

SUBSTITUTE FOR  
HOUSE BILL NO. 5475

A bill to amend 1976 PA 442, entitled  
"Freedom of information act,"  
(MCL 15.231 to 15.246) by adding sections 59c and 59d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           SEC. 59C. (1) THIS PART SHALL NOT BE CONSTRUED TO LIMIT,  
2   MODIFY, WAIVE, OR OTHERWISE AFFECT THE PRIVILEGES AND IMMUNITIES  
3   GUARANTEED UNDER SECTION 11 OF ARTICLE IV OF THE STATE CONSTITUTION  
4   OF 1963.

5           (2) THIS PART DOES NOT CREATE OR IMPLY A PRIVATE CAUSE OF  
6   ACTION FOR A VIOLATION OF THIS PART.

7           SEC. 59D. (1) A PUBLIC BODY MAY EXEMPT FROM DISCLOSURE AS A  
8   PUBLIC RECORD UNDER THIS PART ANY OF THE FOLLOWING:

9           (A) RECORDS OR INFORMATION OF A PERSONAL NATURE IF PUBLIC  
10   DISCLOSURE OF THE INFORMATION WOULD CONSTITUTE A CLEARLY  
11   UNWARRANTED INVASION OF AN INDIVIDUAL'S PRIVACY. THAT INFORMATION

1 INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

2 (i) AN INDIVIDUAL'S SOCIAL SECURITY NUMBER, FINANCIAL  
3 INSTITUTION RECORD, ELECTRONIC FUND NUMBER, DEFERRED COMPENSATION,  
4 SAVINGS BONDS, W-2 AND W-4 FORMS, AND ANY COURT-ENFORCED JUDGMENTS.

5 (ii) AN EMPLOYEE'S HEALTH CARE BENEFIT SELECTION.

6 (iii) UNEMPLOYMENT COMPENSATION AND WORKER'S DISABILITY  
7 COMPENSATION RECORDS.

8 (iv) INTERNET-USE RECORDS.

9 (B) 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 (C) COMMUNICATIONS, INCLUDING ANY RELATED RECORDS OR  
14 INFORMATION, BETWEEN A LEGISLATOR OR A LEGISLATOR'S OFFICE AND A  
15 CONSTITUENT, OTHER THAN A PERSON REQUIRED TO BE REGISTERED AS A  
16 LOBBYIST UNDER 1978 PA 472, MCL 4.411 TO 4.431. FOR PURPOSES OF  
17 THIS SUBDIVISION, "CONSTITUENT" MEANS ANY OF THE FOLLOWING:

18 (i) AN INDIVIDUAL WHO IS REGISTERED TO VOTE IN THE DISTRICT  
19 THE LEGISLATOR IS ELECTED TO REPRESENT.

20 (ii) AN INDIVIDUAL WHO IS A RESIDENT OF THE DISTRICT THE  
21 LEGISLATOR IS ELECTED TO REPRESENT AND WHO IS NOT REGISTERED TO  
22 VOTE OUTSIDE OF THAT DISTRICT.

23 (D) COMMUNICATIONS AND NOTES WITHIN A PUBLIC BODY OR BETWEEN  
24 PUBLIC BODIES OF AN ADVISORY NATURE TO THE EXTENT THAT THEY COVER  
25 OTHER THAN PURELY FACTUAL MATERIALS AND ARE PRELIMINARY TO A FINAL  
26 DETERMINATION OF POLICY OR ACTION. FOR PURPOSES OF THIS  
27 SUBDIVISION, "PUBLIC BODY" INCLUDES A PUBLIC BODY AS DEFINED IN

1 PART 1.

2 (E) RECORDS OR INFORMATION PERTAINING TO AN ONGOING INTERNAL  
3 OR LEGISLATIVE INVESTIGATION.

4 (F) TRADE SECRETS OR COMMERCIAL OR FINANCIAL RECORDS OR  
5 INFORMATION VOLUNTARILY PROVIDED IN CONFIDENCE FOR USE IN  
6 DEVELOPING GOVERNMENTAL POLICY.

7 (G) RECORDS OR INFORMATION SUBJECT TO THE ATTORNEY-CLIENT  
8 PRIVILEGE OR ANY OTHER PRIVILEGE RECOGNIZED BY THE CONSTITUTION,  
9 STATUTE, COURT RULE, OR RULES ADOPTED BY A HOUSE OF THE  
10 LEGISLATURE.

11 (H) RECORDS OR INFORMATION RELATING TO A CIVIL ACTION IN WHICH  
12 THE PUBLIC BODY IS A PARTY UNTIL SUCH LITIGATION OR CLAIM HAS BEEN  
13 FINALLY ADJUDICATED OR OTHERWISE SETTLED.

