

SUBSTITUTE FOR
HOUSE BILL NO. 4011

A bill to amend 1976 PA 442, entitled
"Freedom of information act,"
(MCL 15.231 to 15.246) by adding part 2.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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PART 2

**SEC. 21. (1) THIS PART SHALL BE KNOWN AND MAY BE CITED AS THE
"LEGISLATIVE OPEN RECORDS ACT".**

**(2) IT IS THE PUBLIC POLICY OF THIS STATE THAT ALL PERSONS,
EXCEPT THOSE PERSONS INCARCERATED IN STATE OR LOCAL CORRECTIONAL
FACILITIES, ARE ENTITLED TO FULL AND COMPLETE INFORMATION REGARDING
THE AFFAIRS OF GOVERNMENT AND THE OFFICIAL ACTS OF THOSE WHO
REPRESENT THEM AS PUBLIC OFFICIALS AND PUBLIC EMPLOYEES, CONSISTENT
WITH THIS PART. THE PEOPLE SHALL BE INFORMED SO THAT THEY MAY FULLY
PARTICIPATE IN THE DEMOCRATIC PROCESS.**

1 SEC. 22. AS USED IN THIS PART:

2 (A) "COUNCIL ADMINISTRATOR" MEANS THE ADMINISTRATOR OF THE
3 LEGISLATIVE COUNCIL APPOINTED UNDER SECTION 104A OF THE LEGISLATIVE
4 COUNCIL ACT, 1986 PA 268, MCL 4.1104A.

5 (B) "LEGISLATOR" MEANS A MEMBER OF THE SENATE OR THE HOUSE OF
6 REPRESENTATIVES OF THIS STATE.

7 (C) "LORA" MEANS THE LEGISLATIVE OPEN RECORDS ACT.

8 (D) "LORA COORDINATOR" MEANS EITHER OF THE FOLLOWING:

9 (i) AN INDIVIDUAL WHO IS A PUBLIC BODY.

10 (ii) AN INDIVIDUAL DESIGNATED BY A PUBLIC BODY TO ACCEPT AND
11 PROCESS REQUESTS FOR PUBLIC RECORDS UNDER THIS PART.

12 (E) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, LIMITED
13 LIABILITY COMPANY, PARTNERSHIP, FIRM, ORGANIZATION, ASSOCIATION,
14 GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY. PERSON DOES NOT INCLUDE
15 AN INDIVIDUAL SERVING A SENTENCE OF IMPRISONMENT IN A STATE OR
16 COUNTY CORRECTIONAL FACILITY IN THIS STATE OR ANY OTHER STATE OR IN
17 A FEDERAL CORRECTIONAL FACILITY.

18 (F) "PUBLIC BODY" MEANS A STATE OFFICER, LEGISLATOR, EMPLOYEE,
19 AGENCY, DEPARTMENT, DIVISION, BUREAU, BOARD, COMMISSION, COMMITTEE,
20 COUNCIL, AUTHORITY, OR OTHER BODY IN THE LEGISLATIVE BRANCH OF THE
21 STATE GOVERNMENT. PUBLIC BODY DOES NOT INCLUDE THE OFFICE OF THE
22 AUDITOR GENERAL.

23 (G) "PUBLIC RECORD" MEANS A WRITING PREPARED, OWNED, USED, IN
24 THE POSSESSION OF, OR RETAINED BY A PUBLIC BODY IN THE PERFORMANCE
25 OF AN OFFICIAL FUNCTION THAT HAS BEEN IN THE POSSESSION OF THE
26 PUBLIC BODY FOR 15 DAYS OR MORE. PUBLIC RECORD DOES NOT INCLUDE
27 COMPUTER SOFTWARE. THIS PART SEPARATES PUBLIC RECORDS INTO THE

1 FOLLOWING 2 CLASSES:

2 (i) THOSE THAT ARE EXEMPT FROM DISCLOSURE UNDER SECTION 29D.

