

Legislative Analysis



ALLOW ACCESS TO FOIA BY INMATES

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<http://www.house.mi.gov/hfa>

House Bill 4617 as introduced
Sponsor: Rep. Stephanie A. Young
Committee: Oversight
Complete to 4-14-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4617 would add a new section to the Freedom of Information Act (FOIA) and to the proposed Legislative Open Records Act (LORA) to allow access by an inmate to public documents under certain conditions.

Currently, FOIA provides access to individuals and entities to certain public information regarding the affairs of government and official acts of public officials and public employees. However, the act excludes access through the FOIA process by individuals who are incarcerated in a state or county correctional facility or in a federal correctional facility. House Bill 4383 would create a similar exclusion for inmates seeking information pertaining to officials and employees of the legislature under the proposed Legislative Open Records Act. (If HB 4383 were enacted, the combined act would be renamed the Freedom of Information and Legislative Open Records Act.)

House Bill 4617 would add a new section to the Freedom of Information Act and a new section to the Legislative Open Records Act proposed by HB 4383 to state that an inmate has the right to inspect, copy, or receive a copy of any public record properly requested under Part 1 (FOIA) or Part 2 (LORA) if the public record contains specific references to that inmate or his or her minor child for whom he or she had not been denied parenting time under the Child Custody Act **and** the record is otherwise accessible to the inmate by law. This would apply to an individual incarcerated in a state or county correctional facility in Michigan or any other state or in a federal correctional facility. The right of an inmate to access public records would apply notwithstanding any provisions of Part 1 or 2 to the contrary, including sections 1(2) and 2(g) of Part 1 (FOIA) and 21(2) and 22(e) of Part 2 (LORA).

Section 2(g) of FOIA, and section 22(e) of LORA as proposed by HB 4383, define **person** to mean an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity. **Person** does not include an individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or in a federal correctional facility.

Section 1(2) of FOIA, and section 21(2) of LORA as proposed by HB 4383, state that it is the public policy of the 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 the act.

House Bill 4617 is tie-barred to HB 4383, which means that it could not take effect unless HB 4383 were also enacted.

Proposed MCL 15.233a and 15.253a

FISCAL IMPACT:

A fiscal analysis is in progress.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.