14 (I) RECORDS OR INFORMATION SPECIFICALLY DESCRIBED AND EXEMPTED  
15 FROM DISCLOSURE BY STATUTE AND INCLUDING THE RECORDS AND  
16 INFORMATION SUBJECT TO CONFIDENTIALITY REQUIREMENTS IN SECTIONS  
17 109, 501, AND 601 OF THE LEGISLATIVE COUNCIL ACT, 1986 PA 268, MCL  
18 4.1109, 4.1501, AND 4.1601, AND IN SECTION 9 OF 1975 PA 346, MCL  
19 4.359.

20 (J) A PUBLIC RECORD OR INFORMATION DESCRIBED IN THIS SECTION,  
21 THAT IS FURNISHED BY THE PUBLIC BODY ORIGINALLY COMPILING,  
22 PREPARING, OR RECEIVING THE RECORD OR INFORMATION TO A PUBLIC  
23 OFFICER OR PUBLIC BODY IN CONNECTION WITH THE PERFORMANCE OF THE  
24 DUTIES OF THAT PUBLIC OFFICER OR PUBLIC BODY, IF THE CONSIDERATIONS  
25 ORIGINALLY GIVING RISE TO THE EXEMPT NATURE OF THE PUBLIC RECORD  
26 REMAIN APPLICABLE.

27 (K) RECORDS OF THE OFFICE OF SERGEANT AT ARMS.

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1 (l) RECORDS OF A PUBLIC BODY'S SECURITY MEASURES, INCLUDING  
2 SECURITY PLANS, CAPABILITIES, PROCEDURES, MEASURES, PASSWORDS,  
3 PASSES, KEYS, AND CODES AND COMBINATIONS.

4 (M) A BID OR PROPOSAL BY A PERSON TO ENTER INTO A CONTRACT OR  
5 AGREEMENT, UNTIL THE TIME FOR THE PUBLIC OPENING OF BIDS OR  
6 PROPOSALS, OR IF A PUBLIC OPENING IS NOT TO BE CONDUCTED, UNTIL THE  
7 DEADLINE FOR SUBMISSION OF BIDS OR PROPOSALS HAS EXPIRED.

8 (N) RECORDS THAT WOULD DO ANY OF THE FOLLOWING IF DISCLOSED:

9 (i) INTERFERE WITH LAW ENFORCEMENT PROCEEDINGS.

10 (ii) DEPRIVE A PERSON OF THE RIGHT TO A FAIR TRIAL OR  
11 IMPARTIAL ADMINISTRATIVE ADJUDICATION.

12 (iii) DISCLOSE THE IDENTITY OF A CONFIDENTIAL SOURCE OR  
13 INFORMATION FURNISHED BY A CONFIDENTIAL SOURCE IN THE COURSE OF A  
14 LEGISLATIVE INVESTIGATION.

15 (iv) ENDANGER THE LIFE OR PHYSICAL SAFETY OF ANY INDIVIDUAL.

16 (v) PREJUDICE A PUBLIC BODY'S ABILITY TO MAINTAIN THE SECURITY  
17 OR INTEGRITY OF ITS PROPERTIES OR INFORMATION TECHNOLOGY SYSTEMS.

18 (O) RECORDS CREATED, PREPARED, OWNED, USED, IN THE POSSESSION  
19 OF, OR RETAINED BY A PUBLIC BODY PRIOR TO JANUARY 1, 2017.

20 [  
21 (P) ] RECORDS IN THE SOLE CUSTODY OF, OR EXCLUSIVELY MAINTAINED  
22 BY, THE MAJORITY AND MINORITY CAUCUSES OF EACH HOUSE OF THE  
23 LEGISLATURE.

24 (2) THIS PART DOES NOT AUTHORIZE THE EXEMPTION FROM DISCLOSURE  
25 OF ANY SALARY RECORD OF AN EMPLOYEE OR OFFICIAL OF A PUBLIC BODY.

26 (3) THIS PART DOES NOT AUTHORIZE THE EXEMPTION FROM DISCLOSURE  
27 OF A RECORD OTHERWISE REQUIRED BY LAW TO BE MADE AVAILABLE TO THE

1 **PUBLIC.**

2 Enacting section 1. This amendatory act takes effect January  
3 1, 2017.

4 Enacting section 2. This amendatory act does not take effect  
5 unless Senate Bill No. \_\_\_\_ or House Bill No. 5469 (request no.  
6 05429'16) of the 98th Legislature is enacted into law.