefit multiplier greater than the 50%
6 limitation in subsection (2), not to exceed the actual costs of
7 providing the information in the specified format.

8 (6) A public body may provide requested information available
9 in public records without receipt of a written request.

10 (7) If a verbal request for information is for information
11 that a public body believes is available on the public body's
12 website, the public employee shall, where practicable and to the
13 best of the public employee's knowledge, inform the requestor about
14 the public body's pertinent website address.

15 (8) In either the public body's initial response or subsequent
16 response as described under section 5(2)(d), the public body may
17 require a good-faith deposit from the person requesting information
18 before providing the public records to the requestor if the entire
19 fee estimate or charge authorized under this section exceeds
20 \$50.00, based on a good-faith calculation of the total fee
21 described in subsection (4). Subject to subsection (10), the
22 deposit ~~shall~~**MUST** not exceed 1/2 of the total estimated fee, and a
23 public body's request for a deposit ~~shall~~**MUST** include a detailed
24 itemization as required under subsection (4). The response ~~shall~~
25 **MUST** also contain a best efforts estimate by the public body
26 regarding the time frame it will take the public body to comply
27 with the law in providing the public records to the requestor. The

1 time frame estimate is nonbinding upon the public body, but the
2 public body shall provide the estimate in good faith and strive to
3 be reasonably accurate and to provide the public records in a
4 manner based on this state's public policy under section 1 and the
5 nature of the request in the particular instance. If a public body
6 does not respond in a timely manner as described under section
7 5(2), it is not relieved from its requirements to provide proper
8 fee calculations and time frame estimates in any tardy responses.
9 Providing an estimated time frame does not relieve a public body
10 from any of the other requirements of this act.

11 (9) If a public body does not respond to a written request in
12 a timely manner as required under section 5(2), the public body
13 shall do the following:

14 (a) Reduce the charges for labor costs otherwise permitted
15 under this section by 5% for each day the public body exceeds the
16 time permitted under section 5(2) for a response to the request,
17 with a maximum 50% reduction, if either of the following applies:

18 (i) The late response was willful and intentional.

19 (ii) The written request included language that conveyed a
20 request for information within the first 250 words of the body of a
21 letter, facsimile, electronic mail, or electronic mail attachment,
22 or specifically included the words, characters, or abbreviations
23 for "freedom of information", "information", "FOIA", "copy", or a
24 recognizable misspelling of such, or appropriate legal code
25 reference for this act, on the front of an envelope, or in the
26 subject line of an electronic mail, letter, or facsimile cover
27 page.

1 (b) If a charge reduction is required under subdivision (a),
2 fully note the charge reduction on the detailed itemization
3 described under subsection (4).

4 (10) This section does not apply to public records prepared
5 under an act or statute specifically authorizing the sale of those
6 public records to the public, or if the amount of the fee for
7 providing a copy of the public record is otherwise specifically
8 provided by an act or statute.

9 (11) Subject to subsection (12), after a public body has
10 granted and fulfilled a written request from an individual under
11 this act, if the public body has not been paid in full the total
12 amount under subsection (1) for the copies of public records that
13 the public body made available to the individual as a result of
14 that written request, the public body may require a deposit of up
15 to 100% of the estimated fee before it begins a full public record
16 search for any subsequent written request from that individual if
17 all of the following apply:

18 (a) The final fee for the prior written request was not more
19 than 105% of the estimated fee.

20 (b) The public records made available contained the
21 information being sought in the prior written request and are still
22 in the public body's possession.

23 (c) The public records were made available to the individual,
24 subject to payment, within the time frame estimate described under
25 subsection ~~(7)~~-(8).

26 (d) Ninety days have passed since the public body notified the
27 individual in writing that the public records were available for

1 pickup or mailing.

2 (e) The individual is unable to show proof of prior payment to
3 the public body.

4 (f) The public body calculates a detailed itemization, as
5 required under subsection (4), that is the basis for the current
6 written request's increased estimated fee deposit.

7 (12) A public body shall no longer require an increased
8 estimated fee deposit from an individual as described under
9 subsection (11) if any of the following apply:

10 (a) The individual is able to show proof of prior payment in
11 full to the public body.

12 (b) The public body is subsequently paid in full for the
13 applicable prior written request.