3 (ii) THOSE THAT ARE NOT EXEMPT FROM DISCLOSURE UNDER SECTION
4 29D AND ARE SUBJECT TO DISCLOSURE UNDER THIS PART.

5 (H) "SESSION DAY" MEANS A DAY IN WHICH EITHER THE HOUSE OF
6 REPRESENTATIVES OR THE SENATE CONVENES IN SESSION AND A QUORUM OF
7 THE BODY IS RECORDED.

8 (I) "SOFTWARE" MEANS A SET OF STATEMENTS OR INSTRUCTIONS THAT,
9 WHEN INCORPORATED IN A MACHINE-USABLE MEDIUM, IS CAPABLE OF CAUSING
10 A MACHINE OR DEVICE HAVING INFORMATION-PROCESSING CAPABILITIES TO
11 INDICATE, PERFORM, OR ACHIEVE A PARTICULAR FUNCTION, TASK, OR
12 RESULT. SOFTWARE DOES NOT INCLUDE COMPUTER-STORED INFORMATION OR
13 DATA OR A FIELD NAME IF DISCLOSURE OF THAT FIELD NAME WOULD NOT
14 VIOLATE A SOFTWARE LICENSE.

15 (J) "UNUSUAL CIRCUMSTANCES" MEANS ANY 1 OR A COMBINATION OF
16 THE FOLLOWING, BUT ONLY TO THE EXTENT NECESSARY FOR THE PROPER
17 PROCESSING OF A REQUEST:

18 (i) THE NEED TO SEARCH FOR, COLLECT, OR APPROPRIATELY EXAMINE
19 OR REVIEW A VOLUMINOUS AMOUNT OF SEPARATE AND DISTINCT PUBLIC
20 RECORDS PURSUANT TO A SINGLE REQUEST.

21 (ii) THE NEED TO COLLECT THE REQUESTED PUBLIC RECORDS FROM
22 NUMEROUS OFFICES, FACILITIES, OR OTHER ESTABLISHMENTS THAT ARE
23 LOCATED APART FROM THE PARTICULAR OFFICE RECEIVING OR PROCESSING
24 THE REQUEST.

25 (K) "WRITING" MEANS HANDWRITING, TYPEWRITING, PRINTING,
26 PHOTOSTATING, PHOTOGRAPHING, PHOTOCOPYING, AND EVERY OTHER MEANS OF
27 RECORDING, AND INCLUDES LETTERS, WORDS, PICTURES, SOUNDS, OR

1 SYMBOLS, OR COMBINATIONS THEREOF, AND PAPERS, MAPS, MAGNETIC OR
2 PAPER TAPES, PHOTOGRAPHIC FILMS OR PRINTS, MICROFILM, MICROFICHE,
3 MAGNETIC OR PUNCHED CARDS, DISCS, DRUMS, HARD DRIVES, SOLID STATE
4 STORAGE COMPONENTS, OR OTHER MEANS OF RECORDING OR RETAINING
5 MEANINGFUL CONTENT.

6 (l) "WRITTEN REQUEST" MEANS A WRITING THAT ASKS FOR
7 INFORMATION AND INCLUDES A WRITING TRANSMITTED BY FACSIMILE,
8 ELECTRONIC MAIL, OR OTHER ELECTRONIC MEANS.

