

# SENATE BILL No. 1041

March 27, 2012, Introduced by Senators WHITMER, GLEASON, SMITH, YOUNG, BIEDA, WARREN, HUNTER, GREGORY, JOHNSON, HOPGOOD and HOOD and referred to the Committee on Government Operations.

A bill to amend 1976 PA 442, entitled "Freedom of information act," by amending section 2 (MCL 15.232), as amended by 1996 PA 553.

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

1       Sec. 2. As used in this act:

2       (a) "Field name" means the label or identification of an  
3 element of a computer ~~data base~~ **DATABASE** that contains a specific  
4 item of information, and includes but is not limited to a subject  
5 heading such as a column header, data dictionary, or record layout.

6       (b) "FOIA coordinator" means either of the following:

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

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

11       (c) "Person" means an individual, corporation, limited

1 liability company, partnership, firm, organization, association,  
 2 governmental entity, or other legal entity. Person does not include  
 3 an individual serving a sentence of imprisonment in a state or  
 4 county correctional facility in this state or any other state, or  
 5 in a federal correctional facility.

6 (d) "Public body" means any of the following:

7 (i) A state officer, employee, agency, department, division,  
 8 bureau, board, commission, council, authority, or other body in the  
 9 executive **OR LEGISLATIVE** branch of the state government, but does  
 10 not include the governor or lieutenant governor, the executive  
 11 office of the governor or lieutenant governor, or employees  
 12 thereof.

13 ~~—— (ii) An agency, board, commission, or council in the~~  
 14 ~~legislative branch of the state government.~~

15 (ii) ~~(iii)~~ A county, city, township, village, intercounty,  
 16 intercity, or regional governing body, council, school district,  
 17 special district, or municipal corporation, or a board, department,  
 18 commission, council, or agency thereof.

19 (iii) ~~(iv)~~ Any other body ~~which~~ **THAT** is created by state or local  
 20 authority or ~~which~~ **THAT** is primarily funded by or through state or  
 21 local authority, -

22 ~~—— (v) The~~ **EXCEPT THAT THE** judiciary, including the office of the  
 23 county clerk and employees thereof when acting in the capacity of  
 24 clerk to the circuit court, is not included in the definition of  
 25 public body.

26 (e) "Public record" means a writing prepared, owned, used, in  
 27 the possession of, or retained by a public body in the performance

1 of an official function, from the time it is created. Public record  
2 does not include computer software. This act separates public  
3 records into the following 2 classes:

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

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

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

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

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

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

25 (h) "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, or other means of  
4 recording or retaining meaningful content.

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