14 (c) Three hundred sixty-five days have passed since the
15 individual made the written request for which full payment was not
16 remitted to the public body.

17 (13) A deposit required by a public body under this act is a
18 fee.

19 **(14) IF A DEPOSIT THAT IS REQUIRED UNDER SUBSECTION (8) OR**
20 **(11) IS NOT RECEIVED BY THE PUBLIC BODY WITHIN 45 DAYS FROM RECEIPT**
21 **BY THE REQUESTING PERSON OF THE NOTICE THAT A DEPOSIT IS REQUIRED,**
22 **AND IF THE REQUESTING PERSON HAS NOT FILED AN APPEAL OF THE DEPOSIT**
23 **AMOUNT PURSUANT TO SECTION 10A, THE REQUEST SHALL BE CONSIDERED**
24 **ABANDONED BY THE REQUESTING PERSON AND THE PUBLIC BODY IS NO LONGER**
25 **REQUIRED TO FULFILL THE REQUEST. NOTICE OF A DEPOSIT REQUIREMENT**
26 **UNDER SUBSECTION (8) OR (11) IS CONSIDERED RECEIVED 3 DAYS AFTER IT**
27 **IS SENT, REGARDLESS OF THE MEANS OF TRANSMISSION. NOTICE OF A**

1 **DEPOSIT REQUIREMENT UNDER SUBSECTION (8) OR (11) MUST INCLUDE**
2 **NOTICE OF THE DATE BY WHICH THE DEPOSIT MUST BE RECEIVED, WHICH**
3 **DATE IS 48 DAYS AFTER THE DATE THE NOTICE IS SENT.**

4 Sec. 13. (1) A public body may exempt from disclosure as a
5 public record under this act any of the following:

6 (a) Information of a personal nature if public disclosure of
7 the information would constitute a clearly unwarranted invasion of
8 an individual's privacy.

9 (b) Investigating records compiled for law enforcement
10 purposes, but only to the extent that disclosure as a public record
11 would do any of the following:

12 (i) Interfere with law enforcement proceedings.

13 (ii) Deprive a person of the right to a fair trial or
14 impartial administrative adjudication.

15 (iii) Constitute an unwarranted invasion of personal privacy.

16 (iv) Disclose the identity of a confidential source, or if the
17 record is compiled by a law enforcement agency in the course of a
18 criminal investigation, disclose confidential information furnished
19 only by a confidential source.

20 (v) Disclose law enforcement investigative techniques or
21 procedures.

22 (vi) Endanger the life or physical safety of law enforcement
23 personnel.

24 (c) A public record that if disclosed would prejudice a public
25 body's ability to maintain the physical security of custodial or
26 penal institutions occupied by persons arrested or convicted of a
27 crime or admitted because of a mental disability, unless the public

1 interest in disclosure under this act outweighs the public interest
2 in nondisclosure.

3 (d) Records or information specifically described and exempted
4 from disclosure by statute.

5 (e) A public record or information described in this section
6 that is furnished by the public body originally compiling,
7 preparing, or receiving the record or information to a public
8 officer or public body in connection with the performance of the
9 duties of that public officer or public body, if the considerations
10 originally giving rise to the exempt nature of the public record
11 remain applicable.

12 (f) Trade secrets or commercial or financial information
13 voluntarily provided to an agency for use in developing
14 governmental policy if:

15 (i) The information is submitted upon a promise of
16 confidentiality by the public body.

17 (ii) The promise of confidentiality is authorized by the chief
18 administrative officer of the public body or by an elected official
19 at the time the promise is made.

20 (iii) A description of the information is recorded by the
21 public body within a reasonable time after it has been submitted,
22 maintained in a central place within the public body, and made
23 available to a person upon request. This subdivision does not apply
24 to information submitted as required by law or as a condition of
25 receiving a governmental contract, license, or other benefit.

26 (g) Information or records subject to the attorney-client
27 privilege.

1 (h) Information or records subject to the physician-patient
2 privilege, the psychologist-patient privilege, the minister,
3 priest, or Christian Science practitioner privilege, or other
4 privilege recognized by statute or court rule.

5 (i) A bid or proposal by a person to enter into a contract or
6 agreement, until the time for the public opening of bids or
7 proposals, or if a public opening is not to be conducted, until the
8 deadline for submission of bids or proposals has expired.

