



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A BILL
TO BE ENTITLED
AN ACT

Relating to public records; to amend Sections 36-12-40 and 36-12-41, Code of Alabama 1975, and to add Sections 36-12-43, 36-12-44, 36-12-45, and 36-12-46 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. Sections 36-12-40 and 36-12-41 of the Code of Alabama 1975, are amended to read as follows:

"§36-12-40

(a) Every ~~citizen~~resident has a right to inspect and take a copy of any public ~~writing~~record of this state, except as otherwise expressly provided by ~~statute~~applicable law.

Provided however, registration and circulation records and information concerning the use of the public, public school, or college and university libraries of this state shall be exempted from this section. Provided further, any parent of a minor child shall have the right to inspect the registration and circulation records of any school or public library that



29 pertain to his or her child. Notwithstanding the foregoing,
30 records concerning security plans, procedures, assessments,
31 measures, or systems, and any other records relating to, or
32 having an impact upon, the security or safety of persons,
33 structures, facilities, or other infrastructures, including
34 without limitation information concerning critical
35 infrastructure, ~~as defined at 42 U.S.C. § 5195c(e), as~~
36 ~~amended~~ and critical energy infrastructure information, ~~as~~
37 ~~defined at 18 C.F.R. § 388.113(c)(1), as amended~~ the public
38 disclosure of which could reasonably be expected to be
39 detrimental to the public safety or welfare, and records the
40 disclosure of which would otherwise be detrimental to the best
41 interests of the public shall be exempted from this section.
42 Any public officer who receives a request for records that may
43 appear to relate to critical infrastructure or critical energy
44 infrastructure information, shall notify the owner of such
45 infrastructure in writing of the request and provide the owner
46 an opportunity to comment on the request and on the threats to
47 public safety or welfare that could reasonably be expected
48 from public disclosure ~~on~~ of the records.

49 (b) For purposes of this article, the judicial branch
50 of state government and any office identified in Article VI of
51 the Constitution of Alabama of 2022, are exempted from the
52 requirements of Sections 36-12-43 through 36-12-45."

53 "§36-12-41

54 Every public officer having ~~the~~ custody of a public
55 ~~writing which a citizen~~ record that a resident has a right to
56 inspect ~~is bound to give him~~ shall provide him or her, on



57 ~~demand~~ proper request as provided in this article, with a
58 ~~certified~~ copy of ~~it~~ the public record, on payment of ~~the~~
59 ~~legal fees therefor~~ a reasonable fee, as further provided in
60 this article, ~~and such copy is admissible as evidence in like~~
61 ~~cases and with like effect as the original writing."~~

62 Section 2. Sections 36-12-43, 36-12-44, 36-12-45, and
63 36-12-46 are added to the Code of Alabama 1975, to read as
64 follows:

65 §36-12-43

66 (a) It is the policy of the state to promptly provide
67 residents with the opportunity to inspect public records and
68 to request a copy, subject to payment of reasonable fees and
69 to appropriate protections for private, confidential,
70 privileged, and other nonpublic information, and to the
71 interest of the general public in having the business of
72 government carried on efficiently and without undue
73 interference.

74 (b) For purposes of this article, the following terms
75 shall have the following meanings:

76 (1) BUSINESS DAY. A day that the public officer's
77 office is open to the public and conducting normal operations.

78 (2) PUBLIC OFFICER. A public officer or his or her
79 designee responsible for responding to public records
80 requests.

81 (3) RESIDENT. An individual who is permanently
82 domiciled in Alabama with an expectation to remain in Alabama
83 as demonstrated by reasonable proof of residency such as, but
84 not limited to, an Alabama driver license or voter



85 registration.

86 (4) STANDARD REQUEST. A public records request that
87 seeks one or more specifically and discretely identified
88 public records that the public officer determines would take
89 less than eight hours of staff time to process considering the
90 time needed to identify and retrieve any responsive records
91 and to redact or take other measures to withhold protected
92 information. A standard request should require no or minimal
93 clarification by the requester.

94 (5) SUBSTANTIVE RESPONSE. A response to a proper public
95 records request that sets forth the public officer's ultimate
96 position on the substance of the request. The term includes,
97 but is not limited to, the following, in whole or in part:

98 a. A statement that the public records are provided as
99 attached or enclosed.

100 b. A statement that access to the requested public
101 records will be provided at a set time, place, and location
102 during regular business hours or at a time, place, and
103 location mutually agreeable to the public officer and the
104 requester.

105 c. A statement that the public officer is prepared to
106 provide the requested public records to the requester upon
107 payment of a reasonable fee.

108 d. A statement that denies the request with reasons
109 stated therefor.

110 e. A statement that denies the request on the grounds
111 that the requested public record does not exist within the
112 government agency. If known to the public officer, the public



113 officer may identify the proper custodian or location for the
114 requested public record.

