

# SENATE BILL NO. 224

March 21, 2023, Introduced by Senator RUNESTAD and referred to the Committee on Elections and Ethics.

A bill to amend 1976 PA 442, entitled "Freedom of information act," by amending sections 1, 2, 3, 4, 5, 6, 10, 10a, 10b, and 13 (MCL 15.231, 15.232, 15.233, 15.234, 15.235, 15.236, 15.240, 15.240a, 15.240b, and 15.243), section 1 as amended by 1997 PA 6, section 2 as amended by 2018 PA 68, section 3 as amended by 2018 PA 523, section 4 as amended by 2020 PA 38, section 5 as amended by 2020 PA 36, section 6 as amended by 1996 PA 553, section 10 as amended and sections 10a and 10b as added by 2014 PA 563, and section 13 as

amended by 2021 PA 33, by designating sections 1 to 16 as part 1, and by adding part 2.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1

**PART 1**

2

Sec. 1. (1) This act ~~shall be known and may be cited as the~~  
**"freedom of information and legislative open records act", and this**  
 4 **part** 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  
 10 with this act. The people shall be informed so that they may fully  
 11 participate in the democratic process.

12

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

13

14

15

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

16

17

18

19

20

21

22

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

23

24

25

26

(c) "Cybersecurity plan" includes, but is not limited to,  
 information about a person's information systems, network security,  
 encryption, network mapping, access control, passwords,  
 authentication practices, computer hardware or software, or

1 response to cybersecurity incidents.

2 (d) "Cybersecurity vulnerability" means a deficiency within  
3 computer hardware or software, or within a computer network or  
4 information system, that could be exploited by unauthorized parties  
5 for use against an individual computer user or a computer network  
6 or information system.

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

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

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

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

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

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

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

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

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

5           (iii) ~~(iv)~~—Any other body that is created by state or local  
6 authority or is primarily funded by or through state or local  
7 authority, except that **it does not include** the judiciary, including  
8 the office of the county clerk and its employees when acting in the  
9 capacity of clerk to the circuit court, ~~is not included in the~~  
10 ~~definition of public body.~~**or an entity in the legislative branch of**  
11 **state government.**

12           (i) "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~~**-part** 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 that are subject to disclosure under this  
20 ~~act~~**-part.**

21           (j) "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.

28           (k) "Unusual circumstances" means any 1 or a combination of  
29 the following, but only to the extent necessary for the proper

1 processing of a request:

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

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

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

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

20 Sec. 3. (1) Except as expressly provided in section 13, upon  
21 providing a public body's FOIA coordinator with a written request  
22 that describes a public record sufficiently to enable the public  
23 body to find the public record, a person has a right to inspect,  
24 copy, or receive copies of the requested public record of the  
25 public body. A request from a person, other than an individual who  
26 qualifies as indigent under section 4(2)(a), must include the  
27 requesting person's complete name, address, and contact  
28 information, and, if the request is made by a person other than an  
29 individual, the complete name, address, and contact information of

1 the person's agent who is an individual. An address must be written  
2 in compliance with United States Postal Service addressing  
3 standards. Contact information must include a valid telephone  
4 number or ~~electronic mail~~ **email** address. ~~A~~ **Except as to the**  
5 **executive office of the governor or lieutenant governor, a** person  
6 has a right to subscribe to future issuances of public records that  
7 are created, issued, or disseminated on a regular basis. A  
8 subscription is valid for up to 6 months, at the request of the  
9 subscriber, and is renewable. An employee of a public body who  
10 receives a request for a public record shall promptly forward that  
11 request to the freedom of information act coordinator.

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

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

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

27 (5) This ~~act~~ **part** does not require a public body to create a  
28 new public record, except as required in section 11, and to the  
29 extent required by this ~~act~~ **part** for the furnishing of copies, or

1 edited copies pursuant to section 14(1), of an already existing  
2 public record.

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

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

20 (a) That portion of labor costs directly associated with the  
21 necessary searching for, locating, and examining of public records  
22 in conjunction with receiving and fulfilling a granted written  
23 request. The public body shall not charge more than the hourly wage  
24 of its lowest-paid employee capable of searching for, locating, and  
25 examining the public records in the particular instance regardless  
26 of whether that person is available or who actually performs the  
27 labor. Labor costs under this subdivision shall be estimated and  
28 charged in increments of 15 minutes or more, with all partial time  
29 increments rounded down.

1 (b) That portion of labor costs, including necessary review,  
2 if any, directly associated with the separating and deleting of  
3 exempt information from nonexempt information as provided in  
4 section 14. For services performed by an employee of the public  
5 body, the public body shall not charge more than the hourly wage of  
6 its lowest-paid employee capable of separating and deleting exempt  
7 information from nonexempt information in the particular instance  
8 as provided in section 14, regardless of whether that person is  
9 available or who actually performs the labor. If a public body does  
10 not employ a person capable of separating and deleting exempt  
11 information from nonexempt information in the particular instance  
12 as provided in section 14 as determined by the public body's FOIA  
13 coordinator on a case-by-case basis, it may treat necessary  
14 contracted labor costs used for the separating and deleting of  
15 exempt information from nonexempt information in the same manner as  
16 employee labor costs when calculating charges under this  
17 subdivision if it clearly notes the name of the contracted person  
18 or firm on the detailed itemization described under subsection (4).  
19 Total labor costs calculated under this subdivision for contracted  
20 labor costs must not exceed an amount equal to 6 times the state  
21 minimum hourly wage rate determined under section 4 of the improved  
22 workforce opportunity wage act, 2018 PA 337, MCL 408.934. Labor  
23 costs under this subdivision shall be estimated and charged in  
24 increments of 15 minutes or more, with all partial time increments  
25 rounded down. A public body shall not charge for labor directly  
26 associated with redaction under section 14 if it knows or has  
27 reason to know that it previously redacted the public record in  
28 question and the redacted version is still in the public body's  
29 possession.



1 (c) For public records provided to the requestor on any form  
2 of nonpaper physical media, the actual and most reasonably  
3 economical cost of the nonpaper physical media. The requestor may  
4 stipulate that the public records be provided on nonpaper physical  
5 media, ~~electronically mailed,~~ **emailed**, or otherwise electronically  
6 provided to ~~him or her~~ **the requestor** in lieu of paper copies. This  
7 subdivision does not apply if a public body lacks the technological  
8 capability necessary to provide records on the particular nonpaper  
9 physical media stipulated in the particular instance.

10 (d) For paper copies of public records provided to the  
11 requestor, the actual total incremental cost of necessary  
12 duplication or publication, not including labor. The cost of paper  
13 copies shall be calculated as a total cost per sheet of paper and  
14 shall be itemized and noted in a manner that expresses both the  
15 cost per sheet and the number of sheets provided. The fee must not  
16 exceed 10 cents per sheet of paper for copies of public records  
17 made on 8-1/2- by 11-inch paper or 8-1/2- by 14-inch paper. A  
18 public body shall utilize the most economical means available for  
19 making copies of public records, including using double-sided  
20 printing, if cost saving and available.

21 (e) The cost of labor directly associated with duplication or  
22 publication, including making paper copies, making digital copies,  
23 or transferring digital public records to be given to the requestor  
24 on nonpaper physical media or through the internet or other  
25 electronic means as stipulated by the requestor. The public body  
26 shall not charge more than the hourly wage of its lowest-paid  
27 employee capable of necessary duplication or publication in the  
28 particular instance, regardless of whether that person is available  
29 or who actually performs the labor. Labor costs under this

1 subdivision may be estimated and charged in time increments of the  
2 public body's choosing; however, all partial time increments shall  
3 be rounded down.

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

10 (2) When calculating labor costs under subsection (1)(a), (b),  
11 or (e), fee components shall be itemized in a manner that expresses  
12 both the hourly wage and the number of hours charged. The public  
13 body may also add up to 50% to the applicable labor charge amount  
14 to cover or partially cover the cost of fringe benefits if it  
15 clearly notes the percentage multiplier used to account for  
16 benefits in the detailed itemization described in subsection (4).  
17 Subject to the 50% limitation, the public body shall not charge  
18 more than the actual cost of fringe benefits, and overtime wages  
19 shall not be used in calculating the cost of fringe benefits.  
20 Overtime wages shall not be included in the calculation of labor  
21 costs unless overtime is specifically stipulated by the requestor  
22 and clearly noted on the detailed itemization described in  
23 subsection (4). A search for a public record may be conducted or  
24 copies of public records may be furnished without charge or at a  
25 reduced charge if the public body determines that a waiver or  
26 reduction of the fee is in the public interest because searching  
27 for or furnishing copies of the public record can be considered as  
28 primarily benefiting the general public. A public record search  
29 shall be made and a copy of a public record shall be furnished

1 without charge for the first \$20.00 of the fee for each request by  
2 either of the following:

3 (a) An individual who is entitled to information under this  
4 ~~act~~**part** and who submits an affidavit stating that the individual  
5 is indigent and receiving specific public assistance or, if not  
6 receiving public assistance, stating facts showing inability to pay  
7 the cost because of indigency. If the requestor is eligible for a  
8 requested discount, the public body shall fully note the discount  
9 on the detailed itemization described under subsection (4). If a  
10 requestor is ineligible for the discount, the public body shall  
11 inform the requestor specifically of the reason for ineligibility  
12 in the public body's written response. An individual is ineligible  
13 for this fee reduction if any of the following apply:

14 (i) The individual has previously received discounted copies of  
15 public records under this subsection from the same public body  
16 twice during that calendar year.

17 (ii) The individual requests the information in conjunction  
18 with outside parties who are offering or providing payment or other  
19 remuneration to the individual to make the request. A public body  
20 may require a statement by the requestor in the affidavit that the  
21 request is not being made in conjunction with outside parties in  
22 exchange for payment or other remuneration.