9 (j) Appraisals of real property to be acquired by the public
10 body until either of the following occurs:

11 (i) An agreement is entered into.

12 (ii) Three years have elapsed since the making of the
13 appraisal, unless litigation relative to the acquisition has not
14 yet terminated.

15 (k) Test questions and answers, scoring keys, and other
16 examination instruments or data used to administer a license,
17 public employment, or academic examination, unless the public
18 interest in disclosure under this act outweighs the public interest
19 in nondisclosure.

20 (l) Medical, counseling, or psychological facts or evaluations
21 concerning an individual if the individual's identity would be
22 revealed by a disclosure of those facts or evaluation, including
23 protected health information, as defined in 45 CFR 160.103.

24 (m) Communications and notes within a public body or between
25 public bodies of an advisory nature to the extent that they cover
26 other than purely factual materials and are preliminary to a final
27 agency determination of policy or action. This exemption does not

1 apply unless the public body shows that in the particular instance
2 the public interest in encouraging frank communication between
3 officials and employees of public bodies clearly outweighs the
4 public interest in disclosure. This exemption does not constitute
5 an exemption under state law for purposes of section 8(h) of the
6 open meetings act, 1976 PA 267, MCL 15.268. As used in this
7 subdivision, "determination of policy or action" includes a
8 determination relating to collective bargaining, unless the public
9 record is otherwise required to be made available under 1947 PA
10 336, MCL 423.201 to 423.217.

11 (n) Records of law enforcement communication codes, or plans
12 for deployment of law enforcement personnel, that if disclosed
13 would prejudice a public body's ability to protect the public
14 safety unless the public interest in disclosure under this act
15 outweighs the public interest in nondisclosure in the particular
16 instance.

17 (o) Information that would reveal the exact location of
18 archaeological sites. The department of natural resources may
19 promulgate rules in accordance with the administrative procedures
20 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the
21 disclosure of the location of archaeological sites for purposes
22 relating to the preservation or scientific examination of sites.

23 (p) Testing data developed by a public body in determining
24 whether bidders' products meet the specifications for purchase of
25 those products by the public body, if disclosure of the data would
26 reveal that only 1 bidder has met the specifications. This
27 subdivision does not apply after 1 year has elapsed from the time

1 the public body completes the testing.

2 (q) Academic transcripts of an institution of higher education
3 established under section 5, 6, or 7 of article VIII of the state
4 constitution of 1963, if the transcript pertains to a student who
5 is delinquent in the payment of financial obligations to the
6 institution.

7 (r) Records of a campaign committee including a committee that
8 receives money from a state campaign fund.

9 (s) Unless the public interest in disclosure outweighs the
10 public interest in nondisclosure in the particular instance, public
11 records of a law enforcement agency, the release of which would do
12 any of the following:

13 (i) Identify or provide a means of identifying an informant.

14 (ii) Identify or provide a means of identifying a law
15 enforcement undercover officer or agent or a plain clothes officer
16 as a law enforcement officer or agent.

17 (iii) Disclose the personal address or telephone number of
18 active or retired law enforcement officers or agents or a special
19 skill that they may have.

20 (iv) Disclose the name, address, or telephone numbers of
21 family members, relatives, children, or parents of active or
22 retired law enforcement officers or agents.

23 (v) Disclose operational instructions for law enforcement
24 officers or agents.

25 (vi) Reveal the contents of staff manuals provided for law
26 enforcement officers or agents.

27 (vii) Endanger the life or safety of law enforcement officers

1 or agents or their families, relatives, children, parents, or those
2 who furnish information to law enforcement departments or agencies.

3 (viii) Identify or provide a means of identifying a person as
4 a law enforcement officer, agent, or informant.

5 (ix) Disclose personnel records of law enforcement agencies.

6 (x) Identify or provide a means of identifying residences that
7 law enforcement agencies are requested to check in the absence of
8 their owners or tenants.

9 (t) Except as otherwise provided in this subdivision, records
10 and information pertaining to an investigation or a compliance
11 conference conducted by the department under article 15 of the
12 public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before
13 a complaint is issued. This subdivision does not apply to records
14 or information pertaining to 1 or more of the following:

15 (i) The fact that an allegation has been received and an
16 investigation is being conducted, and the date the allegation was
17 received.

