

# SENATE BILL NO. 837

March 12, 2020, Introduced by Senators MCBROOM, MOSS, LUCIDO, BULLOCK, BAYER, POLEHANKI, MCMORROW, IRWIN, GEISS, BRINKS, MCCANN, RUNESTAD, WOJNO, BARRETT, HERTEL and HOLLIER and referred to the Committee on Oversight.

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:

### PART 2

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2           Sec. 21. (1) This part shall be known and may be cited as the  
3 "legislative open records act".

4           (2) It is the public policy of this state that all persons,  
5 except those persons incarcerated in state or local correctional

1 facilities, are entitled to full and complete information regarding  
2 the affairs of government and the official acts of those who  
3 represent them as public officials and public employees, consistent  
4 with this part. The people shall be informed so that they may fully  
5 participate in the democratic process.

6 Sec. 22. As used in this part:

7 (a) "Council administrator" means the administrator of the  
8 legislative council appointed under section 104a of the legislative  
9 council act, 1986 PA 268, MCL 4.1104a.

10 (b) "Legislator" means a member of the senate or the house of  
11 representatives of this state.

12 (c) "LORA" means the legislative open records act.

13 (d) "LORA coordinator" means either of the following:

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

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

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

23 (f) "Public body" means a state officer, legislator, employee,  
24 agency, department, division, bureau, board, commission, committee,  
25 council, authority, or other body in the legislative branch of the  
26 state government. Public body does not include the office of the  
27 auditor general.

28 (g) "Public record" means a writing prepared, owned, used, in  
29 the possession of, or retained by a public body in the performance

1 of an official function that has been in the possession of the  
2 public body for 15 days or more. Public record does not include  
3 computer software. This part separates public records into the  
4 following 2 classes:

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

6 (ii) Those that are not exempt from disclosure under section  
7 29d and are subject to disclosure under this part.

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

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

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

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

24 (ii) The need to collect the requested public records from  
25 numerous offices, facilities, or other establishments that are  
26 located apart from the particular office receiving or processing  
27 the request.

28 (k) "Writing" means handwriting, typewriting, printing,  
29 photostating, photographing, photocopying, and every other means of

1 recording, and includes letters, words, pictures, sounds, or  
2 symbols, or combinations thereof, and papers, maps, magnetic or  
3 paper tapes, photographic films or prints, microfilm, microfiche,  
4 magnetic or punched cards, discs, drums, hard drives, solid state  
5 storage components, or other means of recording or retaining  
6 meaningful content.

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

10 Sec. 23. (1) Except as expressly provided in section 29d, upon  
11 providing a public body's LORA coordinator with a written request  
12 that describes a public record sufficiently to enable the public  
13 body to find the public record, a person has a right to inspect,  
14 copy, or receive copies of the requested public record of the  
15 public body. A request from a person, other than an individual who  
16 qualifies as indigent under section 24(2)(a), must include the  
17 requesting person's complete name, address, and contact  
18 information, and, if the request is made by a person other than an  
19 individual, the complete name, address, and contact information of  
20 the person's agent who is an individual. An address must be written  
21 in compliance with United States Postal Service addressing  
22 standards. Contact information must include a valid telephone  
23 number or electronic mail address. An employee of a public body who  
24 receives a request for a public record shall forward that request  
25 to the LORA coordinator within 3 business days.

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

28 (3) A public body shall furnish a requesting person a  
29 reasonable opportunity for inspection and examination of its public

1 records and shall furnish reasonable facilities for making  
2 memoranda or abstracts from its public records during the usual  
3 business hours. A public body may make reasonable rules necessary  
4 to protect its public records and to prevent excessive and  
5 unreasonable interference with the discharge of its functions. A  
6 public body shall protect public records from loss, unauthorized  
7 alteration, mutilation, or destruction.

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

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

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

17 (7) A public body shall not destroy or alter a record before  
18 the record has been in its possession for 730 days if the record  
19 would become a public record after it has been in the possession of  
20 the public body for 15 days.

21 Enacting section 1. This amendatory act takes effect January  
22 1, 2021.

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

26 (a) Senate Bill No. 833.

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28 (b) Senate Bill No. 834.

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- 1 (c) Senate Bill No. 839.
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- 3 (d) Senate Bill No. 840.
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- 5 (e) Senate Bill No. 838.
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- 7 (f) Senate Bill No. 836.
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- 9 (g) Senate Bill No. 841.
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- 11 (h) Senate Bill No. 835.
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- 13 (i) Senate Bill No. 842.
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