115 f. A statement that denies the request for failure to
116 substantially complete a standard request form.

117 g. A statement that denies the request for failure to
118 substantially comply with the written procedures established
119 by the public officer for such request.

120 h. A statement that denies the request because the
121 records sought are not public.

122 (6) TIME-INTENSIVE REQUEST. A public records request
123 that the public officer determines would take more than eight
124 hours of staff time to process considering the time needed to
125 identify and retrieve any responsive records and any time
126 needed to redact or take other measures to withhold protected
127 information.

128 (c) This article is not intended to, and does not,
129 change or in any way affect any protections for private,
130 confidential, privileged, or other nonpublic information
131 provided under applicable law.

132 §36-12-44

133 (a) A public officer shall respond to a standard
134 request subject to each of the following provisions:

135 (1) The public officer may require the requester to
136 submit his or her request using a standard request form or by
137 following the written procedures for accepting requests for
138 public records established by the public officer.

139 (2) The public officer may require the requester to pay
140 a reasonable fee set by the public officer before the



141 requester may receive any public records. If the public
142 officer elects to charge a fee, the public officer shall
143 notify the requester of the estimated fee and withhold any
144 public records until receipt of payment. The requester may opt
145 not to pay the fee and thus not receive any substantive
146 response. Additionally, the public officer shall have the
147 discretion to require the requester to pay all or a portion of
148 the estimated fee prior to searching for any responsive public
149 records.

150 (3) The public officer shall acknowledge a proper
151 request within 10 days of receiving the request.

152 (4) The public officer shall provide a substantive
153 response fulfilling or denying a proper request within 15
154 business days of acknowledging receipt. Although the public
155 officer may extend this period in 15-business-day increments
156 upon written notice to the requester, the public officer
157 should process a standard request as expeditiously as possible
158 considering the requester's time constraints, the public
159 officer's workload, and the nature of the request.

160 (5) There shall be a rebuttable presumption that a
161 proper standard request has been denied by the public officer
162 if:

163 a. A substantive response is not provided to the
164 standard request within the earlier of 30 business days or 60
165 calendar days following acknowledgment of receipt by the
166 public officer; or

167 b. The public records are not produced within the
168 earlier of 30 business days or 60 calendar days following the



169 payment of the estimated fees to the public officer.

170 (6) There shall be no presumption that a proper
171 standard request has been denied if:

172 a. The request is not proper or the public officer is
173 not obligated or required to respond as provided in this
174 section;

175 b. The public officer has responded in part;

176 c. The public officer and requester have reached an
177 agreement regarding the time or substance, or both, of the
178 response;

179 d. Negotiations are ongoing between the public officer
180 and the requester; or

181 e. The public officer has reasonably communicated the
182 status of the request to the requester.

183 (b) A public officer shall respond to a proper,
184 time-intensive request subject to each of the following
185 provisions:

186 (1) The public officer shall require the requester to
187 submit his or her request using a standard request form or by
188 following the written procedures for accepting requests for
189 public records established by the public officer.

190 (2) The public officer shall require the requester to
191 pay a reasonable fee set by the public officer before
192 providing a substantive response to the requester. The public
193 officer shall notify the requester in advance of any likely
194 fees and shall withhold any substantive response until receipt
195 of payment. Additionally, the public officer shall have the
196 discretion to require the requester to pay all or a portion of



197 the estimated fee prior to searching for any responsive public
198 records.

199 (3) The public officer shall acknowledge the request
200 within 10 business days of receiving the request.

201 (4) The public officer shall notify the requester
202 within 15 business days after acknowledging receipt that the
203 request qualifies as a time-intensive request. At that time,
204 the public officer shall notify the requester of any likely
205 fees and allow the requester to withdraw the time-intensive
206 request and submit a new request that is not a time-intensive
207 request. If the requester elects to proceed with a
208 time-intensive request, the public officer shall provide a
209 substantive response fulfilling or denying the request within
210 45 business days after the requester elected to proceed with
211 his or her time-intensive request. The public officer may
212 extend this period in 45-business-day increments by notifying
213 the requester in writing.

214 (5) At or around the time of designating the request as
215 time-intensive, the public officer shall make a record in a
216 log maintained for keeping track of currently pending
217 time-intensive requests. For each such currently pending
218 request, the log shall identify the name of the requester and
219 the date of acknowledgment pursuant to subdivision (3). The
220 log shall be a confidential document that is not subject to
221 disclosure pursuant to this article, provided the log may
222 remain discoverable pursuant to proper discovery methods
223 provided under applicable rules of procedure.

224 (6) There shall be a rebuttable presumption that a



225 proper time-intensive request has been denied by the public
226 officer if:

227 a. A substantive response is not provided within the
228 earlier of 180 business days or 270 calendar days following
229 the requester's election to proceed with a time-intensive
230 request.