9 SEC. 23. (1) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 29D, UPON
10 PROVIDING A PUBLIC BODY'S LORA COORDINATOR WITH A WRITTEN REQUEST
11 THAT DESCRIBES A PUBLIC RECORD SUFFICIENTLY TO ENABLE THE PUBLIC
12 BODY TO FIND THE PUBLIC RECORD, A PERSON HAS A RIGHT TO INSPECT,
13 COPY, OR RECEIVE COPIES OF THE REQUESTED PUBLIC RECORD OF THE
14 PUBLIC BODY. A REQUEST FROM A PERSON, OTHER THAN AN INDIVIDUAL WHO
15 QUALIFIES AS INDIGENT UNDER SECTION 24 (2) (A) , MUST INCLUDE THE
16 REQUESTING PERSON'S COMPLETE NAME, ADDRESS, AND CONTACT
17 INFORMATION, AND, IF THE REQUEST IS MADE BY A PERSON OTHER THAN AN
18 INDIVIDUAL, THE COMPLETE NAME, ADDRESS, AND CONTACT INFORMATION OF
19 THE PERSON'S AGENT WHO IS AN INDIVIDUAL. AN ADDRESS MUST BE WRITTEN
20 IN COMPLIANCE WITH UNITED STATES POSTAL SERVICE ADDRESSING
21 STANDARDS. CONTACT INFORMATION MUST INCLUDE A VALID TELEPHONE
22 NUMBER OR ELECTRONIC MAIL ADDRESS. AN EMPLOYEE OF A PUBLIC BODY WHO
23 RECEIVES A REQUEST FOR A PUBLIC RECORD SHALL FORWARD THAT REQUEST
24 TO THE LORA COORDINATOR WITHIN 3 BUSINESS DAYS.

25 (2) A LORA COORDINATOR SHALL KEEP A COPY OF ALL WRITTEN
26 REQUESTS FOR PUBLIC RECORDS ON FILE FOR NOT LESS THAN 1 YEAR.

27 (3) A PUBLIC BODY SHALL FURNISH A REQUESTING PERSON A

1 REASONABLE OPPORTUNITY FOR INSPECTION AND EXAMINATION OF ITS PUBLIC
2 RECORDS AND SHALL FURNISH REASONABLE FACILITIES FOR MAKING
3 MEMORANDA OR ABSTRACTS FROM ITS PUBLIC RECORDS DURING THE USUAL
4 BUSINESS HOURS. A PUBLIC BODY MAY MAKE REASONABLE RULES NECESSARY
5 TO PROTECT ITS PUBLIC RECORDS AND TO PREVENT EXCESSIVE AND
6 UNREASONABLE INTERFERENCE WITH THE DISCHARGE OF ITS FUNCTIONS. A
7 PUBLIC BODY SHALL PROTECT PUBLIC RECORDS FROM LOSS, UNAUTHORIZED
8 ALTERATION, MUTILATION, OR DESTRUCTION.

9 (4) THIS PART DOES NOT REQUIRE A PUBLIC BODY TO MAKE A
10 COMPILATION, SUMMARY, OR REPORT OF INFORMATION.

11 (5) THIS PART DOES NOT REQUIRE A PUBLIC BODY TO CREATE A NEW
12 PUBLIC RECORD, EXCEPT TO THE EXTENT REQUIRED BY THIS PART FOR THE
13 FURNISHING OF COPIES, OR EDITED COPIES OF AN EXISTING PUBLIC RECORD
14 UNDER THIS PART.

15 (6) THE CUSTODIAN OF A PUBLIC RECORD SHALL, UPON WRITTEN
16 REQUEST, FURNISH A REQUESTING PERSON A CERTIFIED COPY OF A PUBLIC
17 RECORD.

18 (7) A PUBLIC BODY SHALL NOT DESTROY OR ALTER A RECORD BEFORE
19 THE RECORD HAS BEEN IN ITS POSSESSION FOR 730 DAYS IF THE RECORD
20 WOULD BECOME A PUBLIC RECORD AFTER IT HAS BEEN IN THE POSSESSION OF
21 THE PUBLIC BODY FOR 15 DAYS.

22 Enacting section 1. This amendatory act takes effect January
23 1, 2020.

24 Enacting section 2. This amendatory act does not take effect
25 unless all of the following bills of the 100th Legislature are
26 enacted into law:

27 (a) House Bill No. 4007.

- 1 (b) House Bill No. 4008.
- 2 (c) House Bill No. 4009.
- 3 (d) House Bill No. 4010.
- 4 (e) House Bill No. 4012.
- 5 (f) House Bill No. 4013.
- 6 (g) House Bill No. 4014.
- 7 (h) House Bill No. 4015.
- 8 (i) House Bill No. 4016.