23 (b) A nonprofit organization formally designated by the state  
24 to carry out activities under subtitle C of the developmental  
25 disabilities assistance and bill of rights act of 2000, Public Law  
26 106-402, and the protection and advocacy for individuals with  
27 mental illness act, Public Law 99-319, or their successors, if the  
28 request meets all of the following requirements:

29 (i) Is made directly on behalf of the organization or its

1 clients.

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

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

7 (3) A fee as described in subsection (1) shall not be charged  
8 for the cost of search, examination, review, and the deletion and  
9 separation of exempt from nonexempt information as provided in  
10 section 14 unless failure to charge a fee would result in  
11 unreasonably high costs to the public body because of the nature of  
12 the request in the particular instance, and the public body  
13 specifically identifies the nature of these unreasonably high  
14 costs.

15 (4) A public body shall establish procedures and guidelines to  
16 implement this ~~act-part~~ and shall create a written public summary  
17 of the specific procedures and guidelines relevant to the general  
18 public regarding how to submit written requests to the public body  
19 and explaining how to understand a public body's written responses,  
20 deposit requirements, fee calculations, and avenues for challenge  
21 and appeal. The written public summary shall be written in a manner  
22 so as to be easily understood by the general public. If the public  
23 body directly or indirectly administers or maintains an official  
24 internet presence, it shall post and maintain the procedures and  
25 guidelines and its written public summary on its website. A public  
26 body shall make the procedures and guidelines publicly available by  
27 providing free copies of the procedures and guidelines and its  
28 written public summary both in the public body's response to a  
29 written request and upon request by visitors at the public body's

1 office. A public body that posts and maintains procedures and  
2 guidelines and its written public summary on its website may  
3 include the website link to the documents in lieu of providing  
4 paper copies in its response to a written request. A public body's  
5 procedures and guidelines must include the use of a standard form  
6 for detailed itemization of any fee amount in its responses to  
7 written requests under this ~~act~~-**part**. The detailed itemization  
8 must clearly list and explain the allowable charges for each of the  
9 6 fee components listed under subsection (1) that compose the total  
10 fee used for estimating or charging purposes. Other public bodies  
11 may use a form created by the department of technology, management,  
12 and budget or create a form of their own that complies with this  
13 subsection. A public body that has not established procedures and  
14 guidelines, has not created a written public summary, or has not  
15 made those items publicly available without charge as required in  
16 this subsection is not relieved of its duty to comply with any  
17 requirement of this ~~act~~-**part** and shall not require deposits or  
18 charge fees otherwise permitted under this ~~act~~-**part** until it is in  
19 compliance with this subsection. Notwithstanding this subsection  
20 and despite any law to the contrary, a public body's procedures and  
21 guidelines under this ~~act~~-**part** are not exempt public records under  
22 section 13.

23 (5) If the public body directly or indirectly administers or  
24 maintains an official internet presence, any public records  
25 available to the general public on that internet site at the time  
26 the request is made are exempt from any charges under subsection  
27 (1)(b). If the FOIA coordinator knows or has reason to know that  
28 all or a portion of the requested information is available on its  
29 website, the public body shall notify the requestor in its written

1 response that all or a portion of the requested information is  
2 available on its website. The written response, to the degree  
3 practicable in the specific instance, must include a specific  
4 webpage address where the requested information is available. On  
5 the detailed itemization described in subsection (4), the public  
6 body shall separate the requested public records that are available  
7 on its website from those that are not available on the website and  
8 shall inform the requestor of the additional charge to receive  
9 copies of the public records that are available on its website. If  
10 the public body has included the website address for a record in  
11 its written response to the requestor and the requestor thereafter  
12 stipulates that the public record be provided to ~~him or her~~ **the**  
13 **requestor** in a paper format or other form as described under  
14 subsection (1)(c), the public body shall provide the public records  
15 in the specified format but may use a fringe benefit multiplier  
16 greater than the 50% limitation in subsection (2), not to exceed  
17 the actual costs of providing the information in the specified  
18 format.

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

21 (7) If a verbal request for information is for information  
22 that a public body believes is available on the public body's  
23 website, the public employee shall, where practicable and to the  
24 best of the public employee's knowledge, inform the requestor about  
25 the public body's pertinent website address.

26 (8) In either the public body's initial response or subsequent  
27 response as described under section 5(2)(d), the public body may  
28 require a good-faith deposit from the person requesting information  
29 before providing the public records to the requestor if the entire

1 fee estimate or charge authorized under this section exceeds  
2 \$50.00, based on a good-faith calculation of the total fee  
3 described in subsection (4). Subject to subsection (10), the  
4 deposit must not exceed 1/2 of the total estimated fee, and a  
5 public body's request for a deposit must include a detailed  
6 itemization as required under subsection (4). The response must  
7 also contain a best efforts estimate by the public body regarding  
8 the time frame it will take the public body to comply with the law  
9 in providing the public records to the requestor. The time frame  
10 estimate is nonbinding upon the public body, but the public body  
11 shall provide the estimate in good faith and strive to be  
12 reasonably accurate and to provide the public records in a manner  
13 based on this state's public policy under section 1 and the nature  
14 of the request in the particular instance. If a public body does  
15 not respond in a timely manner as described under section 5(2), it  
16 is not relieved from its requirements to provide proper fee  
17 calculations and time frame estimates in any tardy responses.  
18 Providing an estimated time frame does not relieve a public body  
19 from any of the other requirements of this ~~act~~**part**.

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

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

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

28 (ii) The written request included language that conveyed a  
29 request for information within the first 250 words of the body of a

1 letter, facsimile, ~~electronic mail, email~~, or ~~electronic mail-email~~  
2 attachment, or specifically included the words, characters, or  
3 abbreviations for "freedom of information", "information", "FOIA",  
4 "copy", or a recognizable misspelling of such, or appropriate legal  
5 code reference for this ~~act, part~~, on the front of an envelope, or  
6 in the subject line of an ~~electronic mail, email~~, letter, or  
7 facsimile cover page.

8 (b) If a charge reduction is required under subdivision (a),  
9 fully note the charge reduction on the detailed itemization  
10 described under subsection (4).

11 (10) This section does not apply to public records prepared  
12 under an act or statute specifically authorizing the sale of those  
13 public records to the public, or if the amount of the fee for  
14 providing a copy of the public record is otherwise specifically  
15 provided by an act or statute.

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

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

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



1 (c) The public records were made available to the individual,  
2 subject to payment, within the time frame estimate described under  
3 subsection (8).

4 (d) Ninety days have passed since the public body notified the  
5 individual in writing that the public records were available for  
6 pickup or mailing.

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

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

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

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

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

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

22 (13) A deposit required by a public body under this ~~act~~**part**  
23 is a fee.

24 (14) If a deposit that is required under subsection (8) or  
25 (11) is not received by the public body within 45 days from receipt  
26 by the requesting person of the notice that a deposit is required,  
27 and if the requesting person has not filed an appeal of the deposit  
28 amount pursuant to section 10a, the request shall be considered  
29 abandoned by the requesting person and the public body is no longer

1 required to fulfill the request. Notice of a deposit requirement  
2 under subsection (8) or (11) is considered received 3 days after it  
3 is sent, regardless of the means of transmission. Notice of a  
4 deposit requirement under subsection (8) or (11) must include  
5 notice of the date by which the deposit must be received, which  
6 date is 48 days after the date the notice is sent.

7       Sec. 5. (1) Except as provided in section 3, a person desiring  
8 to inspect or receive a copy of a public record shall make a  
9 written request for the public record to the FOIA coordinator of a  
10 public body. A written request made by facsimile, ~~electronic mail,~~  
11 **email**, or other electronic transmission is not received by a public  
12 body's FOIA coordinator until 1 business day after the electronic  
13 transmission is made. However, if a written request is sent by  
14 ~~electronic mail~~**email** and delivered to the public body's spam or  
15 junk-mail folder, the request is not received until 1 day after the  
16 public body first becomes aware of the written request. The public  
17 body shall note in its records both the time a written request is  
18 delivered to its spam or junk-mail folder and the time the public  
19 body first becomes aware of that request.

20       (2) Unless otherwise agreed to in writing by the person making  
21 the request, a public body shall, subject to subsection (10),  
22 respond to a request for a public record within 5 business days  
23 after the public body receives the request by doing 1 of the  
24 following:

25       (a) Granting the request.

26       (b) Issuing a written notice to the requesting person denying  
27 the request.

28       (c) Granting the request in part and issuing a written notice  
29 to the requesting person denying the request in part.

1 (d) Issuing a notice extending for not more than 10 business  
2 days the period during which the public body shall respond to the  
3 request. A public body shall not issue more than 1 notice of  
4 extension for a particular request.

5 (3) Failure to respond to a request under subsection (2)  
6 constitutes a public body's final determination to deny the request  
7 if either of the following applies:

8 (a) The failure was willful and intentional.

9 (b) The written request included language that conveyed a  
10 request for information within the first 250 words of the body of a  
11 letter, facsimile, ~~electronic mail, email~~, or ~~electronic mail email~~  
12 attachment, or specifically included the words, characters, or  
13 abbreviations for "freedom of information", "information", "FOIA",  
14 "copy", or a recognizable misspelling of such, or appropriate legal  
15 code reference to this ~~act, part~~, on the front of an envelope or in  
16 the subject line of an ~~electronic mail, email~~, letter, or facsimile  
17 cover page.

18 (4) In a civil action to compel a public body's disclosure of  
19 a public record under section 10, the court shall assess damages  
20 against the public body under section 10(7) if the court has done  
21 both of the following:

22 (a) Determined that the public body has not complied with  
23 subsection (2).