231 b. The records are not produced within the earlier of
232 180 business days or 270 calendar days following the payment
233 of the estimated fees to the public officer.

234 (7) There shall be no presumption that a proper
235 time-intensive request has been denied if:

236 a. The request is not proper or the public officer is
237 not obligated or required to respond as provided in this
238 section;

239 b. The public officer has responded in part;

240 c. The public officer and requester have reached an
241 agreement regarding the time or substance, or both, of the
242 response;

243 d. Negotiations are ongoing between the public officer
244 and the requester; or

245 e. The public officer has reasonably communicated the
246 status of the request to the requester.

247 (c) A request made pursuant to this article shall
248 identify the requested public record with reasonable
249 specificity. A public officer shall not be obligated to
250 respond to a public records request that is vague, ambiguous,
251 overly broad, or unreasonable in scope.

252 (d) A public officer shall not be required to create a



253 new public record if the requested record does not already
254 exist.

255 (e) A public officer shall not be required to respond
256 to requests that seek information or other materials that are
257 not public records.

258 (f) A public officer may request reasonable evidence to
259 establish proof of residency. A public officer shall have the
260 discretion to respond to public records requests made by
261 nonresidents, in which case, a public officer's decision to
262 respond to such requests shall not operate as a waiver of the
263 public officer's right to deny other or future requests made
264 by nonresidents.

265 (g) If a public officer responds to a request by
266 seeking clarification or additional information, the timelines
267 established in this section shall be tolled and shall restart
268 once the public officer receives the requested clarification
269 or additional information as if the requester had submitted a
270 new request. A public officer's decision to seek clarification
271 or additional information with respect to any particular
272 request shall not operate as a waiver of the public officer's
273 right to seek clarification or additional information in
274 response to other, future requests.

275 (h) Nothing in this article shall be construed to
276 prohibit a public officer from processing a public records
277 request in a manner that is less expensive or more prompt from
278 the perspective of the requester.

279 §36-12-45

280 (a) (1) A resident may request access to a public record



281 by following the written procedures for accepting such
282 requests established by the public officer having custody of
283 the public record. The written procedures may establish any of
284 the following:

285 a. A standard request form for use in submitting a
286 public records request.

287 b. A designee, such as a public records coordinator, to
288 whom a public records request shall be addressed.

289 c. The permissible method or methods of transmitting a
290 public records request.

291 d. Any other policies pertaining to the process for
292 submitting a public records request.

293 (2) The public officer shall make his or her written
294 procedures concerning public records reasonably available to
295 the public.

296 (3) A public officer shall not be obligated to respond
297 to a public records request that is not made pursuant to the
298 public officer's written procedures.

299 (4) Written procedures need not be adopted as
300 administrative rules pursuant to the Alabama Administrative
301 Procedure Act.

302 (b) In the absence of written procedures to the
303 contrary, each of the following shall apply:

304 (1) A resident may submit a public records request by
305 delivering the request by hand or by mailing the request to
306 the main office or principal place of business of the public
307 officer having custody of the public record.

308 (2) Receipt of a hand-delivered public records request



309 occurs when the request is received at the public officer's
310 main office or principal place of business. Receipt of a
311 mailed public records request occurs on the date of actual
312 receipt by the public officer. A certified mail receipt or
313 similar signed postage receipt shall be prima facie evidence
314 of receipt by the public officer.

315 (3) The standard request form shall read substantially as
316 follows, provided a public officer may require additional
317 information or modify the order or format in which the
318 information is requested:

319 "Requester's contact information:

320 Name: _____

321 Phone number: _____

322 Email address: _____

323 Street address: _____

324 City: _____

325 State: _____

326 Zip: _____

327 Agency you are requesting public records from:

328 _____

329 Date of request: _____

330 Records requested: (Be as specific as possible. A
331 public officer is not obligated to respond to a request
332 that is vague, ambiguous, overly broad, or unreasonable
333 in scope, nor is a public officer obligated to respond
334 to a request that seeks records that do not exist or
335 materials that are not public records. Additionally,
336 extensive requests for public records may increase the



337 fees to cover the administrative cost of searching and
338 copying the requested records.)

339 _____
340 _____
341 _____
342 _____

343 Payment of fees may be required before your request is
344 fulfilled.

345 By submitting this request, you certify that you are an
346 Alabama resident with standing to make a request for
347 public records pursuant to Alabama law."

348 §36-12-46

349 Nothing in this article shall be construed to permit
350 any party to a pending or threatened action, suit, or
351 proceeding to obtain information regarding a matter relevant
352 to the pending or threatened action, suit, or proceeding in
353 lieu of the proper discovery methods provided under applicable
354 rules of procedure.

355 Section 3. This act shall become effective on October
356 1, 2024.