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A BILL
TO BE ENTITLED
AN ACT

Relating to public writings; to amend Section 36-12-41, Code of Alabama 1975, and add Sections 36-12-43, 36-12-44, and 36-12-45 to the Code of Alabama 1975, to establish procedures for requesting and obtaining public writings; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 36-12-41 of the Code of Alabama 1975, is amended to read as follows:

"§36-12-41

(a) Every public officer having ~~the~~ custody of a public writing ~~which~~ that a citizen has a right to inspect is ~~bound to give him~~ required to provide him or her, on demand, with a certified copy of ~~it~~ the public writing, on payment of the legal fees therefor, and ~~such~~ the copy ~~is~~ shall be admissible as evidence in like cases and with like effect as the original writing.

(b) For purposes of this article, "public writing" does not include a record of the judicial branch of state government."



29 Section 2. Sections 36-12-43, 36-12-44, and 36-12-45
30 are added to the Code of Alabama 1975, to read as follows:

31 §36-12-43

32 (a) (1) A citizen may request access to a public writing
33 by following the written process for accepting such requests
34 established by the public officer having custody of the public
35 writing. A request for access to a public writing may be made
36 electronically if the public officer having custody of the
37 public writing has established a written process for accepting
38 electronic requests. A public officer shall not be obligated
39 to respond to a request for a public writing that is not made
40 pursuant to the public officer's established process.

41 (2) If the public officer has not established a written
42 process, a citizen may request access to a public writing by
43 delivering the request by hand or by mailing the request to
44 the public officer having custody of the public writing.

45 (3) A request for access made pursuant to this article
46 shall identify the requested public writing with reasonable
47 specificity. The public officer shall not be obligated to
48 respond to requests for public writings which are deemed
49 vague, ambiguous, overly broad, or unreasonable in scope.

50 (b) Provided the requester has followed the public
51 officer's written process for accepting requests, if any, for
52 the purposes of this article, all of the following apply:

53 (1) Receipt of a hand-delivered request occurs on the
54 date of delivery to the public officer having custody of the
55 public writing, provided that for educational institutions,
56 receipt occurs when the request is delivered to the main



57 office of the educational institution, unless the educational
58 institution has a written process for accepting requests, in
59 which case the requester shall follow the institution's
60 written process.

61 (2) Receipt of a mailed request occurs on the date of
62 actual receipt by the public officer. A certified mail receipt
63 or similar signed postage receipt shall be prima facie
64 evidence of receipt by the public officer.

65 (3) Receipt of an electronically received request
66 occurs when the public officer acknowledges receipt of the
67 request in writing to the requester.

68 (c) (1) The public officer shall promptly, but in all
69 cases not more than 10 business days after the date of
70 receipt, acknowledge receipt of the request; provided,
71 however, the time for acknowledging receipt shall not begin to
72 run, and the public officer shall have no obligation to
73 respond, unless and until the requester follows the written
74 process established by the public officer for accepting
75 requests, if any, and the request is properly completed as
76 required by Section 36-12-44.

77 (2) If after the 10-day period the requester has not
78 received acknowledgment, the requester may contact the
79 governmental agency maintaining or having custody of the
80 public writing to verify receipt of the request or obtain
81 information on how the request can be properly submitted.

82 §36-12-44

83 Written requests for public writings may be made on a
84 form similar to the following, provided a public officer's



85 written procedures may require additional information:

86 "Requester's contact information:

87 Name: _____

88 Phone number: _____

89 Email address: _____

90 Street address: _____

91 _____

92 _____

93 Agency you are requesting public writings from:

94 _____

95 Date of request: _____

96 writings requested: (Be as specific as possible. A public
97 officer shall not be obligated to respond to a request that is
98 vague, ambiguous, overly broad, or unreasonable in scope.

99 Additionally, extensive requests for public writings may
100 increase the fees to cover the administrative cost of
101 searching and copying the requested writings.)

102 _____

103 _____

104 _____

105 _____

106 Payment of fees may be required before your request is
107 fulfilled."

108 §36-12-45

109 (a) Upon receipt of a proper request for a public
110 writing as provided in Section 36-12-43, a public officer
111 shall promptly, but in all cases not more than 20 business
112 days after the date of receipt of the request, make one or



113 more of the following responses to the requester in writing:

114 (1) Respond that access to the requested public
115 writings will be provided at a set time, place, and location
116 during regular business hours or at a time, place, and
117 location mutually agreeable to the public officer and the
118 requester.

119 (2) Respond with an estimate of the costs for copying
120 and production of the requested public writings.

121 (3) Deny the request in full.

122 (4) Deny the request in part and grant the request in
123 part by providing access to or an estimate of cost for copying
124 and production of the requested public writings that are not
125 withheld or that have been redacted, excised, or deleted in
126 order to remove the portion of the writing in which an
127 exemption, prohibition, or exception applies.

128 (5) Deny the request, in whole or in part, on the
129 grounds that the public officer is not the custodian of the
130 requested public writing.

131 (6) Deny the request, in whole or in part, on the
132 grounds that, to the best of the public officer's knowledge,
133 the requested writing does not exist within the governmental
134 agency.

135 (7) Deny the request, in whole or in part, on the
136 grounds that the requester failed to substantially comply with
137 the procedures for written requests for public writings
138 established by the public officer and, if the requester
139 provides a reasonable basis to establish why compliance with
140 the procedures is unduly burdensome, impractical, or



141 impossible, provide to the requester a reasonable alternative
142 for requesting the public writings.

143 (b) If the public officer reasonably believes the
144 amount of time and resources needed to comply with the request
145 within the time required by this section will prevent the
146 public officer or his or her staff from meeting their
147 operational responsibilities, the public officer shall provide
148 the requester the opportunity to limit the scope of the
149 request so that it can be processed in an agreed upon time
150 between the public officer and the requester.

151 (c) If the public officer and the requester agree to
152 the copying and production of the requested public writing
153 based on the estimate of cost provided in subdivision (a)(2)
154 or subdivision (a)(4), the public officer shall provide to the
155 requester an estimate of the additional time needed to produce
156 the copy under the agreed upon conditions. The additional time
157 shall not exceed 45 business days after the date of the
158 agreement with the requester, plus an additional 15 business
159 days permitted in order to make a determination whether the
160 requested writing is sensitive or is otherwise nonpublic
161 information under applicable law.

162 (d) For purposes of this section, "business day" means
163 a day that the public officer's office is open to the public
164 and conducting normal operations.

165 (e) A public officer shall not be required to create a
166 new public writing if the writing requested does not already
167 exist.

168 (f) This article is not intended to and does not affect



169 any protections for sensitive or other nonpublic information
170 provided under applicable law.

171 Section 3. This act shall become effective on October
172 1, 2023, following its passage and approval by the Governor,
173 or its otherwise becoming law.