24 (b) Ordered the public body to disclose or provide copies of  
25 all or a portion of the public record.

26 (5) A written notice denying a request for a public record in  
27 whole or in part is a public body's final determination to deny the  
28 request or portion of that request. The written notice must  
29 contain:

1 (a) An explanation of the basis under this ~~act~~**part** or other  
2 statute for the determination that the public record, or portion of  
3 that public record, is exempt from disclosure, if that is the  
4 reason for denying all or a portion of the request.

5 (b) A certificate that the public record does not exist under  
6 the name given by the ~~requester~~**requestor** or by another name  
7 reasonably known to the public body, if that is the reason for  
8 denying the request or a portion of the request.

9 (c) A description of a public record or information on a  
10 public record that is separated or deleted under section 14, if a  
11 separation or deletion is made.

12 (d) A full explanation of the requesting person's right to do  
13 either of the following:

14 (i) Submit to the head of the public body a written appeal that  
15 specifically states the word "appeal" and identifies the reason or  
16 reasons for reversal of the disclosure denial.

17 (ii) Seek judicial review of the denial under section 10.

18 (e) Notice of the right to receive attorneys' fees and damages  
19 as provided in section 10 if, after judicial review, the court  
20 determines that the public body has not complied with this section  
21 and orders disclosure of all or a portion of a public record.

22 (6) The individual designated in section 6 as responsible for  
23 the denial of the request shall sign the written notice of denial.

24 (7) If a public body issues a notice extending the period for  
25 a response to the request, the notice must specify the reasons for  
26 the extension and the date by which the public body will do 1 of  
27 the following:

28 (a) Grant the request.

29 (b) Issue a written notice to the requesting person denying

1 the request.

2 (c) Grant the request in part and issue a written notice to  
3 the requesting person denying the request in part.

4 (8) If a public body makes a final determination to deny in  
5 whole or in part a request to inspect or receive a copy of a public  
6 record or portion of that public record, the requesting person may  
7 do either of the following:

8 (a) Appeal the denial to the head of the public body under  
9 section 10.

10 (b) Commence a civil action, under section 10.

11 (9) Notwithstanding any other provision of this ~~act~~**part** to  
12 the contrary, a public body that maintains a law enforcement  
13 records management system and stores public records for another  
14 public body that subscribes to the law enforcement records  
15 management system is not in possession of, retaining, or the  
16 custodian of, a public record stored on behalf of the subscribing  
17 public body. If the public body that maintains a law enforcement  
18 records management system receives a written request for a public  
19 record that is stored on behalf of a subscribing public body, the  
20 public body that maintains the law enforcement records management  
21 system shall, within 10 business days after receipt of the request,  
22 give written notice to the requesting person identifying the  
23 subscribing public body and stating that the requesting person  
24 shall submit the request to the subscribing public body. As used in  
25 this subsection, "law enforcement records management system" means  
26 a data storage system that may be used voluntarily by subscribers,  
27 including any subscribing public bodies, to share information and  
28 facilitate intergovernmental collaboration in the provision of law  
29 enforcement services.

1 (10) A person making a request under subsection (1) may  
 2 stipulate that the public body's response under subsection (2) be  
 3 electronically mailed, delivered by facsimile, or delivered by  
 4 first-class mail. This subsection does not apply if the public body  
 5 lacks the technological capability to provide an electronically  
 6 mailed response.

7 Sec. 6. (1) A public body that is a city, village, township,  
 8 county, or state department, or under the control of a city,  
 9 village, township, county, or state department, shall designate an  
 10 individual as the public body's FOIA coordinator. The FOIA  
 11 coordinator shall ~~be responsible for accepting and processing~~  
 12 **accept and process** requests for the public body's public records  
 13 under this ~~act~~ **part** and shall ~~be responsible for approving a~~  
 14 **approve any** denial under section ~~5(4) and (5)~~. **5(5) and (6)**. In a  
 15 county not having an executive form of government, the chairperson  
 16 of the county board of commissioners is designated the FOIA  
 17 coordinator for that county.

18 (2) For all other public bodies, the chief administrative  
 19 officer of the respective public body is designated the public  
 20 body's FOIA coordinator.

21 (3) ~~An~~ **A** FOIA coordinator may designate another individual to  
 22 act on ~~his or her~~ **the FOIA coordinator's** behalf in accepting and  
 23 processing requests for the public body's public records, and in  
 24 approving a denial under section ~~5(4) and (5)~~. **5(5) and (6)**.

25 Sec. 10. (1) If a public body makes a final determination to  
 26 deny all or a portion of a request, the requesting person may do ~~±~~  
 27 **either** of the following: ~~at his or her option:~~

28 (a) Submit to the head of the public body a written appeal  
 29 that specifically states the word "appeal" and identifies the

1 reason or reasons for reversal of the denial.

2 (b) Commence a civil action in the circuit court, or if the  
3 decision of a state public body is at issue, the court of claims,  
4 to compel the public body's disclosure of the public records within  
5 180 days after ~~a~~**the** public body's final determination to deny a  
6 request.

7 (2) Within 10 business days after receiving a written appeal  
8 pursuant to subsection (1)(a), the head of a public body shall do 1  
9 of the following:

10 (a) Reverse the disclosure denial.

11 (b) Issue a written notice to the requesting person upholding  
12 the disclosure denial.

13 (c) Reverse the disclosure denial in part and issue a written  
14 notice to the requesting person upholding the disclosure denial in  
15 part.

16 (d) Under unusual circumstances, issue a notice extending for  
17 not more than 10 business days the period during which the head of  
18 the public body shall respond to the written appeal. The head of a  
19 public body shall not issue more than 1 notice of extension for a  
20 particular written appeal.

21 (3) A board or commission that is the head of a public body is  
22 not considered to have received a written appeal under subsection  
23 (2) until the first regularly scheduled meeting of that board or  
24 commission following submission of the written appeal under  
25 subsection (1)(a). If the head of the public body fails to respond  
26 to a written appeal pursuant to subsection (2), or if the head of  
27 the public body upholds all or a portion of the disclosure denial  
28 that is the subject of the written appeal, the requesting person  
29 may seek judicial review of the nondisclosure by commencing a civil

1 action under subsection (1) (b).

2 (4) In an action commenced under subsection (1) (b), a court  
3 that determines a public record is not exempt from disclosure shall  
4 order the public body to cease withholding or to produce all or a  
5 portion of a public record wrongfully withheld, regardless of the  
6 location of the public record. Venue for an action against a local  
7 public body is proper in the circuit court for the county in which  
8 the public record or an office of the public body is located has  
9 venue over the action. The court shall determine the matter de novo  
10 and the burden is on the public body to sustain its denial. The  
11 court, on its own motion, may view the public record in controversy  
12 in private before reaching a decision. Failure to comply with an  
13 order of the court may be punished as contempt of court.

14 (5) An action commenced under this section and an appeal from  
15 an action commenced under this section shall be assigned for  
16 hearing and trial or for argument at the earliest practicable date  
17 and expedited in every way.

18 (6) If a person asserting the right to inspect, copy, or  
19 receive a copy of all or a portion of a public record prevails in  
20 an action commenced under this section, the court shall award  
21 reasonable attorneys' fees, costs, and disbursements. If the person  
22 or public body prevails in part, the court may, in its discretion,  
23 award all or an appropriate portion of reasonable attorneys' fees,  
24 costs, and disbursements. The award shall be assessed against the  
25 public body liable for damages under subsection (7).

26 (7) If the court determines in an action commenced under this  
27 section that the public body has arbitrarily and capriciously  
28 violated this ~~act~~**-part** by refusal or delay in disclosing or  
29 providing copies of a public record, the court shall order the



1 public body to pay a civil fine of \$1,000.00, which shall be  
2 deposited into the general fund of the state treasury. The court  
3 shall award, in addition to any actual or compensatory damages,  
4 punitive damages in the amount of \$1,000.00 to the person seeking  
5 the right to inspect or receive a copy of a public record. The  
6 damages shall not be assessed against an individual, but shall be  
7 assessed against the next succeeding public body that is not an  
8 individual and that kept or maintained the public record as part of  
9 its public function.

10 Sec. 10a. (1) If a public body requires a fee that exceeds the  
11 amount permitted under its publicly available procedures and  
12 guidelines or section 4, the requesting person may do any of the  
13 following:

14 (a) If the public body provides for fee appeals to the head of  
15 the public body in its publicly available procedures and  
16 guidelines, submit to the head of the public body a written appeal  
17 for a fee reduction that specifically states the word "appeal" and  
18 identifies how the required fee exceeds the amount permitted under  
19 the public body's available procedures and guidelines or section 4.

20 (b) Commence a civil action in the circuit court, or if the  
21 decision of a state public body is at issue, in the court of  
22 claims, for a fee reduction. The action must be filed within 45  
23 days after receiving the notice of the required fee or a  
24 determination of an appeal to the head of a public body. If a civil  
25 action is commenced against the public body under this subdivision,  
26 the public body is not obligated to complete the processing of the  
27 written request for the public record at issue until the court  
28 resolves the fee dispute. An action shall not be filed under this  
29 subdivision unless 1 of the following applies:

1 (i) The public body does not provide for appeals under  
2 subdivision (a).

3 (ii) The head of the public body failed to respond to a written  
4 appeal as required under subsection (2).

5 (iii) The head of the public body issued a determination to a  
6 written appeal as required under subsection (2).

7 (2) Within 10 business days after receiving a written appeal  
8 under subsection (1)(a), the head of a public body shall do 1 of  
9 the following:

10 (a) Waive the fee.

