

**SB196 INTRODUCED**



1 JISSNY-1  
2 By Senators Orr, Albritton, Livingston, Butler, Allen,  
3 Waggoner, Jones  
4 RFD: County and Municipal Government  
5 First Read: 11-Apr-23  
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SYNOPSIS:

Under existing law, individuals have the right to inspect and obtain a copy of public records of the state, within certain parameters.

This bill would establish procedures for requesting and obtaining public records.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to open records; to amend Section 36-12-41, Code of Alabama 1975, and add Sections 36-12-43 and 36-12-44 to the Code of Alabama 1975, to establish procedures for requesting and obtaining public records; 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:



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29           "§36-12-41

30           Every public officer having ~~the~~ custody of a public  
31 ~~writing which a citizen~~ record that an individual has a right  
32 to inspect is ~~bound to give him~~ required to provide him or  
33 her, on demand, with a certified copy of ~~it~~ the public record,  
34 on payment of the legal fees therefor, and ~~such~~ the copy  
35 ~~is~~ shall be admissible as evidence in like cases and with like  
36 effect as the original writing."

37           Section 2. Sections 36-12-43 and 26-12-44 are added to  
38 the Code of Alabama 1975, to read as follows:

39           §36-12-43

40           (a) An individual may request access to a public record  
41 by delivering the request by hand or by mailing the request to  
42 the public officer having custody of the public record. A  
43 request for access to a public record may be made  
44 electronically if the public officer having custody of the  
45 public writing has established a written process for accepting  
46 electronic requests. A request for access made pursuant to  
47 this article shall identify the requested public record with  
48 reasonable specificity.

49           (b) (1) For purposes of this article, receipt of a  
50 hand-delivered request occurs on the date of delivery to the  
51 public officer having custody of the public record.

52           (2) For purposes of this article, receipt of a mailed  
53 request occurs on the date of actual receipt by the public  
54 officer. A certified mail receipt or similar signed postage  
55 receipt shall be prima facie evidence of receipt by the public  
56 officer.



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57 (3) For purposes of this article, receipt of an  
58 electronically received request occurs when the public officer  
59 acknowledges receipt of the request in writing to the  
60 requesting individual.

61 (c) The public officer shall promptly, but in all cases  
62 not more than six business days after the date of receipt,  
63 acknowledge receipt of the request.

64 §36-12-44

65 (a) Upon receipt of a request for a public record as  
66 provided in Section 36-12-43, a public officer shall promptly,  
67 but in all cases not more than 16 business days after the date  
68 of receipt of the request, make one or more of the following  
69 responses to the requester in writing:

70 (1) Respond that access to the requested public records  
71 will be provided at a set time, place, and location during  
72 regular business hours or at a time, place, and location  
73 mutually agreeable to the public officer and the requester.

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

76 (3) Deny the request in full.

77 (4) Deny the request in part and grant the request in  
78 part by providing access to or an estimate of cost for copying  
79 and production of the requested public records that are not  
80 withheld or that have been redacted, excised, or deleted in  
81 order to remove the portion of the record in which an  
82 exemption, prohibition, or exception applies.

83 (5) Deny the request, in whole or in part, on the  
84 grounds that the public officer is not the custodian of the



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85 requested public record and, if known to the public officer,  
86 identify the custodian to the requester.

87 (b) If the public officer reasonably believes the  
88 amount of time and resources needed to comply with the request  
89 within the time required by this section will prevent the  
90 public officer or his or her staff from meeting their  
91 operational responsibilities, the public officer shall provide  
92 the requester the opportunity to limit the scope of the  
93 request so that it can be processed in an agreed upon time  
94 between the public officer and the requester.

95 (c) If the public officer and the requester agree to  
96 the copying and production of the requested public record  
97 based on the estimate of cost provided in subdivision (a)(2)  
98 or subdivision (a)(4), the public officer shall provide to the  
99 requester an estimate of the additional time needed to produce  
100 the copy under the agreed upon conditions. The additional time  
101 shall not exceed 45 business days after the date of the  
102 agreement with the requester.

103 (d) Any denial of the request, in whole or in part,  
104 shall identify the subject matter of the withheld public  
105 records and cite the specific reason or reasons for the  
106 withholding that are known by the public officer at that time.  
107 A public officer may revise the initial reasons for a denial  
108 by sending the requester the revised reasons for the denial  
109 not more than 30 business days after the initial denial.

110 (e) For purposes of this section, "business day" means  
111 a day that the public officer's office is open to the public  
112 and conducting normal operations.



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113           (f) Failure by a public officer to respond in  
114 accordance with this section to a request shall be deemed a  
115 denial of the request and shall constitute a violation of this  
116 section.

117           Section 3. This act shall become effective on the first  
118 day of the third month following its passage and approval by  
119 the Governor, or its otherwise becoming law.