18 (ii) The fact that an allegation was received by the
19 department; the fact that the department did not issue a complaint
20 for the allegation; and the fact that the allegation was dismissed.

21 (u) Records of a public body's security measures, including
22 security plans, security codes and combinations, passwords, passes,
23 keys, and security procedures, to the extent that the records
24 relate to the ongoing security of the public body.

25 (v) Records or information relating to a civil action in which
26 the requesting party and the public body are parties.

27 (w) Information or records that would disclose the ~~social~~

1 ~~security~~**SOCIAL SECURITY** number of an individual.

2 (x) Except as otherwise provided in this subdivision, an
3 application for the position of president of an institution of
4 higher education established under section 4, 5, or 6 of article
5 VIII of the state constitution of 1963, materials submitted with
6 such an application, letters of recommendation or references
7 concerning an applicant, and records or information relating to the
8 process of searching for and selecting an individual for a position
9 described in this subdivision, if the records or information could
10 be used to identify a candidate for the position. However, after 1
11 or more individuals have been identified as finalists for a
12 position described in this subdivision, this subdivision does not
13 apply to a public record described in this subdivision, except a
14 letter of recommendation or reference, to the extent that the
15 public record relates to an individual identified as a finalist for
16 the position.

17 (y) Records or information of measures designed to protect the
18 security or safety of persons or property, or the confidentiality,
19 integrity, or availability of information systems, whether public
20 or private, including, but not limited to, building, public works,
21 and public water supply designs to the extent that those designs
22 relate to the ongoing security measures of a public body,
23 capabilities and plans for responding to a violation of the
24 Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan
25 penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency
26 response plans, risk planning documents, threat assessments,
27 domestic preparedness strategies, and cybersecurity plans,

1 assessments, or vulnerabilities, unless disclosure would not impair
2 a public body's ability to protect the security or safety of
3 persons or property or unless the public interest in disclosure
4 outweighs the public interest in nondisclosure in the particular
5 instance.

6 (z) Information that would identify or provide a means of
7 identifying a person that may, as a result of disclosure of the
8 information, become a victim of a cybersecurity incident or that
9 would disclose a person's cybersecurity plans or cybersecurity-
10 related practices, procedures, methods, results, organizational
11 information system infrastructure, hardware, or software.

12 (aa) Research data on road and attendant infrastructure
13 collected, measured, recorded, processed, or disseminated by a
14 public agency or private entity, or information about software or
15 hardware created or used by the private entity for such purposes.

16 **(BB) A PERSON'S MANUAL OR ELECTRONIC SIGNATURE.**

17 (2) A public body shall exempt from disclosure information
18 that, if released, would prevent the public body from complying
19 with 20 USC 1232g, commonly referred to as the family educational
20 rights and privacy act of 1974. A public body that is a local or
21 intermediate school district or a public school academy shall
22 exempt from disclosure directory information, as defined by 20 USC
23 1232g, commonly referred to as the family educational rights and
24 privacy act of 1974, requested for the purpose of surveys,
25 marketing, or solicitation, unless that public body determines that
26 the use is consistent with the educational mission of the public
27 body and beneficial to the affected students. A public body that is

1 a local or intermediate school district or a public school academy
2 may take steps to ensure that directory information disclosed under
3 this subsection ~~shall~~**IS** not ~~be~~ used, rented, or sold for the
4 purpose of surveys, marketing, or solicitation. Before disclosing
5 the directory information, a public body that is a local or
6 intermediate school district or a public school academy may require
7 the requester to execute an affidavit stating that directory
8 information provided under this subsection ~~shall~~**WILL** not be used,
9 rented, or sold for the purpose of surveys, marketing, or
10 solicitation.

11 (3) This act does not authorize the withholding of information
12 otherwise required by law to be made available to the public or to
13 a party in a contested case under the administrative procedures act
14 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

15 (4) Except as otherwise exempt under subsection (1), this act
16 does not authorize the withholding of a public record in the
17 possession of the executive office of the governor or lieutenant
18 governor, or an employee of either executive office, if the public
19 record is transferred to the executive office of the governor or
20 lieutenant governor, or an employee of either executive office,
21 after a request for the public record has been received by a state
22 officer, employee, agency, department, division, bureau, board,
23 commission, council, authority, or other body in the executive
24 branch of government that is subject to this act.