11 (b) Reduce the fee and issue a written determination to the  
12 requesting person indicating the specific basis under section 4  
13 that supports the remaining fee. The determination ~~shall~~**must**  
14 include a certification from the head of the public body that the  
15 statements in the determination are accurate and that the reduced  
16 fee amount complies with its publicly available procedures and  
17 guidelines and section 4.

18 (c) Uphold the fee and issue a written determination to the  
19 requesting person indicating the specific basis under section 4  
20 that supports the required fee. The determination ~~shall~~**must**  
21 include a certification from the head of the public body that the  
22 statements in the determination are accurate and that the fee  
23 amount complies with the public body's publicly available  
24 procedures and guidelines and section 4.

25 (d) Issue a notice extending for not more than 10 business  
26 days the period during which the head of the public body must  
27 respond to the written appeal. The notice of extension ~~shall~~**must**  
28 include a detailed reason or reasons why the extension is  
29 necessary. The head of a public body shall not issue more than 1

1 notice of extension for a particular written appeal.

2 (3) A board or commission that is the head of a public body is  
3 not considered to have received a written appeal under subsection  
4 (2) until the first regularly scheduled meeting of that board or  
5 commission following submission of the written appeal under  
6 subsection (1)(a).

7 (4) In an action commenced under subsection (1)(b), a court  
8 that determines the public body required a fee that exceeds the  
9 amount permitted under its publicly available procedures and  
10 guidelines or section 4 shall reduce the fee to a permissible  
11 amount. Venue for an action against a local public body is proper  
12 in the circuit court for the county in which the public record or  
13 an office of the public body is located. The court shall determine  
14 the matter de novo, and the burden is on the public body to  
15 establish that the required fee complies with its publicly  
16 available procedures and guidelines and section 4. Failure to  
17 comply with an order of the court may be punished as contempt of  
18 court.

19 (5) An action commenced under this section and an appeal from  
20 an action commenced under this section shall be assigned for  
21 hearing and trial or for argument at the earliest practicable date  
22 and expedited in every way.

23 (6) If the requesting person prevails in an action commenced  
24 under this section by receiving a reduction of 50% or more of the  
25 total fee, the court may, in its discretion, award all or an  
26 appropriate portion of reasonable attorneys' fees, costs, and  
27 disbursements. The award shall be assessed against the public body  
28 liable for damages under subsection (7).

29 (7) If the court determines in an action commenced under this

1 section that the public body has arbitrarily and capriciously  
 2 violated this ~~act-part~~ by charging an excessive fee, the court  
 3 shall order the public body to pay a civil fine of \$500.00, which  
 4 shall be deposited in the general fund of the state treasury. The  
 5 court may also award, in addition to any actual or compensatory  
 6 damages, punitive damages in the amount of \$500.00 to the person  
 7 seeking the fee reduction. The fine and any damages shall not be  
 8 assessed against an individual, but shall be assessed against the  
 9 next succeeding public body that is not an individual and that kept  
 10 or maintained the public record as part of its public function.

11 (8) As used in this section, "fee" means the total fee or any  
 12 component of the total fee calculated under section 4, including  
 13 any deposit.

14 Sec. 10b. If the court determines, in an action commenced  
 15 under this ~~act-part~~, that a public body willfully and  
 16 intentionally failed to comply with this ~~act-part~~ or otherwise  
 17 acted in bad faith, the court shall order the public body to pay,  
 18 in addition to any other award or sanction, a civil fine of not  
 19 less than \$2,500.00 or more than \$7,500.00 for each occurrence. In  
 20 determining the amount of the civil fine, the court shall consider  
 21 the budget of the public body and whether the public body has  
 22 previously been assessed penalties for violations of this ~~act-~~  
 23 **part**. The civil fine shall be deposited in the general fund of the  
 24 state treasury.

25 Sec. 13. (1) A public body may exempt from disclosure as a  
 26 public record under this ~~act-part~~ any of the following:

27 (a) Information of a personal nature if public disclosure of  
 28 the information would constitute a clearly unwarranted invasion of  
 29 an individual's privacy.

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

4 (i) Interfere with law enforcement proceedings.

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

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

8 (iv) Disclose the identity of a confidential source, or if the  
9 record is compiled by a law enforcement agency in the course of a  
10 criminal investigation, disclose confidential information furnished  
11 only by a confidential source.

12 (v) Disclose law enforcement investigative techniques or  
13 procedures.

14 (vi) Endanger the life or physical safety of law enforcement  
15 personnel.

16 (c) A public record that if disclosed would prejudice a public  
17 body's ability to maintain the physical security of custodial or  
18 penal institutions occupied by persons arrested or convicted of a  
19 crime or admitted because of a mental disability, unless the public  
20 interest in disclosure under this ~~act~~**part** outweighs the public  
21 interest in nondisclosure.

22 (d) Records or information specifically described and exempted  
23 from disclosure by statute.

24 (e) A public record or information described in this section  
25 that is furnished by the public body originally compiling,  
26 preparing, or receiving the record or information to a public  
27 officer or public body in connection with the performance of the  
28 duties of that public officer or public body, if the considerations  
29 originally giving rise to the exempt nature of the public record

1 remain applicable. **For purposes of this subdivision, "public body"**  
2 **includes a public body as defined in part 2.**

3 (f) Trade secrets or commercial or financial information  
4 voluntarily provided to an agency for use in developing  
5 governmental policy if:

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

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

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

17 (g) Information or records subject to the attorney-client  
18 privilege.

19 (h) Information or records subject to the physician-patient  
20 privilege, the psychologist-patient privilege, the minister,  
21 priest, or Christian Science practitioner privilege, or other  
22 privilege recognized by statute or court rule.

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

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

29 (i) An agreement is entered into.

1           (ii) Three years have elapsed since the making of the  
2 appraisal, unless litigation relative to the acquisition has not  
3 yet terminated.

4           (k) Test questions and answers, scoring keys, and other  
5 examination instruments or data used to administer a license,  
6 public employment, or academic examination, unless the public  
7 interest in disclosure under this act ~~part~~ outweighs the public  
8 interest in nondisclosure.

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

13           (m) Communications and notes within a public body or between  
14 public bodies of an advisory nature to the extent that they cover  
15 other than purely factual materials and are preliminary to a final  
16 agency determination of policy or action. ~~This~~ **As to the executive**  
17 **office of the governor or lieutenant governor, this exemption does**  
18 **not apply if in the particular instance the public interest in**  
19 **disclosure clearly outweighs the public interest in encouraging**  
20 **frank communications. As to all other public bodies, this** exemption  
21 does not apply unless the public body shows that in the particular  
22 instance the public interest in encouraging frank communication  
23 between officials and employees of public bodies clearly outweighs  
24 the public interest in disclosure. This exemption does not  
25 constitute an exemption under state law for purposes of section  
26 8(h) of the open meetings act, 1976 PA 267, MCL 15.268. As used in  
27 this subdivision, "determination of policy or action" includes a  
28 determination relating to collective bargaining, unless the public  
29 record is otherwise required to be made available under 1947 PA

1 336, MCL 423.201 to 423.217.

2 (n) Records of law enforcement communication codes, or plans  
3 for deployment of law enforcement personnel, that if disclosed  
4 would prejudice a public body's ability to protect the public  
5 safety unless the public interest in disclosure under this ~~act~~**part**  
6 outweighs the public interest in nondisclosure in the particular  
7 instance.

8 (o) Information that would reveal the exact location of  
9 archaeological sites. The department of natural resources may  
10 promulgate rules in accordance with the administrative procedures  
11 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the  
12 disclosure of the location of archaeological sites for purposes  
13 relating to the preservation or scientific examination of sites.

14 (p) Testing data developed by a public body in determining  
15 whether bidders' products meet the specifications for purchase of  
16 those products by the public body, if disclosure of the data would  
17 reveal that only 1 bidder has met the specifications. This  
18 subdivision does not apply after 1 year has elapsed from the time  
19 the public body completes the testing.

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

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

27 (s) Unless the public interest in disclosure outweighs the  
28 public interest in nondisclosure in the particular instance, public  
29 records of a law enforcement agency, the release of which would do



1 any of the following:

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

3 (ii) Identify or provide a means of identifying a law  
4 enforcement undercover officer or agent or a plain clothes officer  
5 as a law enforcement officer or agent.

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

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

12 (v) Disclose operational instructions for law enforcement  
13 officers or agents.

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

16 (vii) Endanger the life or safety of law enforcement officers  
17 or agents or their families, relatives, children, parents, or those  
18 who furnish information to law enforcement departments or agencies.

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

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

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

25 (t) Except as otherwise provided in this subdivision, records  
26 and information pertaining to an investigation or a compliance  
27 conference conducted by the department under article 15 of the  
28 public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before  
29 a complaint is issued. This subdivision does not apply to records

1 or information pertaining to 1 or more of the following:

2 (i) The fact that an allegation has been received and an  
3 investigation is being conducted, and the date the allegation was  
4 received.

5 (ii) The fact that an allegation was received by the  
6 department; the fact that the department did not issue a complaint  
7 for the allegation; and the fact that the allegation was dismissed.

8 (u) Records of a public body's security measures, including  
9 security plans, security codes and combinations, passwords, passes,  
10 keys, and security procedures, to the extent that the records  
11 relate to the ongoing security of the public body.

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

14 (w) Information or records that would disclose the Social  
15 Security number of an individual.

16 (x) Except as otherwise provided in this subdivision, an  
17 application for the position of president of an institution of  
18 higher education established under section 4, 5, or 6 of article  
19 VIII of the state constitution of 1963, materials submitted with  
20 such an application, letters of recommendation or references  
21 concerning an applicant, and records or information relating to the  
22 process of searching for and selecting an individual for a position  
23 described in this subdivision, if the records or information could  
24 be used to identify a candidate for the position. However, after 1  
25 or more individuals have been identified as finalists for a  
26 position described in this subdivision, this subdivision does not  
27 apply to a public record described in this subdivision, except a  
28 letter of recommendation or reference, to the extent that the  
29 public record relates to an individual identified as a finalist for

1 the position.

