



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

SYNOPSIS:

Under existing law, citizens 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 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



29 of Alabama 1975, are amended to read as follows:

30 "§36-12-40

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

34 Provided however, registration and circulation records and  
35 information concerning the use of the public, public school,  
36 or college and university libraries of this state shall be  
37 exempted from this section. Provided further, any parent of a  
38 minor child shall have the right to inspect the registration  
39 and circulation records of any school or public library that  
40 pertain to his or her child. Notwithstanding the foregoing,  
41 records concerning security plans, procedures, assessments,  
42 measures, or systems, and any other records relating to, or  
43 having an impact upon, the security or safety of persons,  
44 structures, facilities, or other infrastructures, including  
45 without limitation information concerning critical  
46 infrastructure, ~~as defined at 42 U.S.C. § 5195c(e), as~~  
47 ~~amended~~) and critical energy infrastructure information, ~~as~~  
48 ~~defined at 18 C.F.R. § 388.113(c)(1), as amended~~) the public  
49 disclosure of which could reasonably be expected to be  
50 detrimental to the public safety or welfare, and records the  
51 disclosure of which would otherwise be detrimental to the best  
52 interests of the public shall be exempted from this section.  
53 Any public officer who receives a request for records that may  
54 appear to relate to critical infrastructure or critical energy  
55 infrastructure information, shall notify the owner of such  
56 infrastructure in writing of the request and provide the owner



57 an opportunity to comment on the request and on the threats to  
58 public safety or welfare that could reasonably be expected  
59 from public disclosure ~~on~~ of the records.

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

64 "§36-12-41

65 Every public officer having ~~the~~ custody of a public  
66 ~~writing which~~ record that a citizen has a right to inspect ~~is~~  
67 ~~bound to give him~~ shall provide him or her, on ~~demand~~ proper  
68 request as provided in this article, with a certified copy of  
69 ~~it~~ the public record, on payment of ~~the legal fees therefor~~ a  
70 reasonable fee, as further provided in this article, ~~and such~~  
71 ~~copy is admissible as evidence in like cases and with like~~  
72 ~~effect as the original writing."~~

73 Section 2. Sections 36-12-43, 36-12-44, 36-12-45, and  
74 36-12-46 are added to the Code of Alabama 1975, to read as  
75 follows:

76 §36-12-43

77 (a) It is the policy of the state to promptly provide  
78 citizens with the opportunity to inspect public records and to  
79 request a copy, subject to payment of reasonable fees and to  
80 applicable legal protections for private, confidential,  
81 privileged, and other nonpublic information, and to the  
82 interest of the general public in having the business of  
83 government carried on efficiently and without undue  
84 interference.



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

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

89 (2) CITIZEN. A resident who is permanently domiciled in  
90 Alabama with an expectation to remain in Alabama as  
91 demonstrated by reasonable proof of residency such as, but not  
92 limited to, an Alabama driver license or voter registration.

93 (3) PUBLIC OFFICER. A public officer or his or her  
94 designee responsible for responding to public records  
95 requests.

96 (4) STANDARD REQUEST. A public records request that  
97 seeks one or more specifically and discretely identified  
98 public records that the public officer determines would take  
99 less than eight hours of staff time to process considering the  
100 time needed to identify and retrieve any responsive records  
101 and to redact or take other measures to withhold legally  
102 protected information. A standard request should require no or  
103 minimal clarification by the requester.

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

108 a. A statement that the public records are provided as  
109 attached or enclosed.

110 b. A statement that access to the requested public  
111 records will be provided at a set time, place, and location  
112 during regular business hours or at a time, place, and



113 location mutually agreeable to the public officer and the  
114 requester.

115 c. A statement that the public officer is prepared to  
116 provide the requested public records to the requester upon  
117 payment of a reasonable, specified fee.

118 d. A statement that denies the request with reasons  
119 stated therefor.

120 e. A statement that denies the request on the grounds  
121 that the requested public record does not exist within the  
122 government agency. If known to the public officer, the public  
123 officer may identify the proper custodian or location for the  
124 requested public record.

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

127 g. A statement that denies the request for failure to  
128 substantially comply with the written procedures established  
129 by the public officer for such request.

130 h. A statement that denies the request because the  
131 records sought are not public.

132 (6) TIME-INTENSIVE REQUEST. A public records request  
133 that the public officer determines would take more than eight  
134 hours of staff time to process considering the time needed to  
135 identify and retrieve any responsive records and any time  
136 needed to redact or take other measures to withhold legally  
137 protected information.

138 (c) This article is not intended to, and does not,  
139 change or in any way affect any protections for private,  
140 confidential, privileged, or other nonpublic information



141 provided under applicable law.

142 §36-12-44

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

145 (1) The public officer may require the requester to  
146 submit his or her request using a standard request form or by  
147 following the written procedures for accepting requests for  
148 public records established by the public officer.

149 (2) The public officer may require the requester to pay  
150 a reasonable fee set by the public officer before the  
151 requester may receive any public records. If the public  
152 officer elects to charge a fee, the public officer shall  
153 notify the requester of the estimated fee and withhold any  
154 public records until receipt of payment. The requester may opt  
155 not to pay the fee and thus not receive any substantive  
156 response.