2 (y) Records or information of measures designed to protect the  
3 security or safety of persons or property, or the confidentiality,  
4 integrity, or availability of information systems, whether public  
5 or private, including, but not limited to, building, public works,  
6 and public water supply designs to the extent that those designs  
7 relate to the ongoing security measures of a public body,  
8 capabilities and plans for responding to a violation of the  
9 Michigan anti-terrorism act, chapter LXXXVIII-A of the Michigan  
10 penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency  
11 response plans, risk planning documents, threat assessments,  
12 domestic preparedness strategies, and cybersecurity plans,  
13 assessments, or vulnerabilities, unless disclosure would not impair  
14 a public body's ability to protect the security or safety of  
15 persons or property or unless the public interest in disclosure  
16 outweighs the public interest in nondisclosure in the particular  
17 instance.

18 (z) Information that would identify or provide a means of  
19 identifying a person that may, as a result of disclosure of the  
20 information, become a victim of a cybersecurity incident or that  
21 would disclose a person's cybersecurity plans or cybersecurity-  
22 related practices, procedures, methods, results, organizational  
23 information system infrastructure, hardware, or software.

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

28 (bb) Records or information that would reveal the specific  
29 location or GPS coordinates of game, including, but not limited to,

1 records or information of the specific location or GPS coordinates  
2 of game obtained by the department of natural resources during any  
3 restoration, management, or research project conducted under  
4 section 40501 of the natural resources and environmental protection  
5 act, 1994 PA 451, MCL 324.40501, or in connection with the  
6 expenditure of money under section 43553 of the natural resources  
7 and environmental protection act, 1994 PA 451, MCL 324.43553. As  
8 used in this subdivision, "game" means that term as defined in  
9 section 40103 of the natural resources and environmental protection  
10 act, 1994 PA 451, MCL 324.40103.

11 **(cc) Records or information in the possession of the executive**  
12 **office of the governor or lieutenant governor or of an employee of**  
13 **either of those offices that relates to any of the following:**

14 **(i) The appointment of an individual as a department or agency**  
15 **director; as a member of a board, commission, or council; to fill a**  
16 **vacancy on a court pursuant to section 23 of article VI of the**  
17 **state constitution of 1963; or to any other position the governor**  
18 **appoints as provided by law. After an individual has been appointed**  
19 **to a position described in this subparagraph, the exemption does**  
20 **not apply to records or information that relates to that individual**  
21 **except as to a letter of recommendation or reference.**

22 **(ii) The decision to remove or suspend from office any public**  
23 **official pursuant to section 10 of article V of the state**  
24 **constitution of 1963, or to remove a judge from office pursuant to**  
25 **section 25 of article VI of the state constitution of 1963. After**  
26 **an individual has been removed or suspended from a position**  
27 **described in this subparagraph, the exemption for records and**  
28 **information under this subparagraph does not apply to a record that**  
29 **relates to that individual.**

1           (iii) The decision to grant or deny a reprieve, pardon, or  
2 commutation pursuant to section 14 of article V of the state  
3 constitution of 1963.

4           (iv) A budget recommendation prepared pursuant to section 18 of  
5 article V of the state constitution of 1963.

6           (v) A reduction in expenditures pursuant to section 20 of  
7 article V of the state constitution of 1963.

8           (vi) A message or recommendation to the legislature pursuant to  
9 section 17 of article V of the state constitution of 1963.

10          (vii) The executive residence described in section 24 of  
11 article V of the state constitution of 1963.

12          (dd) Information or records subject to executive privilege.

13          (ee) Records created, prepared, owned, used, in the possession  
14 of, or retained by the executive office of the governor or  
15 lieutenant governor or an employee of either of those offices prior  
16 to January 1, 2024.

17          (ff) Communications, including any related records or  
18 information, between the executive office of the governor or  
19 lieutenant governor or any employee of either of those offices and  
20 a constituent, other than a person who receives an appointment or  
21 is employed by this state or a person required to be registered as  
22 a lobbyist under 1978 PA 472, MCL 4.411 to 4.431. For purposes of  
23 this subdivision, "constituent" means an individual who resides in  
24 this state and who contacts the executive office of the governor or  
25 lieutenant governor for assistance in personally obtaining  
26 government services, to express a personal opinion, or for redress  
27 of personal grievances.

28          (gg) Records or information that if disclosed could materially  
29 compromise or diminish the security of the governor or lieutenant

1 **governor.**

2 **(hh) The cellular telephone number of the governor or**  
3 **lieutenant governor or an employee of the executive office of the**  
4 **governor or lieutenant governor.**

5 (2) A public body shall exempt from disclosure information  
6 that, if released, would prevent the public body from complying  
7 with 20 USC 1232g, commonly referred to as the family educational  
8 rights and privacy act of 1974. A public body that is a local or  
9 intermediate school district or a public school academy shall  
10 exempt from disclosure directory information, as defined by 20 USC  
11 1232g, commonly referred to as the family educational rights and  
12 privacy act of 1974, requested for the purpose of surveys,  
13 marketing, or solicitation, unless that public body determines that  
14 the use is consistent with the educational mission of the public  
15 body and beneficial to the affected students. A public body that is  
16 a local or intermediate school district or a public school academy  
17 may take steps to ensure that directory information disclosed under  
18 this subsection is not used, rented, or sold for the purpose of  
19 surveys, marketing, or solicitation. Before disclosing the  
20 directory information, a public body that is a local or  
21 intermediate school district or a public school academy may require  
22 the ~~requester~~**requestor** to execute an affidavit stating that  
23 directory information provided under this subsection will not be  
24 used, rented, or sold for the purpose of surveys, marketing, or  
25 solicitation.

26 (3) This ~~act~~**part** does not authorize the withholding of  
27 information otherwise required by law to be made available to the  
28 public or to a party in a contested case under the administrative  
29 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.



1           (ii) An individual designated by a public body to accept and  
2 process requests for public records under this part.

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

9           (f) "Public body" means a state officer, legislator, employee,  
10 agency, department, division, bureau, board, commission, committee,  
11 council, authority, or other body in the legislative branch of the  
12 state government. Public body does not include the office of the  
13 auditor general.

14           (g) "Public record" means a writing prepared, owned, used, in  
15 the possession of, or retained by a public body in the performance  
16 of an official function that has been in the possession of the  
17 public body for 15 days or more. Public record does not include  
18 computer software. This part separates public records into the  
19 following 2 classes:

20           (i) Those that are exempt from disclosure under section 29d.

21           (ii) Those that are not exempt from disclosure under section  
22 29d and are subject to disclosure under this part.

23           (h) "Session day" means a day in which either the house of  
24 representatives or the senate convenes in session and a quorum of  
25 the body is recorded.

26           (i) "Software" means a set of statements or instructions that,  
27 when incorporated in a machine-usable medium, is capable of causing  
28 a machine or device having information-processing capabilities to  
29 indicate, perform, or achieve a particular function, task, or



1 result. Software does not include computer-stored information or  
2 data or a field name if disclosure of that field name would not  
3 violate a software license.

4 (j) "Unusual circumstances" means any 1 or a combination of  
5 the following, but only to the extent necessary for the proper  
6 processing of a request:

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

10 (ii) The need to collect the requested public records from  
11 numerous offices, facilities, or other establishments that are  
12 located apart from the particular office receiving or processing  
13 the request.

14 (k) "Writing" means handwriting, typewriting, printing,  
15 photostating, photographing, photocopying, and every other means of  
16 recording, and includes letters, words, pictures, sounds, or  
17 symbols, or combinations thereof, and papers, maps, magnetic or  
18 paper tapes, photographic films or prints, microfilm, microfiche,  
19 magnetic or punched cards, discs, drums, hard drives, solid state  
20 storage components, or other means of recording or retaining  
21 meaningful content.

22 (l) "Written request" means a writing that asks for information  
23 and includes a writing transmitted by facsimile, email, or other  
24 electronic means.

25 Sec. 23. (1) Except as expressly provided in section 29d, upon  
26 providing a public body's LORA coordinator with a written request  
27 that describes a public record sufficiently to enable the public  
28 body to find the public record, a person has a right to inspect,  
29 copy, or receive copies of the requested public record of the

1 public body. A request from a person, other than an individual who  
2 qualifies as indigent under section 24(2) (a), must include the  
3 requesting person's complete name, address, and contact  
4 information, and, if the request is made by a person other than an  
5 individual, the complete name, address, and contact information of  
6 the person's agent who is an individual. An address must be written  
7 in compliance with United States Postal Service addressing  
8 standards. Contact information must include a valid telephone  
9 number or email address. An employee of a public body who receives  
10 a request for a public record shall forward that request to the  
11 LORA coordinator within 3 business days.

12 (2) A LORA coordinator shall keep a copy of all written  
13 requests for public records on file for not less than 1 year.

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

23 (4) This part does not require a public body to make a  
24 compilation, summary, or report of information.

25 (5) This part does not require a public body to create a new  
26 public record, except to the extent required by this part for the  
27 furnishing of copies, or edited copies of an existing public record  
28 under this part.

29 (6) The custodian of a public record shall, upon written

1 request, furnish a requesting person a certified copy of a public  
2 record.

3 (7) A public body shall not destroy or alter a record before  
4 the record has been in its possession for 730 days if the record  
5 would become a public record after it has been in the possession of  
6 the public body for 15 days.

7 Sec. 24. (1) A public body may charge a fee for a public  
8 record search, for the necessary copying of a public record for  
9 inspection, or for providing a copy of a public record if it has  
10 established, makes publicly available, and follows procedures and  
11 guidelines to implement this section as described in subsection  
12 (4). Subject to subsections (2), (3), (4), (5), and (9), the fee  
13 must be limited to actual mailing costs and to the actual  
14 incremental cost of duplication or publication, including labor,  
15 the cost of search, examination, review, and the deletion and  
16 separation of exempt from nonexempt information as provided in  
17 section 29e. Except as otherwise provided in this part, if the  
18 public body estimates or charges a fee in accordance with this  
19 part, the total fee must not exceed the sum of the following:

20 (a) That portion of labor costs directly associated with the  
21 necessary searching for, locating, and examining of public records  
22 in conjunction with receiving and fulfilling a granted written  
23 request. The public body shall not charge more than the hourly wage  
24 of its lowest-paid employee capable of searching for, locating, and  
25 examining the public records in the particular instance regardless  
26 of whether that person is available or who actually performs the  
27 labor. Labor costs under this subdivision shall be estimated and  
28 charged in increments of 15 minutes or more, with all partial time  
29 increments rounded down.

1           (b) That portion of labor costs, including necessary review,  
2 if any, directly associated with the separating and deleting of  
3 exempt information from nonexempt information as provided in  
4 section 29e. For services performed by an employee of the public  
5 body, the public body shall not charge more than the hourly wage of  
6 its lowest-paid employee capable of separating and deleting exempt  
7 information from nonexempt information in the particular instance  
8 as provided in section 29e, regardless of whether that person is  
9 available or who actually performs the labor. Labor costs under  
10 this subdivision shall be estimated and charged in increments of 15  
11 minutes or more, with all partial time increments rounded down. A  
12 public body shall not charge for labor directly associated with  
13 redaction under section 29e if it knows or has reason to know that  
14 it previously redacted the public record in question and the  
15 redacted version is still in the public body's possession.

16           (c) For public records provided to the requestor on nonpaper  
17 physical media, the actual and most reasonably economical cost of  
18 the computer discs, computer tapes, or other digital or similar  
19 media. The requestor may stipulate that the public records be  
20 provided on nonpaper physical media, emailed, or otherwise  
21 electronically provided to the requestor in lieu of paper copies.  
22 This subdivision does not apply if a public body lacks the  
23 technological capability necessary to provide records on the  
24 particular nonpaper physical media stipulated in the particular  
25 instance.

26           (d) For paper copies of public records provided to the  
27 requestor, the actual total incremental cost of necessary  
28 duplication or publication, not including labor. The cost of paper  
29 copies shall be calculated as a total cost per sheet of paper and

1 shall be itemized and noted in a manner that expresses both the  
2 cost per sheet and the number of sheets provided. The fee must not  
3 exceed 10 cents per sheet of paper for copies of public records  
4 made on 8-1/2- by 11-inch paper or 8-1/2- by 14-inch paper. A  
5 public body shall utilize the most economical means available for  
6 making copies of public records, including using double-sided  
7 printing, if cost saving and available.

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

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

26 (2) When calculating labor costs under subsection (1) (a), (b),  
27 or (e), fee components shall be itemized in a manner that expresses  
28 both the hourly wage and the number of hours charged. The public  
29 body may also add up to 50% to the applicable labor charge amount

1 to cover or partially cover the cost of fringe benefits if it  
2 clearly notes the percentage multiplier used to account for  
3 benefits in the detailed itemization described in subsection (4).  
4 Subject to the 50% limitation, the public body shall not charge  
5 more than the actual cost of fringe benefits, and overtime wages  
6 shall not be used in calculating the cost of fringe benefits.  
7 Overtime wages shall not be included in the calculation of labor  
8 costs unless overtime is specifically stipulated by the requestor  
9 and clearly noted on the detailed itemization described in  
10 subsection (4). A search for a public record may be conducted or  
11 copies of public records may be furnished without charge or at a  
12 reduced charge if the public body determines that a waiver or  
13 reduction of the fee is in the public interest because searching  
14 for or furnishing copies of the public record can be considered as  
15 primarily benefiting the general public. A public record search  
16 shall be made and a copy of a public record shall be furnished  
17 without charge for the first \$20.00 of the fee for each request by  
18 either of the following:

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

1           (i) The individual has previously received discounted copies of  
2 public records under this subsection from the public body twice  
3 during that calendar year.

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

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

16           (i) Is made directly on behalf of the organization or its  
17 clients.

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

21           (iii) Is accompanied by documentation of its designation by this  
22 state, if requested by the public body.

23           (3) A fee as described in subsection (1) shall not be charged  
24 for the cost of search, examination, review, and the deletion and  
25 separation of exempt from nonexempt information as provided in  
26 section 29e unless failure to charge a fee would result in  
27 unreasonably high costs to the public body because of the nature of  
28 the request in the particular instance and the public body  
29 specifically identifies the nature of these unreasonably high

1 costs.

2 (4) A public body shall establish procedures and guidelines to  
3 implement this part and shall create a written public summary of  
4 the specific procedures and guidelines relevant to the general  
5 public regarding how to submit written requests to the public body  
6 and 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. A public body  
10 shall post and maintain the procedures and guidelines and its  
11 written public summary on its website. A public body shall make the  
12 procedures and guidelines publicly available by providing free  
13 copies of the procedures and guidelines and its written public  
14 summary both in the public body's response to a written request and  
15 upon request by visitors at the public body's office. A public body  
16 may include the website link to the documents in lieu of providing  
17 paper copies in its response to a written request. A public body's  
18 procedures and guidelines must include the use of a standard form  
19 for detailed itemization of any fee amount in its responses to  
20 written requests under this part. The detailed itemization must  
21 clearly list and explain the allowable charges for each of the 6  
22 fee components listed under subsection (1) that compose the total  
23 fee used for estimating or charging purposes. A public body that  
24 has not established procedures and guidelines, has not created a  
25 written public summary, or has not made those items publicly  
26 available without charge as required in this subsection is not  
27 relieved of its duty to comply with any requirement of this part  
28 and shall not require deposits or charge fees otherwise permitted  
29 under this part until it is in compliance with this subsection.



1 Notwithstanding this subsection and despite any law to the  
2 contrary, a public body's procedures and guidelines under this part  
3 are not exempt public records under section 29d.

4 (5) Any public records available to the general public on a  
5 public body's internet site at the time the request is made are  
6 exempt from charge under subsection (1)(b). If the LORA coordinator  
7 knows or has reason to know that all or a portion of the requested  
8 information is available on its website, the public body shall  
9 notify the requestor in its written response that all or a portion  
10 of the requested information is available on its website. The  
11 written response, to the degree practicable in the specific  
12 instance, must include a specific webpage address where the  
13 requested information is available. On the detailed itemization  
14 described in subsection (4), the public body shall separate the  
15 requested public records that are available on its website from  
16 those that are not available on the website and shall inform the  
17 requestor of the additional charge to receive copies of the public  
18 records that are available on its website. If the public body has  
19 included the website address for a record in its written response  
20 to the requestor and the requestor thereafter stipulates that the  
21 public record be provided to the requestor in a paper format or  
22 other form as described under subsection (1)(c), the public body  
23 shall provide the public records in the specified format but may  
24 use a fringe benefit multiplier greater than the 50% limitation in  
25 subsection (2), not to exceed the actual costs of providing the  
26 information in the specified format.

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

29 (7) If a verbal request for information is for information

1 that a public body believes is available on the public body's  
2 website, a public employee shall, if practicable and to the best of  
3 the public employee's knowledge, inform the requestor about the  
4 public body's pertinent website address.

5 (8) In either the public body's initial response or subsequent  
6 response as described under section 25(2)(d), the public body may  
7 require a good-faith deposit from the person requesting information  
8 before providing the public records to the requestor if the entire  
9 fee estimate or charge authorized under this section exceeds  
10 \$50.00, based on a good-faith calculation of the total fee  
11 described in subsection (4). Subject to subsection (10), the  
12 deposit must not exceed 1/2 of the total estimated fee, and a  
13 public body's request for a deposit must include a detailed  
14 itemization as required under subsection (4). The response must  
15 also contain a best efforts estimate by the public body regarding  
16 the time frame it will take the public body to comply with the law  
17 in providing the public records to the requestor. The time frame  
18 estimate is nonbinding upon the public body, but the public body  
19 shall provide the estimate in good faith and strive to be  
20 reasonably accurate and to provide the public records in a manner  
21 based on this state's public policy under section 21 and the nature  
22 of the request in the particular instance. If a public body does  
23 not respond in a timely manner as described under section 25(2), it  
24 is not relieved from its requirements to provide proper fee  
25 calculations and time frame estimates in any tardy responses.  
26 Providing an estimated time frame does not relieve a public body  
27 from any of the other requirements of this part.

28 (9) If a public body does not respond to a written request in  
29 a timely manner as required under section 25(2), the public body

1 shall do the following:

2 (a) Reduce the charges for labor costs otherwise permitted  
3 under this section by 5% for each day the public body exceeds the  
4 time permitted under section 25(2) for a response to the request,  
5 with a maximum 50% reduction, if either of the following applies:

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

7 (ii) The written request included language that conveyed a  
8 request for information within the first 250 words of the body of a  
9 letter, facsimile, email, or email attachment, or specifically  
10 included the words, characters, or abbreviations for "freedom of  
11 information", "open records", "information", "LORA", "copy", or a  
12 recognizable misspelling of such, or appropriate legal code  
13 reference for this part, on the front of an envelope or in the  
14 subject line of an email, a letter, or a facsimile cover page.