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

159 (4) The public officer shall provide a substantive  
160 response fulfilling or denying a proper request within 15  
161 business days of acknowledging receipt. Although the public  
162 officer may extend this period in 15-business-day increments  
163 upon written notice to the requester, the public officer  
164 should process a standard request as expeditiously as possible  
165 considering the requester's time constraints, the public  
166 officer's workload, and the nature of the request.

167 (5) There shall be a rebuttable presumption that a  
168 proper standard request has been denied by the public officer



169 if:

170 a. A substantive response is not provided to the  
171 standard request within the earlier of 30 business days or 60  
172 calendar days following acknowledgment of receipt by the  
173 public officer; or

174 b. The public records are not produced within the  
175 earlier of 30 business days or 60 calendar days following the  
176 payment of the estimated fees to the public officer.

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

179 a. The public officer has responded in part;

180 b. The public officer and requester have reached an  
181 agreement regarding the time or substance, or both, of the  
182 response;

183 c. Good faith negotiations are ongoing between the  
184 public officer and the requester; or

185 d. The public officer has reasonably communicated the  
186 status of the request to the requester.

187 (b) A public officer shall respond to a proper,  
188 time-intensive request subject to each of the following  
189 provisions:

190 (1) The public officer shall require the requester to  
191 submit his or her request using a standard request form or by  
192 following the written procedures for accepting requests for  
193 public records established by the public officer.

194 (2) The public officer may require the requester to pay  
195 a reasonable fee set by the public officer before providing a  
196 substantive response to the requester. The public officer



197 shall notify the requester in advance of any likely fees and  
198 shall withhold any substantive response until receipt of  
199 payment.

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

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

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





225 under applicable rules of procedure.

226 (6) There shall be a rebuttable presumption that a  
227 proper time-intensive request has been denied by the public  
228 officer if:

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

233 b. The records are not produced within the earlier of  
234 180 business days or 270 calendar days following the payment  
235 of the estimated fees to the public officer.

236 (7) There shall be no presumption that a proper  
237 standard request has been denied if:

238 a. The public officer has responded in part;

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

242 c. Good faith negotiations are ongoing between the  
243 public officer and the requester; or

244 d. The public officer has reasonably communicated the  
245 status of the request to the requester.

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

251 (d) A public officer shall not be required to create a  
252 new public record if the requested record does not already



253 exist.

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

257 (f) A public officer may request reasonable evidence to  
258 establish proof of residency.

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

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

273 §36-12-45

274 (a) (1) A citizen may request access to a public record  
275 by following the written procedures for accepting such  
276 requests established by the public officer having custody of  
277 the public record. The written procedures may establish any of  
278 the following:

279 a. A standard request form for use in submitting a  
280 public records request.



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

283           c. The permissible method or methods of transmitting a  
284 public records request.

285           d. Any other policies pertaining to the process for  
286 submitting a public records request.

287           (2) The public officer shall make his or her written  
288 procedures concerning public records reasonably available to  
289 the public.

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

293           (4) Written procedures need not be adopted as  
294 administrative rules pursuant to the Alabama Administrative  
295 Procedure Act.

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

298           (1) A citizen may submit a public records request by  
299 delivering the request by hand or by mailing the request to  
300 the main office or principal place of business of the public  
301 officer having custody of the public record.

302           (2) Receipt of a hand-delivered public records request  
303 occurs when the request is received at the public officer's  
304 main office or principal place of business. Receipt of a  
305 mailed public records request occurs on the date of actual  
306 receipt by the public officer. A certified mail receipt or  
307 similar signed postage receipt shall be prima facie evidence  
308 of receipt by the public officer.



309 (3) The standard request form shall read substantially as  
310 follows, provided a public officer may require additional  
311 information or modify the order or format in which the  
312 information is requested:

313 "Requester's contact information:

314 Name: \_\_\_\_\_

315 Phone number: \_\_\_\_\_

316 Email address: \_\_\_\_\_

317 Street address: \_\_\_\_\_

318 City: \_\_\_\_\_

319 State: \_\_\_\_\_

320 Zip: \_\_\_\_\_

321 Agency you are requesting public records from:

322 \_\_\_\_\_

323 Date of request: \_\_\_\_\_

324 Records requested: (Be as specific as possible. A  
325 public officer is not obligated to respond to a request  
326 that is vague, ambiguous, overly broad, or unreasonable  
327 in scope, nor is a public officer obligated to respond  
328 to a request that seeks records that do not exist or  
329 materials that are not public records. Additionally,  
330 extensive requests for public records may increase the  
331 fees to cover the administrative cost of searching and  
332 copying the requested records.)

333 \_\_\_\_\_

334 \_\_\_\_\_

335 \_\_\_\_\_

336 \_\_\_\_\_



337 Payment of fees may be required before your request is  
338 fulfilled.

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

342 §36-12-46

343 Nothing in this article shall be construed to permit  
344 any party to a pending or threatened action, suit, or  
345 proceeding to obtain information regarding a matter relevant  
346 to the pending or threatened action, suit, or proceeding in  
347 lieu of the proper discovery methods provided under applicable  
348 rules of procedure.

349 Section 3. This act shall become effective on October  
350 1, 2024.