15 (b) If a charge reduction is required under subdivision (a),  
16 fully note the charge reduction on the detailed itemization  
17 described under subsection (4).

18 (10) This section does not apply to public records prepared  
19 under an act or statute specifically authorizing the sale of those  
20 public records to the public, or if the amount of the fee for  
21 providing a copy of the public record is otherwise specifically  
22 provided by an act or statute.

23 (11) Subject to subsection (12), after a public body has  
24 granted and fulfilled a written request from an individual under  
25 this part, if the public body has not been paid in full the total  
26 amount under subsection (1) for the copies of public records that  
27 the public body made available to the individual as a result of  
28 that written request, the public body may require a deposit of up  
29 to 100% of the estimated fee before it begins a full public record

1 search for any subsequent written request from that individual if  
2 all of the following apply:

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

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

8 (c) The public records were made available to the individual,  
9 subject to payment, within the time frame estimate described under  
10 subsection (8).

11 (d) Ninety days have passed since the public body notified the  
12 individual in writing that the public records were available for  
13 pickup or mailing.

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

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

19 (12) A public body shall not continue to require an increased  
20 estimated fee deposit from an individual as described under  
21 subsection (11) if any of the following apply:

22 (a) The individual shows to the public body proof of prior  
23 payment in full for the applicable prior request.

24 (b) The public body receives payment in full for the  
25 applicable prior written request.

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

29 (13) A deposit required by a public body under this part is a

1 fee.

2 (14) If a deposit that is required under subsection (8) or  
3 (11) is not received by the public body within 45 days from receipt  
4 by the requesting person of the notice that a deposit is required,  
5 and if the requesting person has not filed an appeal of the deposit  
6 amount pursuant to section 29b, the request shall be considered  
7 abandoned by the requesting person and the public body is no longer  
8 required to fulfill the request. Notice of a deposit requirement  
9 under subsection (8) or (11) is considered received 3 days after it  
10 is sent, regardless of the means of transmission. Notice of a  
11 deposit requirement under subsection (8) or (11) must include  
12 notice of the date by which the deposit must be received, which  
13 date is 48 days after the date the notice is sent.

14 Sec. 25. (1) Except as provided in section 23, to inspect or  
15 receive a copy of a public record under this part, a person shall  
16 submit a written request for the public record to the LORA  
17 coordinator of the public body. A written request made by  
18 facsimile, electronic mail, or other electronic transmission under  
19 this part is not considered to be received by a public body's LORA  
20 coordinator until 1 business day after the electronic transmission  
21 is made. However, if a written request is sent by electronic mail  
22 and delivered to the public body's spam or junk mail folder, the  
23 request is not received until 1 day after the public body first  
24 becomes aware of the written request. The public body shall note in  
25 its records both the time a written request is delivered to its  
26 spam or junk mail folder and the time the public body first becomes  
27 aware of that request.

28 (2) Unless otherwise agreed to in writing by the person making  
29 the request, a public body shall respond to a request for a public

1 record within 5 business days after the public body receives the  
2 request by doing 1 of the following:

3 (a) Granting the request.

4 (b) Issuing a written notice to the requesting person denying  
5 the request.

6 (c) Granting the request in part and issuing a written notice  
7 to the requesting person denying the request in part.

8 (d) Issuing a notice extending for not more than 10 business  
9 days the time by which the public body must respond to the request.  
10 A public body shall not issue more than 1 notice of extension for  
11 each request.

12 (3) Failure to respond to a request pursuant to subsection (2)  
13 constitutes a public body's final determination to deny the request  
14 if either of the following applies:

15 (a) The failure was willful and intentional.

16 (b) The written request included language that conveyed a  
17 request for information within the first 250 words of the body of a  
18 letter, facsimile, electronic mail, or electronic mail attachment,  
19 or specifically included the words, characters, or abbreviations  
20 for "freedom of information", "open records", "information",  
21 "LORA", "copy", or a recognizable misspelling of such, or  
22 appropriate legal code reference to this part, on the front of an  
23 envelope or in the subject line of an electronic mail, letter, or  
24 facsimile cover page.

25 (4) A written notice denying a request for a public record in  
26 whole or in part is a public body's final determination to deny the  
27 request or portion of that request. The written notice must contain  
28 all of the following:

29 (a) An explanation of the basis under this part or other

1 statute for the determination that the public record, or portion of  
2 that public record, is exempt from disclosure, if that is the  
3 reason for denying all or a portion of the request.

4 (b) A certificate that the public record does not exist under  
5 the name given by the requestor or by another name reasonably known  
6 to the public body, if that is the reason for denying the request  
7 or a portion of the request.

8 (c) A description of a public record or information on a  
9 public record that is separated or deleted pursuant to section 29e,  
10 if a separation or deletion is made.

11 (d) A full explanation of the requesting person's right to do  
12 either of the following:

13 (i) Submit a written request for reconsideration to the public  
14 body's LORA coordinator that specifically states the word  
15 "reconsideration", "appeal", "redetermination", or "reverse" and  
16 identifies the reason or reasons for reversal of the disclosure  
17 denial.

18 (ii) Seek final review of the denial under section 29a.

19 (5) The individual designated under sections 26 to 28 as a  
20 LORA coordinator or under section 29 as a LORA coordinator designee  
21 shall sign the written notice of denial.

22 (6) If a public body issues a notice extending the period for  
23 a response to the request, the notice must specify the reasons for  
24 the extension and the date by which the public body will do 1 of  
25 the following:

26 (a) Grant the request.

27 (b) Issue a written notice to the requesting person denying  
28 the request.

29 (c) Grant the request in part and issue a written notice to

1 the requesting person denying the request in part.

2 (7) If a public body makes a final determination to deny in  
3 whole or in part a request to inspect or receive a copy of a public  
4 record or portion of a public record, the requesting person may  
5 seek reconsideration or appeal of the denial as provided in section  
6 29a.

7 Sec. 26. Subject to sections 27 and 28, the council  
8 administrator shall designate an individual as the LORA coordinator  
9 for all public bodies.

10 Sec. 27. The house of representatives may designate an  
11 individual as the LORA coordinator for the house of  
12 representatives.

13 Sec. 28. The senate may designate an individual as the LORA  
14 coordinator for the senate.

15 Sec. 29. A LORA coordinator may designate another individual  
16 to act on the LORA coordinator's behalf in accepting and processing  
17 requests for the public body's public records and in approving a  
18 denial under section 25.

19 Sec. 29a. (1) If a public body makes a final determination to  
20 deny all or a portion of a request, the requesting person may do  
21 any of the following:

22 (a) Submit to the public body's LORA coordinator a written  
23 request for reconsideration that specifically states the word  
24 "reconsideration", "appeal", "redetermination", or "reverse", and  
25 identifies the reason or reasons for reversal of the denial.

26 (b) Submit to the council administrator a written request to  
27 compel the public body's disclosure of the public records within  
28 180 days after a public body's final determination to deny a  
29 request. A request shall not be submitted under this subdivision



1 unless 1 of the following applies:

2 (i) The public body's LORA coordinator failed to respond to a  
3 written request for reconsideration as required under subsection  
4 (2).

5 (ii) The public body's LORA coordinator issued a determination  
6 to a written request for reconsideration as required under  
7 subsection (2).

8 (2) Within 10 business days after receiving a written request  
9 for reconsideration pursuant to subsection (1)(a), the public  
10 body's LORA coordinator shall do 1 of the following:

11 (a) Reverse the disclosure denial.

12 (b) Issue a written notice to the requesting person upholding  
13 the disclosure denial.

14 (c) Reverse the disclosure denial in part and issue a written  
15 notice to the requesting person upholding the disclosure denial in  
16 part.

17 (d) Under unusual circumstances, issue a notice extending for  
18 not more than 10 business days the period during which the public  
19 body's LORA coordinator shall respond to the written request for  
20 reconsideration. The public body's LORA coordinator shall not issue  
21 more than 1 notice of extension for a particular written request  
22 for reconsideration.

23 (3) The public body's LORA coordinator is not considered to  
24 have received a written request for reconsideration under  
25 subsection (2) until the first scheduled session day following  
26 submission of the written request under subsection (1)(a). If the  
27 public body's LORA coordinator fails to respond to a written  
28 request for reconsideration pursuant to subsection (2), or if  
29 public body's LORA coordinator upholds all or a portion of the

1 disclosure denial that is the subject of the written request, the  
2 requesting person may seek final review of the nondisclosure by  
3 submitting an appeal to the council administrator under subsection  
4 (1) (b) .

5 (4) In an appeal commenced under subsection (1) (b) , if the  
6 council administrator determines that a public record is not exempt  
7 from disclosure, the public body must cease withholding or produce  
8 all or a portion of a public record wrongfully withheld, regardless  
9 of the location of the public record.

10 (5) An appeal commenced under subsection (1) (b) shall be  
11 reviewed and decided by the council administrator at the earliest  
12 practicable date and expedited in every way.

13 (6) The council administrator may require a reasonable fee,  
14 not to exceed \$75.00, for an appeal commenced under subsection  
15 (1) (b) unless the requesting person is eligible for a fee waiver or  
16 reduction under section 24 because of indigence.

17 (7) If the council administrator determines in an appeal  
18 commenced under this section that the public body has arbitrarily  
19 and capriciously violated this part by refusal of a public record  
20 or delay in disclosing or providing copies, the council  
21 administrator shall recommend appropriate disciplinary action to  
22 the speaker of the house of representatives or the senate majority  
23 leader, as applicable. The council administrator shall make any  
24 recommendation for disciplinary action under this subsection  
25 publicly available on the internet not later than 5 business days  
26 after the recommendation is issued.

27 Sec. 29b. (1) If a public body requires a fee that exceeds the  
28 amount permitted under its publicly available procedures and  
29 guidelines or section 24, the requesting person may do any of the

1 following:

2 (a) Submit to the public body's LORA coordinator a written  
3 request for a fee reduction that specifically states the word  
4 "reconsideration", "appeal", "redetermination", or "reverse", and  
5 identifies how the required fee exceeds the amount permitted under  
6 the public body's available procedures and guidelines or section  
7 24.

8 (b) Submit to the council administrator a written request for  
9 a fee reduction within 45 days after receiving either a notice of  
10 the required fee or a determination of a request for  
11 reconsideration. A request shall not be submitted under this  
12 subdivision unless 1 of the following applies:

13 (i) The public body's LORA coordinator failed to respond to a  
14 written request for a fee reduction as required under subsection  
15 (2).

16 (ii) The public body's LORA coordinator issued a determination  
17 upon a written request for a fee reduction as required under  
18 subsection (2).

19 (2) Within 10 business days after receiving a written request  
20 for a fee reduction pursuant to subsection (1)(a), the public  
21 body's LORA coordinator shall do 1 of the following:

22 (a) Waive the fee.

23 (b) Reduce the fee and issue a written determination to the  
24 requesting person indicating the specific basis under section 24  
25 that supports the remaining fee. The determination must include a  
26 certification from the public body's LORA coordinator that the  
27 statements in the determination are accurate and that the reduced  
28 fee amount complies with its publicly available procedures and  
29 guidelines and section 24.

1           (c) Uphold the fee and issue a written determination to the  
2 requesting person indicating the specific basis under section 24  
3 that supports the required fee. The determination must include a  
4 certification from the public body's LORA coordinator that the  
5 statements in the determination are accurate and that the fee  
6 amount complies with the public body's publicly available  
7 procedures and guidelines and section 24.

8           (d) Issue a notice extending for not more than 10 business  
9 days the period during which the public body's LORA coordinator  
10 must respond to the written request for a fee reduction. The public  
11 body's LORA coordinator shall not issue more than 1 notice of  
12 extension for a particular written request for a fee reduction.

13           (3) The public body's LORA coordinator is not considered to  
14 have received a written request for reconsideration under  
15 subsection (2) until the first scheduled session day following  
16 submission of the written request under subsection (1) (a).

17           (4) If, in an appeal commenced under subsection (1) (b), the  
18 council administrator determines that the public body required a  
19 fee that exceeds the amount permitted under its publicly available  
20 procedures and guidelines or section 24, the public body shall  
21 reduce the fee to a permissible amount.

22           (5) An appeal commenced under subsection (1) (b) shall be  
23 reviewed and decided by the council administrator at the earliest  
24 practicable date and expedited in every way.

25           (6) The council administrator may require a reasonable fee,  
26 not to exceed \$50.00, for an appeal commenced under subsection  
27 (1) (b) unless the requesting person is eligible for a fee waiver or  
28 reduction under section 24 because of indigence. If the requesting  
29 person prevails in an appeal commenced under subsection (1) (b) by

1 receiving a reduction of 50% or more of the total fee, the council  
2 administrator shall waive the fee required under this subsection.

3 (7) If the council administrator determines in an appeal  
4 commenced under this section that the public body has arbitrarily  
5 and capriciously violated this part by charging an excessive fee,  
6 the council administrator shall recommend appropriate disciplinary  
7 action to the speaker of the house of representatives or the  
8 majority leader of the senate, as applicable. The council  
9 administrator shall make any recommendation for disciplinary action  
10 under this subsection publicly available on the internet not later  
11 than 5 business days after the recommendation is issued.

12 (8) As used in this section, "fee" means the total fee or any  
13 component of the total fee calculated under section 24, including  
14 any deposit.

15 Sec. 29c. (1) This part must not be construed to limit,  
16 modify, waive, or otherwise affect the privileges and immunities  
17 guaranteed under section 11 of article IV of the state constitution  
18 of 1963.

19 (2) This part does not create or imply a private cause of  
20 action for a violation of this part.

21 Sec. 29d. (1) A public body may exempt from disclosure as a  
22 public record under this part any of the following:

23 (a) Records or information of a personal nature if public  
24 disclosure of the information would constitute a clearly  
25 unwarranted invasion of an individual's privacy. That information  
26 includes, but is not limited to, the following:

27 (i) An individual's Social Security number, financial  
28 institution record, electronic fund number, deferred compensation,  
29 savings bonds, W-2 and W-4 forms, and any court-enforced judgments.

1           (ii) An employee's health care benefit selection.

2           (iii) Unemployment compensation and worker's disability  
3 compensation records.

4           (iv) Internet-use records unless the records indicate an  
5 unlawful use of public resources.

6           (b) Medical, counseling, or psychological facts or evaluations  
7 concerning an individual if the individual's identity would be  
8 revealed by a disclosure of those facts or evaluation, including  
9 protected health information, as defined in 45 CFR 160.103.

10           (c) Communications, including any related records or  
11 information, between a legislator or a legislator's office and a  
12 constituent, other than a person required to be registered as a  
13 lobbyist under 1978 PA 472, MCL 4.411 to 4.431. For purposes of  
14 this subdivision, "constituent" means any of the following:

15           (i) An individual who is registered to vote in the district the  
16 legislator is elected to represent.

17           (ii) An individual who is a resident of the district the  
18 legislator is elected to represent and who is not registered to  
19 vote outside of that district.

20           (iii) An individual other than an individual described in  
21 subparagraph (i) or (ii) if the individual intended that the  
22 communication be with the legislator elected to represent the  
23 district where the individual is registered to vote or, if not  
24 registered to vote, resides.

25           (d) Communications and notes within a public body or between  
26 public bodies of an advisory nature to the extent that they cover  
27 other than purely factual materials and are preliminary to a final  
28 determination of policy or action. This exemption does not apply if  
29 in the particular instance the public interest in disclosure

1 clearly outweighs the public interest in encouraging frank  
2 communications. For purposes of this subdivision, "public body"  
3 includes a public body as defined in part 1.

4 (e) Records or information pertaining to an ongoing internal  
5 or legislative investigation.

6 (f) Trade secrets or commercial or financial records or  
7 information voluntarily provided in confidence for use in  
8 developing governmental policy.

9 (g) Records or information subject to the attorney-client  
10 privilege or any other privilege recognized by the constitution,  
11 statute, or court rule.

12 (h) Records or information relating to a civil action in which  
13 the public body is a party until such litigation or claim has been  
14 finally adjudicated or otherwise settled.

15 (i) Records or information specifically described and exempted  
16 from disclosure by statute and including the records and  
17 information subject to confidentiality requirements in sections  
18 109, 501, and 601 of the legislative council act, 1986 PA 268, MCL  
19 4.1109, 4.1501, and 4.1601, in section 9 of 2016 PA 198, MCL 4.779,  
20 and in section 9 of 1975 PA 46, MCL 4.359.

21 (j) A public record or information described in this section,  
22 that is furnished by the public body originally compiling,  
23 preparing, or receiving the record or information to a public  
24 officer or public body in connection with the performance of the  
25 duties of that public officer or public body, if the considerations  
26 originally giving rise to the exempt nature of the public record  
27 remain applicable.

28 (k) Records of the office of sergeant at arms.

29 (l) Records of a public body's security measures, including

1 security plans, capabilities, procedures, measures, passwords,  
2 passes, keys, and codes and combinations.

3 (m) A bid, quote, or proposal submitted by a person to enter  
4 into a contract or agreement and records created in the preparation  
5 for and evaluation of the bid, quote, or proposal until the time of  
6 final notification of award of the contract or agreement.

7 (n) Records containing a trade secret as defined under section  
8 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902, or  
9 financial or proprietary information submitted in connection with a  
10 bid, quote, or proposal to enter into a contract or agreement.

11 (o) Records that would do any of the following if disclosed:

12 (i) Interfere with law enforcement proceedings.

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

15 (iii) Disclose the identity of a confidential source or  
16 information furnished by a confidential source in the course of a  
17 legislative investigation.

18 (iv) Endanger the life or physical safety of any individual.

19 (v) Prejudice a public body's ability to maintain the security  
20 or integrity of its properties or information technology systems.

21 (p) Records created, prepared, owned, used, in the possession  
22 of, or retained by a public body prior to January 1, 2024.

23 (q) Records created, prepared, owned, used, in the possession  
24 of, or retained by the majority or minority caucuses of each house  
25 of the legislature.

26 (r) The cellular telephone number of a public body.

27 (2) This part does not authorize the exemption from disclosure  
28 of any salary record of an employee or official of a public body.

29 (3) This part does not authorize the exemption from disclosure



1 of a record otherwise required by law to be made available to the  
2 public.

3       Sec. 29e. (1) If a public record contains material that is not  
4 exempt under section 29d, as well as material that is exempt from  
5 disclosure under section 29d, the public body shall separate the  
6 exempt and nonexempt material and make the nonexempt material  
7 available for examination and copying.

8       (2) When designing a public record, a public body shall, to  
9 the extent practicable, facilitate a separation of exempt from  
10 nonexempt information. If the separation is readily apparent to a  
11 person requesting to inspect or receive copies of the form, the  
12 public body shall generally describe the material exempted unless  
13 that description would reveal the contents of the exempt  
14 information and thus defeat the purpose of the exemption.

15       Sec. 29f. The attorney general shall counsel and advise a  
16 public body on the administration of this part upon request.

17       Enacting section 1. This amendatory act takes effect January  
18 1, 2024.

19       Enacting section 2. This amendatory act does not take effect  
20 unless Senate Bill No. 223 of the 102nd Legislature is enacted into  
21 law.